



Our ref: LC:ts:D22/4374

Your ref:

24 February 2022

MTC Tower Pty  
PO Box 700  
COOKTOWN QLD 4895

E-mail: [mcrmcc@westnet.com.au](mailto:mcrmcc@westnet.com.au)

Attention: Matthew Carey

Dear Mr Carey

**Negotiated Decision Notice – Approval (With Conditions)**

Given under section 76 of the *Planning Act 2016*

I refer to your Change Representations application for Development Application DA/4310 – Reconfiguring a Lot (1 lot into 12 lots), 2 Hope Street, Cooktown received by Council on 17 January 2022. This application was determined by Council at the Ordinary Meeting held on 22 February 2022. The decision was made to issue a Negotiated Decision Notice, to replace the previously issued Decision Notice dated 29 November 2021.

In summary, the conditions of the Development Permit are amended as follows:

- Condition 13 to remain;
- Condition 17 be amended;
- Condition 19 be amended;
- Condition 24(i) be amended; and
- Condition 24(vii) to remain.

The nature of the changes are:

**CONDITION 13**

***Street Lighting***

*“13. Street lighting must be provided for the development in accordance with Design Guideline D8 of the FNQROC Manual Sections, General D8.01 to D8.04 and D8.07”*

***Condition 13 to remain unchanged.***

## **CONDITION 17**

### **Access**

*“17. All proposed lots must take access from the proposed new road. Location of and grade of driveways to be provided along with the information and confirmation that Sight Distance at Property Entrances can be achieved according to FNQROC Development Manual and Austroads Guide to Road Design Part 4A.”*

### **Condition 17 to be amended to:**

#### **Access**

17. Vehicle access from all proposed lots must be gained from the proposed new internal road. Engineering drawings must be submitted for approval by Council’s Manager Engineering as part of an Operational Works application identifying the location of and grade of driveways and confirmation that sight distance at property entrances can be achieved according to the FNQROC Development Manual and Austroads Guide to Road Design Part 4A.

## **CONDITION 19**

### **Access**

*“19. Access for proposed Lots 1 to 13 must be sealed with either asphalt or concrete, from the property boundary to the new kerb and channel. Accesses are to include ancillary stormwater drainage and be designed and constructed to the requirements of the FNQROC Manual. Engineered drawings must be submitted for approval by Council’s Manager Engineering as part of an Operational Works application prior to works commencing.”*

### **Condition 19 to be amended to:**

#### **Access**

19. Access for proposed Lot 7 must be designed and constructed prior to the endorsement of the survey plan. The access must be sealed with either asphalt or concrete, from the property boundary to the new kerb and channel, include ancillary stormwater drainage and be designed and constructed to the requirements of the FNQROC Development Manual. Engineered drawings must be submitted for approval by Council’s Manager Engineering as part of an Operational Works application prior to works commencing.

## **CONDITION 24(i) AND CONDITION 24(vii)**

### **Operational Works**

- “24. Prior to construction commencing an Operational Works permit must be obtained in accordance with the FNQROC Development Manual, and to the satisfaction of the Council’s Director Infrastructure for the following:*
- (i) Access construction including ancillary stormwater drainage;*

- (vii) *Location and grade of driveways providing information and confirmation that Sight Distance at Property Entrances can be achieved according to FNQROC Development Manual and Austroads Guide to Road Design Part 4A.*

**Condition 24(i) be amended and Condition 24(vii) to remain as follows:**

**Operational Works**

“24. Prior to construction commencing an Operational Works permit must be obtained in accordance with the FNQROC Development Manual, and to the satisfaction of the Council’s Director Infrastructure for the following:

- (i) Access construction for Lot 7 including ancillary stormwater drainage;
- (vii) *Location and grade of driveways providing information and confirmation that Sight Distance at Property Entrances can be achieved according to FNQROC Development Manual and Austroads Guide to Road Design Part 4A.*

An additional advise clause has been included regarding a property notation for proposed Lot 1-6 and 8-13. The property notation is to make future landowners aware that an access driveway location has been approved for the lot and that access crossovers must be constructed in accordance with the FNQROC Development Manual and in the location approved as part of the Operational Works approval.

The Negotiated Decision Notice for DA/4310 is attached to this letter.

The currency period for this approval is four (4) years from the date of this Negotiated Decision Notice. Any extension to the currency period must be applied for within this period.

Should you require any further information or assistance on this matter please contact Council’s Planning and Environment Department on 07 4082 0500 or email: [mail@cook.qld.gov.au](mailto:mail@cook.qld.gov.au).

Yours sincerely



Linda Cardew  
Chief Executive Officer



Our Ref: LC:ts:D22/4374

Your Ref:

24 February 2022

MTC Tower PTY  
PO Box 700  
Cooktown QLD 4895

E-mail: [mcrmcc@westnet.com.au](mailto:mcrmcc@westnet.com.au)

Attention: Matthew Carey

Dear Sir/Madam

**Negotiated Decision Notice - Approval (with conditions)**

Given under section 76 of the *Planning Act 2016*

The development application described below was properly made to Cook Shire Council on 23 November 2021.

**Applicant details**

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Applicant name: MTC Tower PTY

Applicant contact details: Matthew Carey  
PO Box 700  
Cooktown QLD 4897  
E-mail: [mcrmcc@westnet.com.au](mailto:mcrmcc@westnet.com.au)

**Application details**

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Application number: DA/4310

Approval sought: Development Permit for a Reconfiguration of a Lot

Description of the development proposed: Reconfiguration of a Lot one (1) into twelve (12) lots

**Location details**

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Street address: 2 Hope Street, Cooktown QLD 4895

Real property description: Lot 23 on SP219110 and Lot 7 on SP219110

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**Decision**

Date of Decision: 22 February 2022

Decision Details: Approved in full subject to conditions. These conditions are set out in Attachment 1 and are clearly identified to indicate whether the assessment manager or concurrence agency imposed them.

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**Details of the Approval**

Development Permit Reconfiguring a Lot

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**Variation Approval Details**

Not applicable

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**Conditions**

This approval is subject to the conditions in Attachment 1.

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**Further development permits**

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- Operational Works Permit (see conditions attached)

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**Properly made submissions**

Not applicable - no part of the application required public notification.

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**Referral Agencies**

The referral agencies for the application are:

Referral Agency	Referral Matter
State Assessment and Referral Agency (SARA) Far North Queensland Regional Office PO Box 2358 CAIRNS QLD 4870 Ph: 07 4037 3214 Email: <a href="mailto:CairnsSARA@dasilgp.qld.gov.au">CairnsSARA@dasilgp.qld.gov.au</a> MyDAS2 online referrals: <a href="https://prod2.dev-assess.qld.gov.au/suite/">https://prod2.dev-assess.qld.gov.au/suite/</a>	State Transport Corridor (Schedule 10, Part 9, Division 4, Subdivision 2, Table 1)
	State Controlled Road Intersection (Schedule 10, Part 9, Division 4, Subdivision 2, Table 3)

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**Approved plans and specifications**

Copies of the approved plans, specifications and/or drawings are enclosed in **Attachment 1**.

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**Currency period for the approval**

This development approval will lapse at the end of the period set out in section 85 of the *Planning Act 2016*

## **Rights of appeal**

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The rights of applicants to appeal to a tribunal or the Planning and Environment court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

An applicant and/or submitter may appeal to the Planning and Environment Court or the Development tribunal against a number of matters (see Schedule 1 of the *Planning Act 2016*).

A copy of the extracts of the above referenced sections of the *Planning Act 2016* are attached (Attachment 2).

For further information, please contact Council's Planning and Environment Department on 07 4082 0500 or email: [mail@cook.qld.gov.au](mailto:mail@cook.qld.gov.au).

Yours sincerely



Linda Cardew  
Chief Executive Officer

cc: SARA - [CairnsSARA@dasilgp.qld.gov.au](mailto:CairnsSARA@dasilgp.qld.gov.au)

enc: **Attachment 1 (Part 1)** – Conditions imposed by the assessment manager  
**Attachment 1 (Part 2)** – Conditions imposed by a concurrence agency.  
**Attachment 2** – Extract of Appeal Provisions (Chapter 6, Part 1 and Part 2 and Schedule 1 of the *Planning Act 2016*).

## **Attachment 1 (Part 1) - Conditions imposed by the assessment manager (Cook Shire Council)**

### **A. Assessment Manager (Council Conditions)**

#### **Approved Plans and Documents**

1. The development must be carried out generally in accordance with the following plans/specialist reporting submitted with the application, except for any variations required to comply with the conditions of this approval:
  - John MacIsaac and Associates Pty Ltd – Drawing No. 2038-05 – Date 27-05-05 – Received by Council on 26 October 2021;
  - Bayith Design Associates – Staging Plan
  - Bruce & Associates Consulting – Drawing No. 3130, Sheet C, Dated Dec 06, Version B dated 30/8/07 Road Layout and Drainage Revised
  - Engineering Report - Specifications – Bruce and Associates Consulting Pty Ltd

#### **Staged Development – Timing**

2. Undertake the development in accordance with the sequence of staging as indicated on the approved plans and documents, with the stages to be developed in chronological order of each stage as identified on the approved plans. Unless otherwise expressly stated, the conditions must be read as being applicable to all stages.

#### **Water Supply and Effluent Disposal**

3. Each lot must be able to connect to be connected to Council's reticulated sewerage and water network. Sufficient reticulated water capacity must be provided for domestic and firefighting purposes.
4. The developer must design and construct all sewerage and water works in accordance with the approved plans, *FNQROC Development Manual*, *Water Supply (Safety and Reliability) Act* and the *Plumbing and Drainage Act*.

#### **Services**

5. Electricity and telecommunication services must be provided to each lot in accordance with the standards and requirements of the relevant service provider.

#### **Easements**

6. Prior to the endorsement of the survey plan of Stage 2 the existing easement (Easement A in Lot 23) must be rescinded and the existing access crossover to Hope Street must be removed.
7. Lots must provide where applicable a 3.0-metre-wide drainage easement such that overland flow can be directed away from downstream properties to a legal point of discharge.

### **Protection of Vegetation / Slope Protection**

8. Existing vegetation identified on the approval plan of development must be retained where possible.

### **Roadworks**

9. The new internal access road must be constructed as part of Stage 2 in accordance with the approved plans. Construction must be in accordance with the FNQROC Development Manual. Engineering drawings must be submitted for approval by Council's Director Infrastructure as part of an Operational Works application prior to works commencing.
10. The proposed new road shall be generally in accordance with the drawings No. 3130, including cul de sac, and intersection with Hope Street be asphalt or bitumen sealed, and constructed to the requirements of the FNQROC Manual. Ancillary stormwater drainage must be included. Engineered drawings must be submitted for approval by Council's Manager Engineering as part of an Operational Works application prior to works commencing.
11. The proposed new road must have layback kerb and channel in accordance with plan S1000 of the FNQROC Manual for its full frontage to the proposed lots. Engineered drawings must be submitted for approval by Council's Manager Engineering as part of an Operational Works application prior to works commencing.

### **Footpaths**

12. The nature strip between the property boundaries and the new proposed road must be formed and grassed and left in a mowable condition. Engineered drawings must be submitted for approval to Council's Manager Engineering, as part of an Operational Works application prior to works commencing.

### **Street Lighting**

13. Street lighting must be provided for the development in accordance with Design Guideline D8 of the FNQROC Manual Sections, General D8.01 to D8.04 and D8.07.

### **Sediment Control**

14. The developer must ensure that effective measures are put in place to ensure construction activity does not cause erosion. A sediment control plan must be submitted to Council for approval prior to works commencing.
15. The developer must ensure that no soil or silt runoff occurs from the site during the construction and operational phase of the development.

### **Fire Management**

16. All lots and fire breaks must be maintained by the owner at all times so as not to create a fire hazard.



### **Access**

17. Vehicle access from all proposed lots must be gained from the proposed new internal road. Engineering drawings must be submitted for approval by Council's Manager Engineering as part of an Operational Works application identifying the location of and grade of driveways and confirmation that sight distance at property entrances can be achieved according to the FNQROC Development Manual and Austroads Guide to Road Design Part 4A.
18. The cul de sac shall cater for safe turning of Service Vehicles without the need for reversing, according to FNQROC Development Manual.
19. Access for proposed Lot 7 must be designed and constructed prior to the endorsement of the survey plan. The access must be sealed with either asphalt or concrete, from the property boundary to the new kerb and channel, include ancillary stormwater drainage and be designed and constructed to the requirements of the FNQROC Development Manual. Engineered drawings must be submitted for approval by Council's Manager Engineering as part of an Operational Works application prior to works commencing.
20. The existing direct access (Easement A) between the state-controlled road and lot 7 (existing) located about 26m from the western side boundary must be closed and the access removed prior to the endorsement of the survey plan for Stage 2.

### **Stormwater**

21. All stormwater drainage must be to a legal point of discharge and constructed in accordance with section D4 of the FNQROC Manual. Engineered drawings must be submitted for approval by Council's Manager Engineering as part of an Operational Works application prior to works commencing.
22. The requirements for the management of both long term and short-term water quality impacts shall be met in accordance with Section D5, Stormwater Quality Management. Engineered drawings must be submitted for approval by Council's Manager Engineering as part of an Operational Works application prior to works commencing.
23. The stormwater management system or site works must not adversely affect flooding or drainage characterises of properties that are upstream, downstream, or adjacent to the development site.

### **Operational Works**

24. Prior to construction commencing an Operational Works permit must be obtained in accordance with the FNQROC Development Manual, and to the satisfaction of the Council's Director Infrastructure for the following:
  - (i) Access construction for Lot 7 including ancillary stormwater drainage;
  - (ii) Geotechnical investigation report to provide information regarding slope stability, mass soil movement, and erosion of the existing gullies on the site and the roadway above.

- (iii) Road works on proposed new road and Hope Street intersection including ancillary stormwater drainage, road construction, kerb and channel and footpath/nature strip formation;
- (iv) Erosion and sediment control;
- (v) Internal stormwater drainage;
- (vi) Stormwater quality management;
- (vii) Filling and excavation requirements of Infrastructure Code, addressing Performance Outcomes PO7, PO8, PO9, PO10, and PO11;
- (viii) Location and grade of driveways providing information and confirmation that Sight Distance at Property Entrances can be achieved according to FNQROC Development Manual and Austroads Guide to Road Design Part 4A.

### **Certificate and Maintenance**

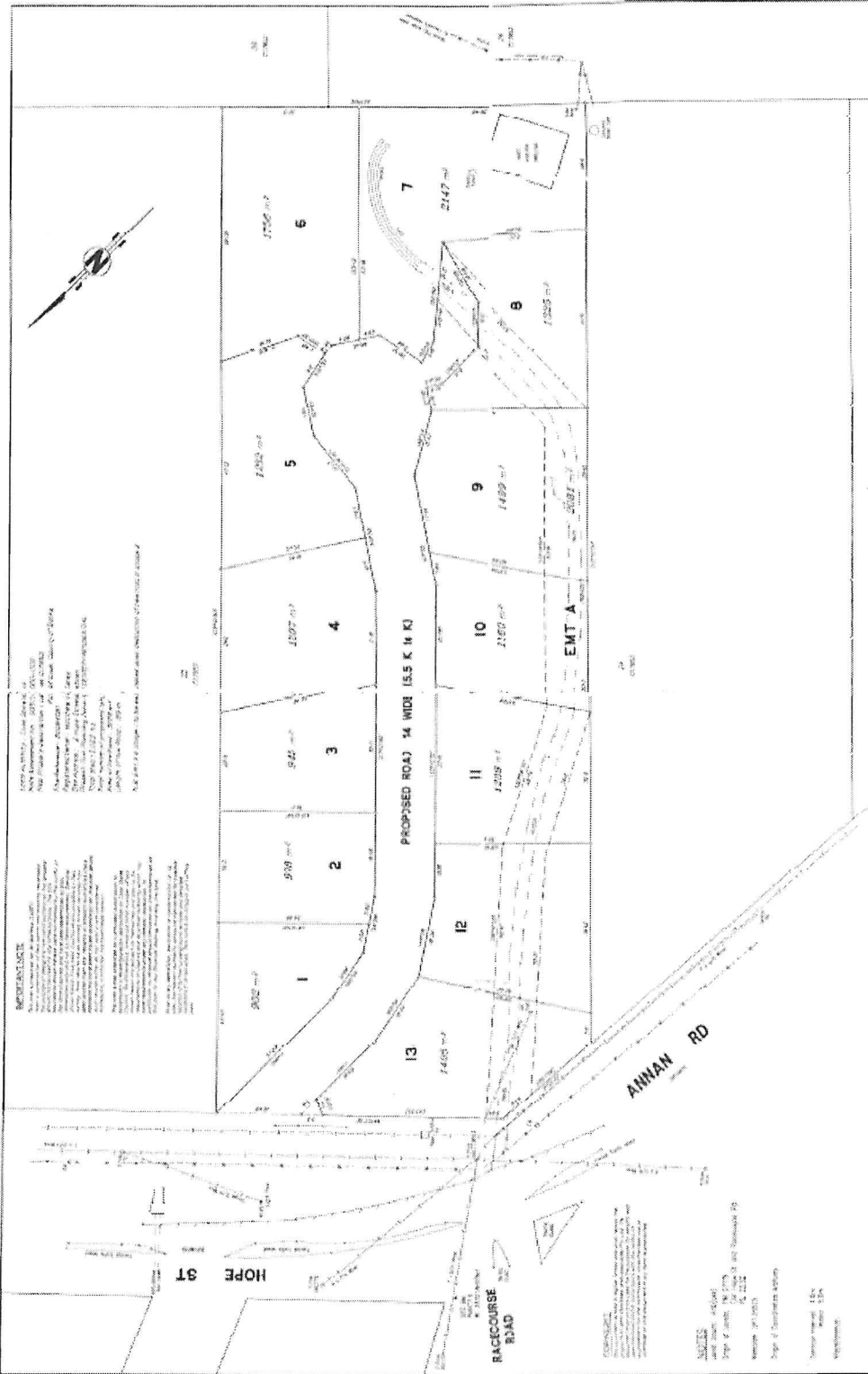
25. Upon completion of the above works, a certificate from a qualified engineer is to be submitted to Council stating that the works have been carried out properly and in accordance with the plans and specifications approved by Council. The certificate shall set out the full engineering details of the works as completed and shall show all relevant survey data and levels, together with a bond for 5% of the total works cost to meet the costs of any maintenance required during maintenance period not exceeding 12 months.

### **B. Assessment Manager (Council) Advice**

1. Property notation for proposed Lot 1-6 and 8-13. An access driveway location has been approved for this lot. Access crossovers must be constructed in accordance with the FNQROC Development Manual and in the location approved as part of the Operational Works approval.
2. The applicant/owner is to ensure compliance with the requirements of the *Aboriginal Cultural Heritage Act* and in particular 'the duty of care' that it imposes on all landowners.
3. Property notation for proposed Lot 1-6 and 8-13. An access driveway location has been approved for this lot. Access crossovers must be constructed in accordance with the FNQROC Development Manual and in the location approved as part of the Operational Works approval.
4. The reconfiguring a lot approval authorised under this Development Permit must be completed and the Plan of Survey submitted to Council for endorsement within four (4) years from the commencement of this approval or the approval will lapse.
5. With respect to the required Operational Works application it is noted:
  - (i) Additional information is required particularly in relation to the stormwater drainage calculations. The Revised Stormwater Drainage Calculation to correctly reflect the structure and their sub-catchments. The current calculation has reference to structure 11/1 which doesn't exist on the drawings.

- (ii) The table drain between the pavement edge and the property boundary must be reinstated in accordance with the requirements of Department of Transport and Main Roads', Road Planning and Design Manual, 2nd Edition, November 2020, Volume 3 – Guide to Road Design at no cost to the Department of Transport and Main Roads' (as per the Referral agency conditions).
- (ii) A booster pump may be required to obtain adequate water pressure.

**Appendix A – Approved Plans Referenced in Conditions**



**NOTES:**

1. THIS PLAN IS TO BE READ IN CONJUNCTION WITH THE INSTRUMENT OF SERVICE AND THE INSTRUMENTS OF TRANSFER.
2. ALL DIMENSIONS ARE TO THE CENTRE OF THE ROAD.
3. THE DEVELOPER ACCEPTS RESPONSIBILITY FOR THE ACCURACY OF THIS PLAN.
4. THE DEVELOPER ACCEPTS RESPONSIBILITY FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITY AND OTHER RELEVANT AGENCIES.
5. THE DEVELOPER ACCEPTS RESPONSIBILITY FOR OBTAINING ALL NECESSARY SERVICES AND UTILITIES FROM THE RELEVANT PROVIDERS.
6. THE DEVELOPER ACCEPTS RESPONSIBILITY FOR OBTAINING ALL NECESSARY SERVICES AND UTILITIES FROM THE RELEVANT PROVIDERS.
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12. THE DEVELOPER ACCEPTS RESPONSIBILITY FOR OBTAINING ALL NECESSARY SERVICES AND UTILITIES FROM THE RELEVANT PROVIDERS.
13. THE DEVELOPER ACCEPTS RESPONSIBILITY FOR OBTAINING ALL NECESSARY SERVICES AND UTILITIES FROM THE RELEVANT PROVIDERS.

**REQUIREMENTS:**

All buildings to be constructed in accordance with the Building Code of Australia and any applicable local council regulations. All buildings must be finished to a standard suitable for residential use. All buildings must be finished to a standard suitable for residential use. All buildings must be finished to a standard suitable for residential use.

**GENERAL:**

This plan is to be read in conjunction with the Instrument of Service and the Instruments of Transfer. All dimensions are to the centre of the road. The developer accepts responsibility for the accuracy of this plan. The developer accepts responsibility for obtaining all necessary permits and approvals from the local authority and other relevant agencies. The developer accepts responsibility for obtaining all necessary services and utilities from the relevant providers.

**CLIENT:** MR MATTHEW CAREY  
**PROPOSED LOTS:** 1 - 13  
 Cancelling Lot 23 on C17963  
 Parish of COOK, County of Banks

**ISSUED:** 15/03/2019  
**SCALE:** 1:200  
**DATE:** 15/03/2019

**CONTRIBUTOR:** JOHN MACISAAC AND ASSOCIATES PTY. LTD.  
**CONSULTING ENGINEER & PROPERTY DEVELOPMENT CONSULTANTS**  
 P.O. Box 30, 107/110 The Esplanade, Gold Coast, QLD 4217  
 Email: jmac@macisaac.com.au

**SCALE:** 1:200  
**DATE:** 15/03/2019

**PROJECT:** MR MATTHEW CAREY  
**PROPOSED LOTS:** 1 - 13  
**DATE:** 15/03/2019

**DRAWN:** J. Macisaac  
**CHECKED:** J. Macisaac  
**DATE:** 15/03/2019

**SCALE:** 1:200  
**DATE:** 15/03/2019

**PROJECT:** MR MATTHEW CAREY  
**PROPOSED LOTS:** 1 - 13  
**DATE:** 15/03/2019

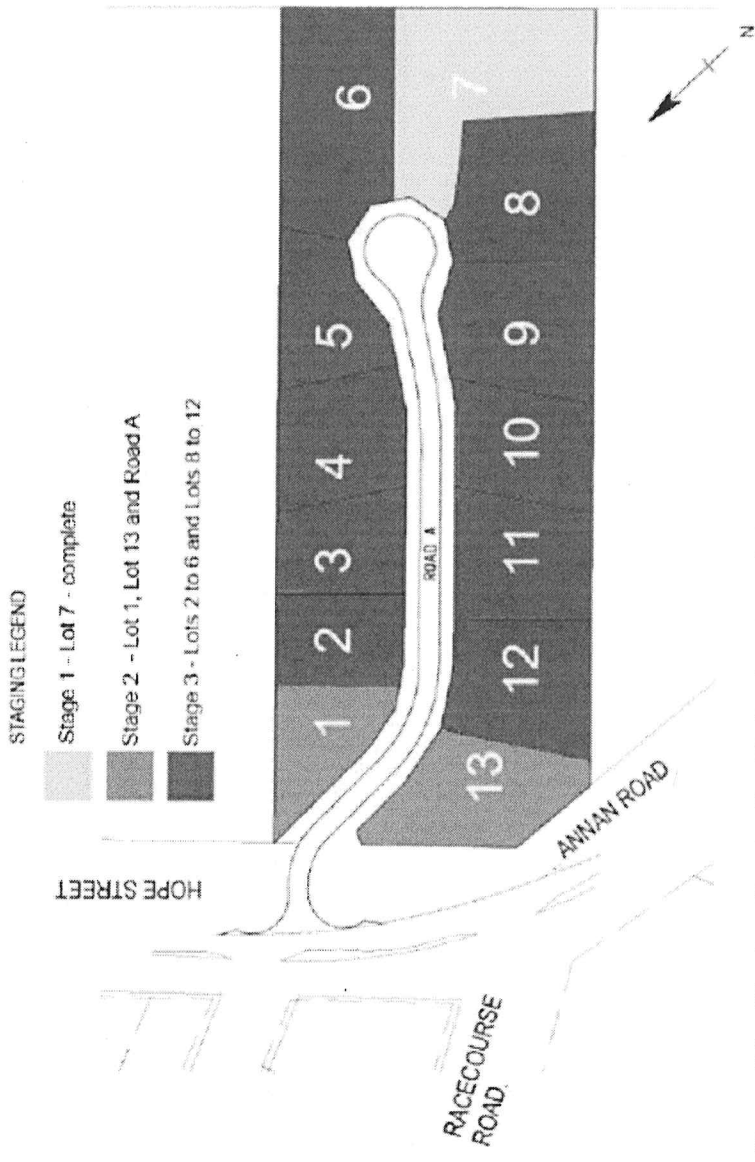
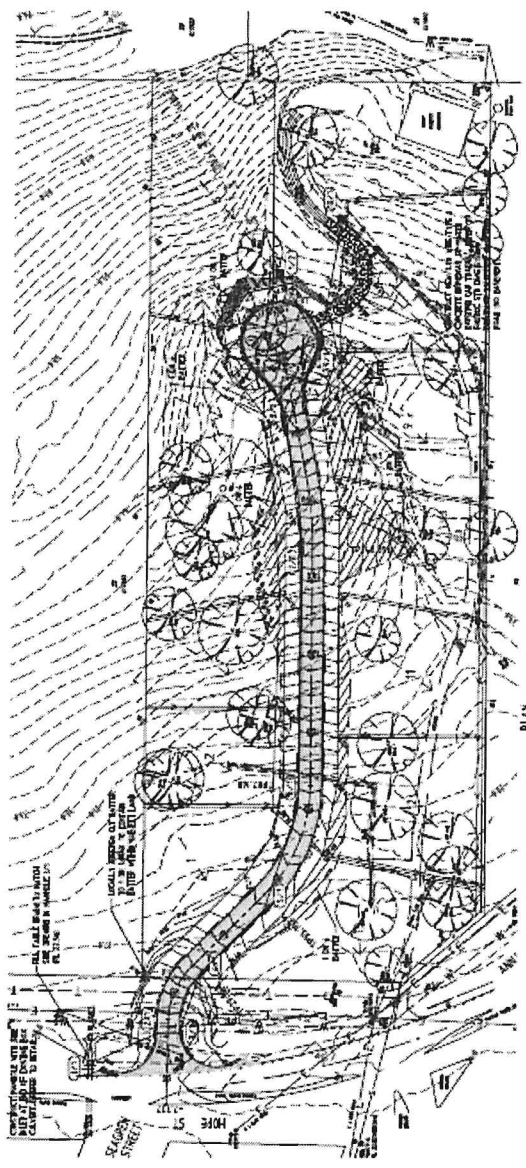


Figure 01 – Staging Plan by Bayith Design Associates

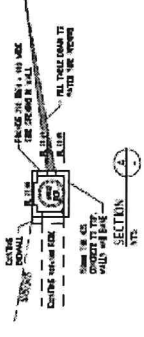
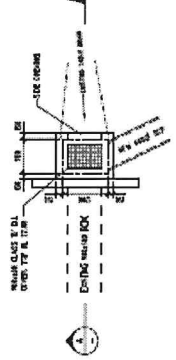
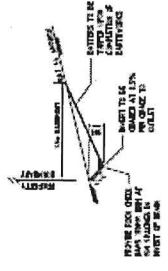
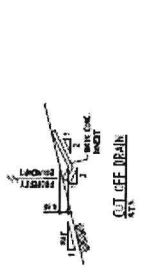


PLAN  
SCALE 1/8" = 1'-0"

**ALLOTMENT ACCESS**  
 - SHOWN TO THE EAST OF THE SITE  
 - SEE PLAN SHEET 204/201

- NOTES**
1. ALL NEW PIPES SHALL BE 150mm DIA UNLESS OTHERWISE SPECIFIED.
  2. PIPES SHALL BE 1% FALL UNLESS OTHERWISE SPECIFIED.
  3. ALL PIPES SHALL BE 150mm DIA UNLESS OTHERWISE SPECIFIED.
  4. ALL PIPES SHALL BE 150mm DIA UNLESS OTHERWISE SPECIFIED.
  5. ALL PIPES SHALL BE 150mm DIA UNLESS OTHERWISE SPECIFIED.
  6. ALL PIPES SHALL BE 150mm DIA UNLESS OTHERWISE SPECIFIED.
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  9. ALL PIPES SHALL BE 150mm DIA UNLESS OTHERWISE SPECIFIED.
  10. ALL PIPES SHALL BE 150mm DIA UNLESS OTHERWISE SPECIFIED.

- LEGEND**
- APPROXIMATE FLOW DIRECTION
  - 150mm DIA PIPE
  - 100mm DIA PIPE
  - 75mm DIA PIPE
  - 50mm DIA PIPE
  - 25mm DIA PIPE
  - 150mm DIA MANHOLE
  - 100mm DIA MANHOLE
  - 75mm DIA MANHOLE
  - 50mm DIA MANHOLE
  - 25mm DIA MANHOLE
  - BRASS SQUARE DEBRIS DETAIL
  - CONCRETE DRAINAGE STRUCTURE
  - LOCAL DRAINAGE STRUCTURE



DATE	27/08/2014	BY	WJ
SCALE	1:100	PROJECT NO.	3130
PROJECT	ROADWORKS AND STORMWATER DRAINAGE	SHEET NO.	2-11
CLIENT	MR MATTHEW CAREY	DATE	27/08/2014

**BRUCE & ASSOCIATES CONSULTING**  
 2/45 SOUTH STREET, SUITE 101  
 SYDNEY, NSW 2011  
 TEL: (02) 9550 9999  
 FAX: (02) 9550 9988  
 WWW.BRUCEANDASSOCIATES.COM.AU

**MR MATTHEW CAREY**  
 ROADWORKS AND STORMWATER DRAINAGE  
 PROJECT LOCATION  
 10/10 ST. JOHNS AVENUE

NO.	REVISION	DATE	BY	CHKD BY
1	ISSUED FOR TENDERS	27/08/2014	WJ	WJ
2	FOR CONSTRUCTION	27/08/2014	WJ	WJ
3	FOR AS-BUILT	27/08/2014	WJ	WJ

**Appendix B – Infrastructure Charges Notice**

Refer to Infrastructure Charges Notice provided under separate cover dated 29 November 2021.



**Attachment 1 (Part 2) – Conditions Imposed by a Referral Agency**

RA6-N



SARA reference: 2106-23110 SRA  
Council reference: DA/4310

15 July 2021

Chief Executive Officer  
Cook Shire Council  
PO Box 3  
Cooktown Qld 4895  
mail@cook.qld.gov.au

Dear Linda Cardew

## SARA response—Residential Subdivision (12 Lots) at 2 Hope Street, Cooktown

(Referral agency response given under section 58 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency on 16 June 2021.

### Response

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Outcome:	Referral agency response – with conditions.
Date of response:	15 July 2021
Conditions:	The conditions in Attachment 1 must be attached to any development approval.
Advice:	Advice to the applicant is in Attachment 2.
Reasons:	The reasons for the referral agency response are in Attachment 3.

### Development details

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Description:	Development permit    Reconfiguring a Lot (1 Lot into 12 Lots)
SARA role:	Referral Agency
SARA trigger:	<b>Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1</b> (Planning Regulation 2017) - Reconfiguring a lot near a State-controlled road <b>Schedule 10, Part 9, Division 4, Subdivision 2, Table 3, Item 1</b> (Planning Regulation 2017) - Reconfiguring a lot near a State-controlled road intersection

Far North Queensland regional office  
Ground Floor, Cnr Grafton and Hartley  
Street, Cairns  
PO Box 2356, Cairns QLD 4870

Page 1 of 7

SARA reference: 2106-23110 SRA  
Assessment Manager: Cook Shire Council  
Street address: 2 Hope Street, Cooktown  
Real property description: Lot 23 on SP219110 and Lot 7 on SP219110  
Applicant name: MTC Tower PTY  
Applicant contact details: PO Box 700  
Cooktown QLD 4895  
mcmcc@westnet.com.au

## Representations

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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 Anthony Westbury, Planning Officer, on 40373215 or via email CairnsSARA@dedilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Graeme Kenna  
Manager (Planning)

cc MTC Tower PTY, mcmcc@westnet.com.au  
enc Attachment 1 - Referral agency conditions  
Attachment 2 - Advice to the applicant  
Attachment 3 - Reasons for referral agency response  
Attachment 4 - Representations provisions  
Attachment 5 - Approved plans and specifications

### 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) (Copies of the plans and specifications referenced below are found at Attachment 5)

No.	Conditions	Condition timing
<b>Reconfiguring a lot</b>		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1 – Reconfiguring a lot near a State transport corridor, and Schedule 10, Part 9, Division 4, Subdivision 2, Table 3, Item 1 – Reconfiguring a lot near a State-controlled road intersection—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads 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):		
1.	Road access and stormwater works must be carried out generally in accordance with the Roadworks and Stormwater Drainage Plan prepared by Bruce & Associates Consulting, dated 30/05/07, Reference 3130 C-1, Revision B.	Prior to submitting the Plan of Survey to the local government for approval.
2.	Direct access is not permitted between the Mulligan Highway and the subject site.	At all times.
3.	<p>(a) The existing vehicular property access located between Lot 23 on SP219110 and the Mulligan Highway must be permanently closed and removed.</p> <p>(b) The table drain between the pavement edge and the property boundary must be reinstated in accordance with the Department of Transport and Main Roads', Road Planning and Design Manual, 2<sup>nd</sup> Edition, November 2020, Volume 3 – Guide to Road Design at no cost to the Department of Transport and Main Roads'.</p>	Prior to submitting the Plan of Survey to the local government for approval.

## Attachment 2—Advice to the applicant

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General advice	
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) v2.6. If a word remains undefined it has its ordinary meaning.
2.	<p><b>Road Works Approval</b></p> <p>Under section 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads to carry out road works.</p> <p>Please contact the Department of Transport and Main Roads on 4045 7144 to make an application for road works approval.</p> <p>This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ).</p> <p>Please contact the Department of Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</p>

### **Attachment 3—Reasons for referral agency response**

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

The reasons for the SARA decision are:

- The site has road frontage to Mulligan Highway (Annan Road), a state-controlled road, and Hope Street, a local road, with an existing unsealed vehicle access to Mulligan Highway.
- The proposed development will permanently close the existing access to Mulligan Highway, and provide an internal road that will connect to Hope Street, approximately 48m from the Mulligan Highway / Hope Street intersection.
- Traffic generation via the new access is unlikely to compromise the operating conditions of the Mulligan Highway / Hope Street intersection.
- The proposed development can connect to existing council services, infrastructure, and essential utilities without impacting the state-controlled road, with stormwater to be captured via new stormwater pits and discharged to Hope Street.
- Future residential dwellings will be able to be appropriately located and constructed to minimise noise impacts from vehicles using Mulligan Highway.
- The proposed development is unlikely to compromise the safety, efficiency, and operating conditions of Mulligan Highway.
- With conditions, the proposed development complies with the relevant provisions of State code 1: Development in a state-controlled road environment.

Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version 2.6)
- The Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system

**Attachment 4—Change representation provisions**

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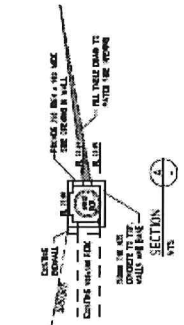
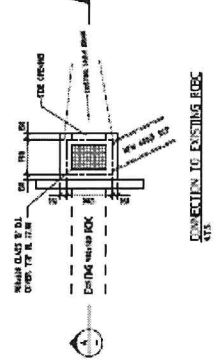
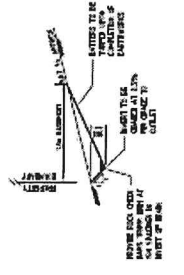
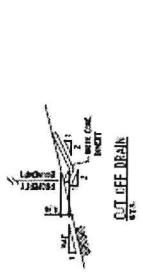
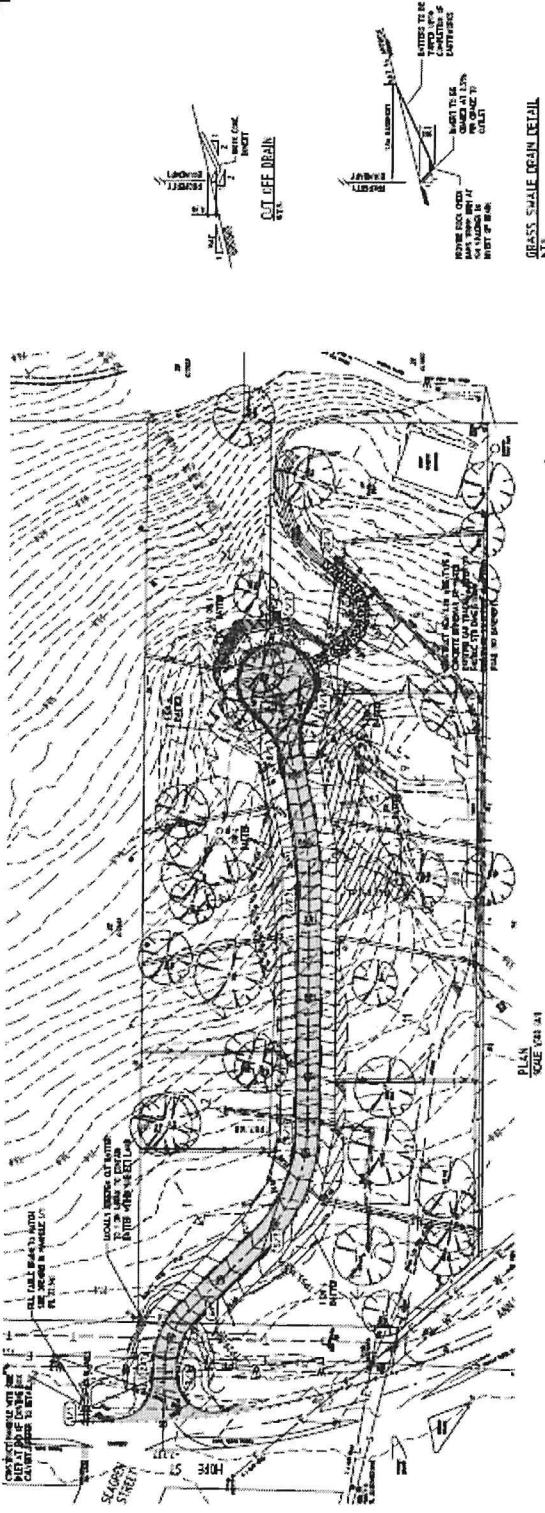
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**Attachment 5—Approved plans and specifications**

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

SARA ref. 2106-23110-01  
Date: 15 July 2021

<p><b>MR MATTHEW CAREY</b> PROPOSED SURVEYOR HOPE ST. COORNTOWN</p>		<p><b>BRUCE &amp; ASSOCIATES CONSULTING</b> 2106-23110-01 2106-23110-02 2106-23110-03 2106-23110-04 2106-23110-05 2106-23110-06 2106-23110-07 2106-23110-08 2106-23110-09 2106-23110-10</p>	
<p>PROJECT: 2106-23110-01</p>	<p>DATE: 15 JULY 2021</p>	<p>SCALE: 1:50</p>	<p>PROJECT: 2106-23110-01</p>

**Attachment 2 – Extract of Appeal Provisions**

## Chapter 6 Dispute resolution

### Part 1 Appeal rights

#### 229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
  - (a) matters that may be appealed to—
    - (i) either a tribunal or the P&E Court; or
    - (ii) only a tribunal; or
    - (iii) only the P&E Court; and
  - (b) the person—
    - (i) who may appeal a matter (the *appellant*); and
    - (ii) who is a respondent in an appeal of the matter; and
    - (iii) who is a co-respondent in an appeal of the matter; and
    - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
  - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
  - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or

- (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
  - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
  - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
  - (iii) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note—*

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
  - (a) the adopted charge itself; or

- (b) for a decision about an offset or refund—
  - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
  - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

### **230 Notice of appeal**

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
  - (a) the respondent for the appeal; and
  - (b) each co-respondent for the appeal; and
  - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
  - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
  - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
  - (f) for an appeal to the P&E Court—the chief executive; and

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

### 231 Non-appealable decisions and matters

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

(4) In this section—

*decision* includes—

- (a) conduct engaged in for the purpose of making a decision; and
- (b) other conduct that relates to the making of a decision; and
- (c) the making of a decision or the failure to make a decision; and
- (d) a purported decision; and
- (e) a deemed refusal.

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

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

#### 232 Rules of the P&E Court

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