

Our Reference: RAL/2026/2586
& MCUC/2026/2587
CS Portal Reference: N/A
Officer: Shen Liu
Contact: 07 4688 9593
Email: development@tr.qld.gov.au

Development Application Decision Notice
APPROVAL
Planning Act 2016 Section 63

Stephen Jozsef Gerard Prokop and Julia Petts
C/- Gilvear Planning Pty Ltd
PO Box 438
PADDINGTON QLD 4064

Email: charli@gilvearplanning.com.au

31 August 2026

Dear Sir/Madam

Location: 10 Widderick Road, CROWS NEST QLD 4355
Property Description: Lot 1 RP15463, Lot 181 CSH1741
Relevant Planning Scheme: *Toowoomba Regional Planning Scheme 2012*

The Development Application for Reconfiguring a Lot - Boundary Realignment 2 into 2 Lots, and Material Change of Use - Dwelling House, 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 27 August 2026. The following provides all the relevant details:

Details of Approval

Development Permit – Reconfiguring a Lot - Boundary Realignment 2 into 2 Lots, and Material Change of Use - Dwelling House

Referral Agencies

Concurrence Agencies Name & Address: N/A

Advice Agencies Name & Address: N/A

Conditions and Advices

Assessment Manager's Conditions: As per attached Schedule 1 & 2

Concurrence Agency Conditions: N/A

Currency Period

For Material Change of Use:

In accordance with section 85(1)(a)(ii) of the *Planning Act 2016* (Qld), this Development Approval lapses, to the extent the development is not completed, if the first material change of use under this Development Approval has not happened within six (6) years of this Development Approval starting to have effect.

For Reconfiguring a Lot:

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 Development Permits Required

- Building Work
- Plumbing and Drainage Work
- Operational Work

Submissions

Not applicable – no part of the application required notification.

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



Sophie Spencer
Lead Senior Planner, Planning Branch

SCHEDULE 1

DEVELOPMENT PERMIT FOR RECONFIGURING A LOT

APPLICATION NUMBER:	RAL/2026/2586
APPLICANT:	Stephen Jozsef Gerard Prokop and Julia Petts
LOCATION:	10 Widderick Road, CROWS NEST QLD 4355
PROPERTY DESCRIPTION:	Lot 1 RP15463, Lot 181 CSH1741
APPROVED DEVELOPMENT:	Reconfiguring a Lot - Boundary Realignment 2 into 2 Lots, and Material Change of Use - Dwelling House
ZONING / PRECINCT:	Rural / 100 ha minimum Precinct

A. ASSESSMENT MANAGER'S CONDITIONS:

PART A: RECONFIGURING A LOT

PLANNING

APPROVED USE

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

CARRY OUT & MAINTAIN DEVELOPMENT

2. Unless otherwise stated, all conditions must be complied with prior to the commencement of use and thereafter.
3. 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

4. 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: DA-2026-0028-01, Rev A

Description: Boundary Realignment Lots A and B, sheet 1 of 2, prepared by Cross Solutions and dated 19 February 2026

Amendments: Amended in red for the indicated driveway area; and
Amended in red to avoid the removal of existing trees within the Environmental Significance Overlay.

Plan No: DA-2026-0028-01, Rev A

Description: Boundary Realignment Lots A and B, sheet 2 of 2, prepared by Cross Solutions and dated 19 February 2026

Amendments: Nil.

Plan No: Figure 18, Version 1
Description: Excerpt from Planning Report of Environmental Significance Overlay, prepared by Gilvear Planning and dated 25 March 2026
Amendments: Nil.

APPROVED DOCUMENTS

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

Document: R6009, Bushfire Management Report
Description: Bushfire Management Report, Version 1, prepared by Max Bushfire Protection Consulting and dated 09 March 2026
Amendments: Nil.

COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS

6. 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

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

DEVELOPMENT CONSTRAINTS

BUSHFIRE MANAGEMENT - GENERAL

8. Subdivision works must be carried out in accordance with Section 7 of the approved Bushfire Management Report listed within this Development Approval.

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.

SERVICES & UTILITIES

WATER SUPPLY

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

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

Note: The size of any new service connection is to be determined during Plumbing approval.

Note: Water meters will be installed at the road verge of Andrews Road.

11. All live connections to the existing water supply networks and water meter installations must be carried out by Council at no cost to Council.

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

12. Unless able to be used as part of the development, any existing connection must be compliantly disconnected and meters recovered by Council at no cost to Council.
13. Any existing water supply connection traversing more than one approved lot must be compliantly disconnected and removed.
14. Certification must be provided to Council by Licensed Plumber that any necessary disconnections have been carried out.
15. Where works have been carried out to disconnect or remove traversing pipes, certification must state that a separate water supply has been provided for all lots containing buildings which previously had a metered water supply, and that new water meters have been provided where necessary.

ELECTRICITY

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

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

ECOLOGY

18. Existing trees on the subject land within the Environmental Significance Overlay as identified in the Approved Plans listed in this Development Approval must be retained.

B. ADVICES:

GENERAL ADVICES – RECONFIGURING A LOT

INFRASTRUCTURE CHARGES

- 1) Infrastructure charges are 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) Carrying out works on a road or interfering with the road or its operation will require a permit under *Subordinate Local Law No. 1.15 (2020)*. The application form can be found on Council's website at www.tr.qld.gov.au. For further information contact the Road Operations Branch through Council's Customer Service Centre on 131 872.
- 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.

EXCAVATION & FILLING

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

ENVIRONMENTAL HARM

- 8) 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

- 9) 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.

BUILDING APPROVAL REQUIRED FOR CERTAIN FENCES & RETAINING WALLS

- 10) A Development Approval for Building Work is required for the following:
- 10.1 Fences where:
 - The fence is part of a pool fence; or
 - The fence is over 2m in height (from natural ground level); or
 - The fence is attached to a retaining wall and the combined mean height is over 2.4m in height from natural ground level;
 - 10.2 Retaining walls where:
 - The wall is retaining fill having a height greater than 1m in height above the wall's natural ground surface; or
 - The wall is located within 1.5m of a building or another retaining wall; or
 - There is a load or surcharge imposed above the retaining wall (i.e. driveway, batter, building or the like); and
 - 10.3 Retaining walls and/or fences are sited within 1.5m of a property boundary line and the combined height of the structures exceeds 2m (including where the retaining wall is less than 1m).
- 11) A siting discretion may be required from Council where a fence is proposed to be built atop the retaining wall and the combined height of the structure exceeds 2m above natural ground level.

DRIVEWAY CROSSOVERS

- 12) A Development Application for a Development Permit for Operational Works may be required for the construction of the driveway crossover, where not complying with the relevant assessment benchmarks of the Works and Services Code of the *Toowoomba Regional Planning Scheme 2012*.

SCHEDULE 2

DEVELOPMENT PERMIT FOR MATERIAL CHANGE OF USE - CODE

APPLICATION NUMBER:	MCUC/2026/2587
APPLICANT:	Julia Petts and Stephen Jozsef Gerard Prokop
LOCATION:	10 Widderick Road, CROWS NEST QLD 4355
PROPERTY DESCRIPTION:	Lot 1 RP15463, Lot 181 CSH1741
APPROVED DEVELOPMENT:	Reconfiguring a Lot - Boundary Realignment 2 into 2 Lots, and Material Change of Use - Dwelling House
ZONING / PRECINCT:	Rural / 100 ha minimum Precinct

ASSESSMENT MANAGER CONDITIONS

PART B: MATERIAL CHANGE OF USE

PLANNING

APPROVED USE

1. This Development Approval is for a Material Change of Use for a Dwelling House.

CARRY OUT & MAINTAIN DEVELOPMENT

2. Unless otherwise stated, all conditions must be complied with prior to the commencement of use and thereafter.
3. 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 current Building Work approval.
4. The development must be maintained generally in accordance with the Approved and Amended Plans and Documents subject to or modified by any conditions of this Development Approval.

APPROVED PLANS

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

Plan No: DA-2026-0028-01, Rev A

Description: Boundary Realignment Lots A and B, sheet 1 of 2, prepared by Cross Solutions and dated 19 February 2026

Amendments: Amended in red for the indicated driveway area; and
Amended in red to avoid the removal of existing trees within the Environmental Significance Overlay.

Plan No: DA-2026-0028-01, Rev A
Description: Boundary Realignment Lots A and B, sheet 2 of 2, prepared by Cross Solutions and dated 19 February 2026
Amendments: Nil.

Plan No: Figure 18, Version 1
Description: Excerpt from Planning Report of Environmental Significance Overlay, prepared by Gilvear Planning and dated 25 March 2026
Amendments: Nil.

APPROVED DOCUMENTS

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

Document: R6009, Bushfire Management Report
Description: Bushfire Management Report, Version 1, prepared by Max Bushfire Protection Consulting and dated 09 March 2026
Amendments: Nil.

AVAILABILITY OF APPROVED DOCUMENTATION DURING WORKS

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

DEDICATIONS, AGREEMENT AND CONTRIBUTIONS

REGISTRATION OF PLAN OF SURVEY

8. Prior to the commencement of the use, the Boundary Realignment under Development Permit RAL/2026/2586 must be registered in accordance with the requirements of Development Permit RAL/2026/2586. The Plan of Subdivision must be registered with the Department of Resources and proof of registration provided to Council.

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.

STORMWATER DISCHARGE

10. Stormwater from new roofed areas (including overflow pipes from rainwater tanks) is permitted to be discharged within the subject land, a minimum of 3 metres clear of any building foundations and any adjoining property boundary.
11. The act of on-site stormwater discharge must not cause erosion and scouring and must utilise appropriate control devices at outlets to prevent such erosion and scouring.
12. Stormwater must be dispersed as sheet flow.
13. Design and construction of all internal stormwater drainage works must comply with each applicable section of *Australian and New Zealand Standard AS/NZS 3500 - Plumbing and Drainage Code* and the *Queensland Urban Drainage Manual*.

EROSION & SEDIMENT CONTROL

14. 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.
15. 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.
16. 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.
17. All disturbed areas must be mulched or turfed as soon as possible during construction.

DAMAGE TO SERVICES & ASSETS

18. Protect Council and public utility services and assets during construction of the development.
19. 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:
 - 19.1 Where the damage would cause a hazard to pedestrian or vehicle safety or interrupts a service to the community, immediately; or
 - 19.2 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.
20. 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.
21. Construction, alterations and any repairs to Council infrastructure is undertaken in accordance with Council's relevant policies and requirements at no cost to Council.

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

SERVICES & UTILITIES

ON-SITE WASTEWATER TREATMENT & DISPOSAL

22. The development must be provided with an on-site wastewater treatment and effluent disposal system having a capacity and land application area sufficient for the use. The area nominated for the wastewater treatment and effluent disposal, including irrigation areas, must be maintained for this purpose for the life of the approval.
23. The wastewater treatment and effluent disposal system must comply with *Australian Standard AS3500.2 – National Plumbing and Drainage - Sanitary Plumbing and Drainage*; and *Australian Standard AS1547:2012 - On Site Domestic-Wastewater Management* where system size is not exceeded (ref. Part 1.2.1.2 of AS1547:2012).
24. All reasonable and practicable measures must be undertaken to prevent treated wastewater and effluent from overflowing or seeping onto adjoining properties

WATER SUPPLY

25. 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.

Note: The size of any new service connection is to be determined during Plumbing approval.

26. All water main fittings, services and meters must be located 1.0m clear of the driveway footpath crossover unless otherwise approved in writing by Council. Any relocation of fittings clear of driveways must be undertaken by Council at no cost to Council.
27. 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.

ELECTRICITY

28. An electricity supply must be made available to service the development. This supply must be in accordance with the relevant standards of the electricity distributor.

TRANSPORT, VEHICULAR ACCESS & PARKING

ROADWORKS SIGNAGE AND PEDESTRIAN SAFETY

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

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

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

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

PROVISION OF VEHICULAR ACCESS

31. The vehicle access from the subject land to Andrews Road must be sealed from the road edge to the property boundary. The vehicle access (crossing the verge) must be constructed generally in accordance with the Institute of Public Works Engineering Australasia *Drawing RS-056 Rural Driveways*, and in accordance with *Australian Standard AS 2890 – Parking Facilities (Part 1 and as relevant Part 2)*.

ECOLOGY

32. Existing trees on the subject land within the Environmental Significance Overlay as identified in the Approved Plans listed in this Development Approval must be retained.

B. ADVICES:

GENERAL ADVICES – MATERIAL CHANGE OF USE

INFRASTRUCTURE CHARGES

- 1) Infrastructure charges are 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) Carrying out works on a road or interfering with the road or its operation will require a permit under *Subordinate Local Law No. 1.15 (2020)*. The application form can be found on Council's website at www.tr.qld.gov.au. For further information contact the Road Operations Branch through Council's Customer Service Centre on 131 872.
- 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.

CLEARING OF NATIVE VEGETATION

- 7) The subject land supports regulated vegetation under the *Vegetation Management Act 1999 (VMA)*. The clearing of regulated vegetation can only be undertaken where associated with exempt clearing activities established under the VMA. For further information regarding exempt clearing activities please contact your local office of the Department of Resources.

EXCAVATION & FILLING

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

ENVIRONMENTAL HARM

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

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

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

FIRE ANTS

- 10) 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.

BUILDING APPROVAL REQUIRED FOR CERTAIN FENCES & RETAINING WALLS

- 11) A Development Approval for Building Work is required for the following:
- 11.1 Fences where:
 - The fence is part of a pool fence; or
 - The fence is over 2m in height (from natural ground level); or
 - The fence is attached to a retaining wall and the combined mean height is over 2.4m in height from natural ground level;
 - 11.2 Retaining walls where:
 - The wall is retaining fill having a height greater than 1m in height above the wall's natural ground surface; or
 - The wall is located within 1.5m of a building or another retaining wall; or
 - There is a load or surcharge imposed above the retaining wall (i.e. driveway, batter, building or the like); and
 - 11.3 Retaining walls and/or fences are sited within 1.5m of a property boundary line and the combined height of the structures exceeds 2m (including where the retaining wall is less than 1m).
- 12) A siting discretion may be required from Council where a fence is proposed to be built atop the retaining wall and the combined height of the structure exceeds 2m above natural ground level.

BUILDING OVER, OR NEAR, COUNCIL INFRASTRUCTURE

- 13) Any construction carried out near or over existing Council services should be in accordance with Council's adopted Policy (*Queensland Development Code NMP 1.4 – Excavation and Piling Near Sewers, Stormwater Drains and Water Mains*) and Council's Planning Scheme Policy SC6.3 PSP No. 3– *Water and Wastewater Infrastructure*. A Concurrence Agency referral of the Building Work Application to Council's Water and Wastewater Infrastructure Branch may be required.

C. ATTACHMENTS:

- Approved Development Plans
- Approved Documents
- 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—
- 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—
- for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - 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
 - for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - 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
 - 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
 - for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.
- Note— See the P&E Court Act for the court's power to extend the appeal period.
- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
- the adopted charge itself; or
 - for a decision about an offset or refund—
 - the establishment cost of trunk infrastructure identified in a LGIP; or
 - the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
- is in the approved form; and
 - succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to—
- the respondent for the appeal; and
 - each co-respondent for the appeal; and
 - for an appeal about a development application under

schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and

- (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—
- if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
- if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2) schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
- decision** includes—
- conduct engaged in for the purpose of making a decision; and
 - other conduct that relates to the making of a decision; and
 - the making of a decision or the failure to make a decision; and
 - a purported decision; and
 - a deemed refusal.

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

- is final and conclusive; and
- may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
- is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.