

Our Reference: MCUI/2026/2933
CS Portal Reference: N/A
Officer: Jun Ong
Contact: (07) 4688 9555
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Development Application Decision Notice
APPROVAL
Planning Act 2016 Section 63

Dung Le
C/- Precinct Urban Planning
PO Box 3038
TOOWOOMBA QLD 4350

Email: james@precinctplan.com.au

16 September 2026

Dear Sir

Location: 9 & 1-2/9 Benjamin Street, MOUNT LOFTY QLD 4350
Property Description: Lots 0, 1 and 2 BUP101164
Relevant Planning Scheme: *Toowoomba Regional Planning Scheme 2012*

The Development Application for Material Change of Use - Impact - Multiple Dwelling (2 x 2 Bedroom units and 1 x 4 Bedroom unit), 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 11 September 2026. An error in the numbering of Condition 54 has been corrected in Schedule 1 of this Decision Notice. The following provides all the relevant details:

Details of Approval

Development Permit – Material Change of Use - Impact - Multiple Dwelling (2 x 2 Bedroom units and 1 x 4 Bedroom unit)

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

Concurrence Agency Conditions: N/A

Currency Period

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.

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



Krys den Hertog
Principal Planner, Planning Branch

SCHEDULE 1

DEVELOPMENT PERMIT FOR MATERIAL CHANGE OF USE - IMPACT

APPLICATION NUMBER:	MCUI/2026/2933
APPLICANT:	Dung Le c/- Precinct Urban Planning
LOCATION:	9 & 1-2/9 Benjamin Street, MOUNT LOFTY QLD 4350
PROPERTY DESCRIPTION:	Lots 0, 1 and 2 BUP101164
APPROVED USE:	Multiple Dwelling (2 x 2-Bedroom units and 1 x 4-Bedroom unit)
ZONING / PRECINCT:	Low Density Residential Zone / General Precinct

A. ASSESSMENT MANAGER'S CONDITIONS:

APPROVED USE

1. This Development Approval is for a Material Change of Use for Multiple Dwelling (2 x 2-Bedroom units and 1 x 4-Bedroom unit).

CARRY OUT & 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 are not varied by this Development Approval.
3. Unless otherwise stated, all conditions must be complied with prior to the commencement of use and thereafter.
4. 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.
5. 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

6. 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: 250902, Sheet 1.01, Revision C
Description: Site Plan, prepared by SP Building Design Pty Ltd and dated 26 June 2026
Amendments: Note amendments in RED.

Plan No: 250902, Sheet 2.02, Revision C
Description: Proposed Floor Plan, prepared by SP Building Design Pty Ltd and dated 26 June 2026
Amendments: Nil

Plan No: 250902, Sheet 3.01, Revision C
Description: Elevations, prepared by SP Building Design Pty Ltd and dated 26 June 2026
Amendments: Nil

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

7. Prepare and submit applications to Council and obtain a Development Permit for Operational Work for the following:
 - 7.1 Stormwater Infrastructure.

AVAILABILITY OF APPROVED DOCUMENTATION DURING WORKS

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

WORKS

ENGINEER'S CERTIFICATION AND SUPERVISION OF WORKS

9. Plans and specifications for all works associated with stormwater drainage, or any other works required on Council infrastructure, must be prepared and certified by a Registered Professional Engineer Queensland - Civil (RPEQ).
10. A RPEQ must submit to Council a copy of the:
 - 10.1 Design Certificate prior to commencement of the works; and
 - 10.2 Construction Supervision Certificate upon completion of the works certifying that works are in accordance with the approved plans and specifications.
11. Any works that have been certified by an RPEQ must be carried out under the supervision of an RPEQ with all executed works being detailed on a Construction Supervision Certificate.
12. Where any condition refers to or requires an Engineer to perform a task or function, the Engineer must hold professional indemnity insurance to the value of \$2,000,000. A Certificate of Currency must be submitted to Council with any Design Certificate or Construction Supervision Certificate.

STORMWATER DRAINAGE

13. All land adjoining the development must be protected from ponding or nuisance from stormwater resulting from the development for the life of the development.
14. All stormwater infrastructure necessary to convey run-off from roof and developed surface areas, and any run-off onto the subject land from adjacent areas, must convey stormwater to a lawful point of discharge in accordance with the stormwater discharge conditions of this Development Approval.
15. Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and be approved by Council for the internal and any external stormwater infrastructure. The design and the construction of the works must be certified by a RPEQ – Civil.

STORMWATER DISCHARGE

16. Stormwater from the new roofed and sealed areas must be picked up and discharged by way of sealed underground pipe to the kerb and channel at Beck Street through the easement "A" from Lot 32 RP106237.

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

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

EROSION & SEDIMENT CONTROL

19. 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.
20. 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.
21. 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.
22. All disturbed areas must be mulched or turfed as soon as possible during construction.

AIR QUALITY IMPACT MITIGATION

23. 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 work.
24. All reasonable and feasible avoidance and mitigation measures are employed so that dust emissions generated during building works do not exceed the following levels when measured at any sensitive place or commercial place:
 - 24.1 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

25. 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*.

26. 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*.
27. Fires are not to be lit to dispose of demolition or construction waste.
28. 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:
 - 28.1 Elsewhere within this Development Approval;
 - 28.2 In accordance with an associated Development Permit for Operational Work;
 - 28.3 In association with and in accordance with an Environmental Authority issued under the *Environmental Protection Act 1994*;
 - 28.4 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
 - 28.5 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.
29. 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

30. 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.

DAMAGE TO SERVICES & ASSETS

31. Protect Council and public utility services and assets during construction of the development.
32. 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:
 - 32.1 Where the damage would cause a hazard to pedestrian or vehicle safety or interrupts a service to the community, immediately; or
 - 32.2 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.
33. 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.
34. Construction, alterations and any repairs to Council infrastructure is undertaken in accordance with Council's relevant policies and requirements at no cost to Council.

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

SERVICES & UTILITIES

WASTEWATER INFRASTRUCTURE (GENERAL)

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

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

36. If the development cannot be compliantly drained to the existing wastewater connection point but can be drained to the existing wastewater system, a new connection point must be installed. The new location must be determined and agreed by Council's Coordinator Plumbing and Drainage and Council's Coordinator Water and Sewer Maintenance.
37. Any connection to or modification of Council's live wastewater infrastructure must be undertaken by Council. A Private Works Quotation must be requested from Council, payment made for the works, and the works completed by Council.

Note: Any new connection or reconnection to a Council wastewater system requires a Form 1 Plumbing approval prior to house drainage being installed.

38. Any wastewater house drainage connection points located in trafficable areas will require the vertical shaft to be capped with a heavy duty trafficable system finished flush with the finished surface level
39. Maintenance Holes (MH) are to be fully protected during the full construction period of the development. Protection must include spanning slabs or beams and mattressing to ensure direct loads from all heavy plant during construction are not transmitted onto the MH structure.

Note: The mid lot maintenance hole cover does not appear to be a formally rated trafficable type.

WATER SUPPLY

40. 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.

41. Each individual tenancy or residence must be provided with a separate system for the metering of water consumption in accordance with Council's *Water Infrastructure Policy 2.03 Sub metering Guidelines and Specifications*.

TELECOMMUNICATION

42. Install telecommunications infrastructure to service the development which complies with the following:

42.1 The requirements of the *Telecommunications Act 1997* (Cth);

42.2 For a fibre ready facility, the standard specifications current at the time of installation for a carrier under the *Telecommunications Act 1997*; and

42.3 For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line is located underground.

43. Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

ELECTRICITY

44. 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.

AMENITY & OPERATION OF USE

VISUAL AMENITY

45. All buildings, structures and fences as well as the subject land must be maintained in a clean and tidy manner at all times.

PROTECTION OF PRIVACY

46. The balcony (deck) located on the western building face of Proposed New Unit 3 must include either balcony planter boxes, balustrading or fixed external privacy screens, positioned in such a way to obscure direct views into the habitable room windows or private open space areas of nearby accommodation activities.

FENCING & WALLS (GENERAL)

47. 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.
48. 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. The existing fence or wall is to be completely removed and replaced.
49. 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.
50. 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.
51. Side boundary fences must taper on an angle from the front building line to the front boundary to a maximum height of 1.2m or to the height of the highest existing or approved fences adjoining the front or side boundary.
52. Fences and walls must be maintained in a good state of repair to ensure that their intended function (i.e. privacy, security, safety, acoustic, livestock, pest exclusion etc.) is maintained.
53. All costs associated with meeting the fencing requirements listed within this Development Approval must be borne by the developer.
54. A minimum 1.8m high solid screen fence, which may be a 'butt-jointed' timber paling fence, must be erected along the full length of the north-eastern, south-western and south-eastern boundaries of the subject land, unless otherwise varied by Condition 51.

FENCING & WALLS - PRIVATE OPEN SPACE

55. A 1.8m high solid screen fence or wall which contains no gaps with the exception of a maximum 50mm drainage gap at the bottom, must be provided between and around all private open space areas provided for the development, except for that part of the fence or wall adjacent to public places.

STREET IDENTIFICATION

56. 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

57. A private letterbox for each dwelling which complies with the requirements of Australia Post must be provided adjacent to the road frontage.

TRANSPORT, VEHICULAR ACCESS & PARKING

ON-SITE CAR PARKING, SERVICE BAYS & MANOEUVRING

58. The premises must be provided with a minimum of six (6) on-site car parking spaces, together with standing and manoeuvring areas. Car parking and vehicle manoeuvring areas must be:
- 58.1 Constructed generally as shown on the Approved Plans listed within this Development Approval; and
 - 58.2 Provided with a sealed surface to the minimum dimensions detailed in the *Toowoomba Regional Planning Scheme 2012* and *Australian Standard AS2890 - Parking Facilities*;
 - 58.3 Designed and constructed in accordance with the requirements of AS2890;
 - 58.4 Visitor parking to be provided with pavement markings that indicate 'visitor parking only'; and
 - 58.5 Maintained as originally constructed and kept and used exclusively for vehicle parking and manoeuvring.

ENVIRONMENT & WASTE

WASTE MANAGEMENT (BIN PROVISION & STORAGE)

59. Refuse storage must be provided generally in accordance with the Approved Plans listed within this Development Approval and the provision of 1 x 240L wheelie bin for general waste and 1 x 240L wheelie bin for recyclable waste for each Multiple Dwelling unit.

WASTE MANAGEMENT (REMOVAL)

60. Unless otherwise endorsed by Council in a waste management plan, arrangements for waste removal are provided in accordance with the following requirements:
- 60.1 Collection by a refuse vehicle from the kerbside;
 - 60.2 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; and
 - 60.3 Bins must be stored at their place of permanent storage other than times ahead of or during waste removal.

LANDSCAPING

LANDSCAPING WORKS

61. The development must maintain and retain existing landscaped areas and include the following:
 - 61.1 Plant and maintain minimum one (1) canopy tree capable of achieving a height of at least five (5) metres and canopy spread of at least six (6) metres at maturity.
62. All landscape works must be installed and established by a suitably qualified person (Landscaper, Horticulturalist or equivalent) that ensures healthy, sustained and vigorous plant growth.
63. Landscape planting is to be retained and maintained for the life of the development in accordance with the conditions of this Development Approval.

B. ADVICES:

GENERAL ADVICES

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.

WATER POLLUTION

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

FIRE ANTS

- 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 Services Branch may be required.

MANDATORY RAINWATER TANKS

- 14) Toowoomba Regional Council requires mandatory rainwater tanks and water saving measures on new dwellings and commercial buildings. Queensland Development Code (QDC) 4.2 is now applicable to any new class 1 (a)(i) buildings (single detached dwellings) on blocks greater than 250m². Dwellings on lots less than 250m² are exempt. Queensland Development Code 4.3 is applicable for any new commercial buildings (class 5 to 9).

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—
- either a tribunal or the P&E Court; or
 - only a tribunal; or
 - only the P&E Court; and
- (b) the person—
- who may appeal a matter (the **appellant**); and
 - who is a respondent in an appeal of the matter; and
 - who is a co-respondent in an appeal of the matter; and
 - who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The **appeal period** is—
- (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
- (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
- (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
- (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
- for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
 - for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
 - otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.
- Note— See the P&E Court Act for the court's power to extend the appeal period.
- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
- the adopted charge itself; or
 - for a decision about an offset or refund—
 - the establishment cost of trunk infrastructure identified in a LGIP; or
 - the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

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

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

- (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—
- 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.