

Our Ref: LM:DA/4474 AD2022/0008877
Your Ref: Cooktown Exchange

30 August 2022

Telstra Corporation Limited
c/-BMM Group
PO Box 430
Toowong Qld 4066
E-mail: zac.coombes@bmmgroup.com.au

Attention: Zac Coombes

Dear Mr Coombes

Decision Notice - Approval
Given under section 63 of the *Planning Act 2016*

With reference to the abovementioned Development Application, please find attached the relevant Decision Notice, which was approved by Cook Shire Council in full, subject to conditions.

Details of the decision are as follows:

Decision Details

Date of Decision: Council approved the Development Application by at a Council meeting on 23 August 2022.

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

Variation approval details

Not Applicable

Application Details

Application Number: DA/4474

Approval Sought: Development Permit for a Material Change of Use

Description of the Development: Telecommunications Facility

Category of Development: Assessable Development

Category of Assessment: Code Assessment

Planning Scheme: Cook Shire Council Planning Scheme 2017

Location Details

Street Address: 10 Walker Street, COOKTOWN 4895

Real Property Description: Lot 101 on C1793

Local Government Area: Cook Shire

Assessment Manager Conditions

This approval is subject to the conditions in Attachment 1.

Further Development Permits

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

1. Development Permit for Building Work

Properly Made Submissions

Properly made submissions were received from the following principal submitters:

Submitter Name	Submitter Residential or Business Address	Submitter Electronic Address
Gungarde Community Centre Aboriginal Corporation	92 Charlotte Street, Cooktown 4895	admin@gungarde.com.au
Eric George	PO Box 901; 7 Kellehaven Road, Cooktown 4895	ericge@westnet.com.au
Jola George	PO Box 901; 7 Kellehaven Road, Cooktown 4895	ericge@westnet.com.au
Gail Greaves	PO Box 219; 1 Kerr Street, Cooktown 4895	benz2008@live.com.au
Mickala Walker	PO Box 219; 1 Kerr Street, Cooktown 4895	chooknodhinn@outlook.com

Jean Stephan	PO Box 820; 137 Hope Street, Cooktown 4895	jeanm.stephan@gmail.com
Narelle Morton & John Middleton	87 Endeavour Valley Road, Cooktown 4895	N/A
Maureen Carruthers & Margaret Walls	PO Box 517, Cooktown 4895	N/A
Alistair & Julie Frame	129 Hope Street, Cooktown 4895	N/A
Sarah Greaves	PO Box 50, Cooktown 4895	cruising.hj75@gmail.com
Ian & Marion Taylor	95 Charlotte Street, Cooktown 4895	mazandian2004@gmail.com
Graeme & Jan Bardsley-Smith	109 Endeavour Valley Road, Cooktown 4895	N/A

Referral Agencies

Not applicable - no part of the application required referral.

Other requirements under section 43 of the *Planning Regulation 2017*

Not Applicable.

Approved Plans and Specifications

Copies of the approved plans, specifications and/or drawings are enclosed in **Attachment 2**.

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*.

Lapsing of approval if development started but not completed

In accordance with section 88(1) of the *Planning Act 2016*, a development approval, other than a variation approval, for development lapses to the extent the development is not completed within any period or periods required under a development condition.

Rights of Appeal

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* are provided in **Attachment 4** of this Decision Notice.

Other Details

Council relies on the accuracy of information included in the application documentation when assessing and deciding applications.

If you find an inaccuracy in any of the information provided above, have a query, or need to seek clarification about any of these details, please contact Cook Shire Council's Planning and Environment Department on 07 4082 0500 or E-mail: mail@cook.qld.gov.au.

Yours sincerely



Lisa Miller
Manager
Planning and Environment
Cook Shire Council

enc: **Attachment 1** – Conditions imposed by the assessment manager
Attachment 2 – Approved Plans
Attachment 3 – Notice about a Decision Notice
Attachment 4 - Extract of Appeal Provisions (Chapter 6 part 1 of the *Planning Act 2016*).

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

A. Assessment Manager (Council) Conditions

Approved Plan

1. The development must be carried out generally in accordance with the following proposal plans except for any modifications required to comply with the conditions of this approval:
 - Site Layout and Access, Sheet S1, Issue 2, dated 23/06/22;
 - Site Setout Plan, Sheet S1-1, Issue 2, dated 23/06/22;
 - Antenna Plan, Sheet 1-2, Issue 2, dated 23/06/22;
 - North Elevation, Sheet S3, Issue 2, dated 23/06/22;
 - Antenna Configuration Table, Sheet S3-1, Issue 2, dated 23/06/22; and
 - Aerial Photo Locality Plan S7 23/06/22 P Issue No. 2, Dated 23/06/22.

Colour

2. The approved monopole, associated headframe, antennas and equipment shelter must be finished in eucalyptus green colour.

Landscaping and fencing

3. Prior to the issue of a Development Permit for Building Works a landscape and fencing plan must be submitted for approval by Council's delegated officer. The landscaping plan must incorporate a minimum of four (4) trees along the Charlotte Street frontage and four (4) trees along the Walker Street frontage.
4. Prior to the commencement of use of the approved tower, the landscaping and fencing must be completed to the satisfaction of Council's delegated officer.

Site Improvements and Maintenance

5. Prior to the commencement of use of the approved tower, the existing buildings and structures on site must be refurbished and/or repainted to the satisfaction of Council's delegated officer.
6. Prior to the issue of a Development Permit for Building Works, a Maintenance Program for all buildings, structures, fencing and landscaping on the site must be submitted for approval by Council's delegated officer. All buildings, structures, fencing and landscaping must be maintained in accordance with this approved Maintenance Program.

Access

7. Vehicle access to the site must be achieved from the existing access crossover from Walker Street. Should the access be damaged during the construction works the access must be reinstated. No works are permitted to be undertaken on the State Heritage listed stone kerb and channel without obtaining the appropriate approvals.

Construction communication plan

8. Prior to the issue of a Development Permit for Building Works, a construction communication plan must be submitted to Council. The plan must, at a minimum, detail the period of construction works and communication strategy notifying adjoining landowners and any operators using the Cooktown Base Hospital Helipad.

Traffic management plan

9. Prior to the issue of a Development Permit for Building Works, the applicant must submit to Council a traffic management plan for the period of construction works. The plan must be prepared by a suitability qualified professional.

Public Utilities

10. The developer/applicant is responsible for the cost of any alterations to public utilities, services or installations as a result of complying with the conditions of this approval.

Environmental

11. The developer/applicant must ensure that no soil or silt runoff occurs from the site during the construction and operational phase of the development and appropriate erosion and sediment controls are in place.

Stormwater

12. Stormwater must be directed to a legal point of discharge.

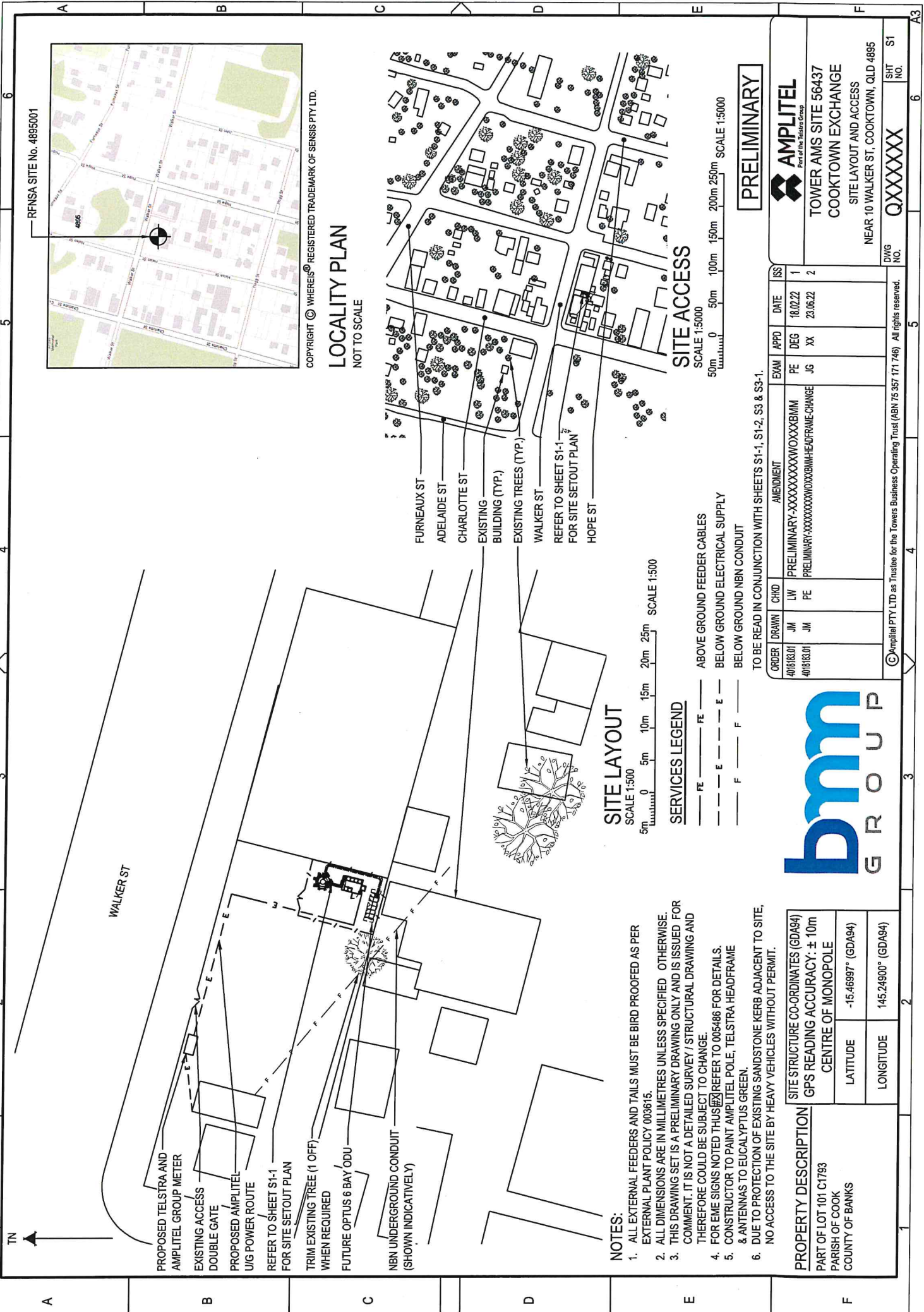
Compliance

13. All conditions of this Development Permit are to be complied with prior to the use commencing and, where relevant, maintained during operation.



B. Assessment Manager (Council) Advice

1. A development permit is required for carrying out Building Works, prior to the construction of any buildings or structures associated with this development.
2. The currency period for this application is six (6) years. Should the approved use not commence within this time, the approval shall lapse.
3. The applicant/owner must notify Council their intention to commence the use after acceptance of and compliance with these conditions or negotiated conditions (or court determined conditions) and prior to the commencement of the use. This will allow a check for compliance with conditions to be carried out by Council officers.
4. 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.



WALKER ST

- PROPOSED TELSTRA AND AMPLITEL GROUP METER
- EXISTING ACCESS DOUBLE GATE
- PROPOSED AMPLITEL U/G POWER ROUTE
- REFER TO SHEET S1-1 FOR SITE SETOUT PLAN
- TRIM EXISTING TREE (1 OFF) WHEN REQUIRED
- FUTURE OPTUS 6 BAY ODU
- NBN UNDERGROUND CONDUIT (SHOWN INDICATIVELY)

NOTES:

1. ALL EXTERNAL FEEDERS AND TAILS MUST BE BIRD PROOFED AS PER EXTERNAL PLANT POLICY 003615.
2. ALL DIMENSIONS ARE IN MILLIMETRES UNLESS SPECIFIED OTHERWISE.
3. THIS DRAWING SET IS A PRELIMINARY DRAWING ONLY AND IS ISSUED FOR COMMENT. IT IS NOT A DETAILED SURVEY / STRUCTURAL DRAWING AND THEREFORE COULD BE SUBJECT TO CHANGE.
4. FOR EME SIGNS NOTED THIS DRAWING REFER TO 005486 FOR DETAILS.
5. CONSTRUCTOR TO PAINT AMPLITEL POLE, TELSTRA HEADFRAME & ANTENNAS TO EUCALYPTUS GREEN.
6. DUE TO PROTECTION OF EXISTING SANDSTONE KERB ADJACENT TO SITE, NO ACCESS TO THE SITE BY HEAVY VEHICLES WITHOUT PERMIT.

PROPERTY DESCRIPTION

SITE STRUCTURE CO-ORDINATES (GDA94)	
GPS READING ACCURACY: ± 10m	
CENTRE OF MONOPOLE	
LATITUDE	-15.46897° (GDA94)
LONGITUDE	145.24900° (GDA94)

PART OF LOT 101 C1793
PARISH OF COOK
COUNTY OF BANKS



SITE LAYOUT

SCALE 1:500
0 5m 10m 15m 20m 25m SCALE 1:500

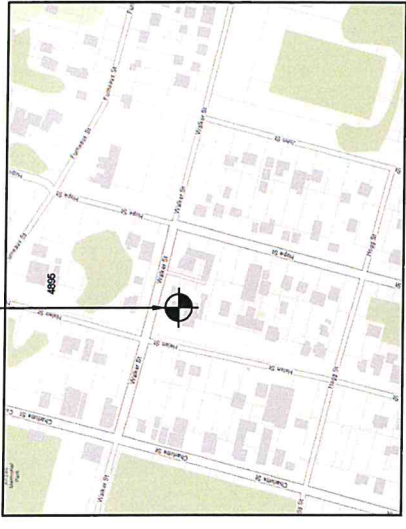
SERVICES LEGEND

- FE — FE ABOVE GROUND FEEDER CABLES
- - - E - - - E BELOW GROUND ELECTRICAL SUPPLY
- F — F BELOW GROUND NBN CONDUIT

TO BE READ IN CONJUNCTION WITH SHEETS S1-1, S1-2, S3 & S3-1.

ORDER	DRAWN	CHKD	AMENDMENT	EXAM	APPD	DATE	ISS
4/18/183.01	JM	LW	PRELIMINARY-XXXXXXXXXXXXXWXXXXBMM	PE	DEG	18.02.22	1
4/18/183.01	JM	PE	PRELIMINARY-XXXXXXXXXXXXXWXXXXBMM-HEADFRAME-CHANGE	JG	XX	23.06.22	2

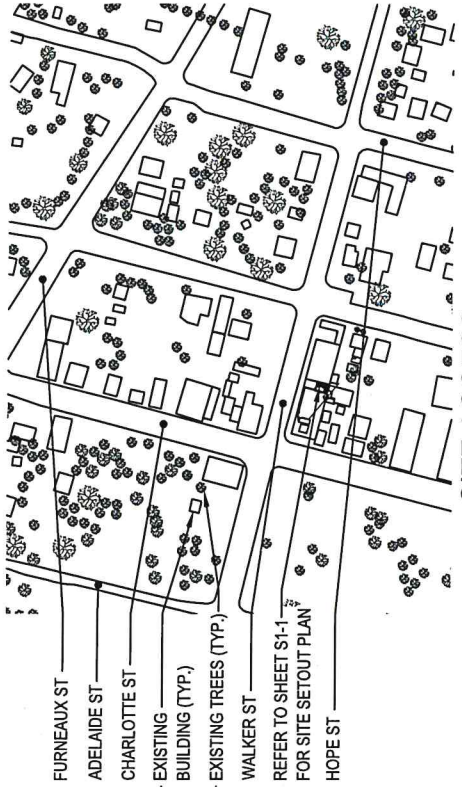
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LOCALITY PLAN

NOT TO SCALE

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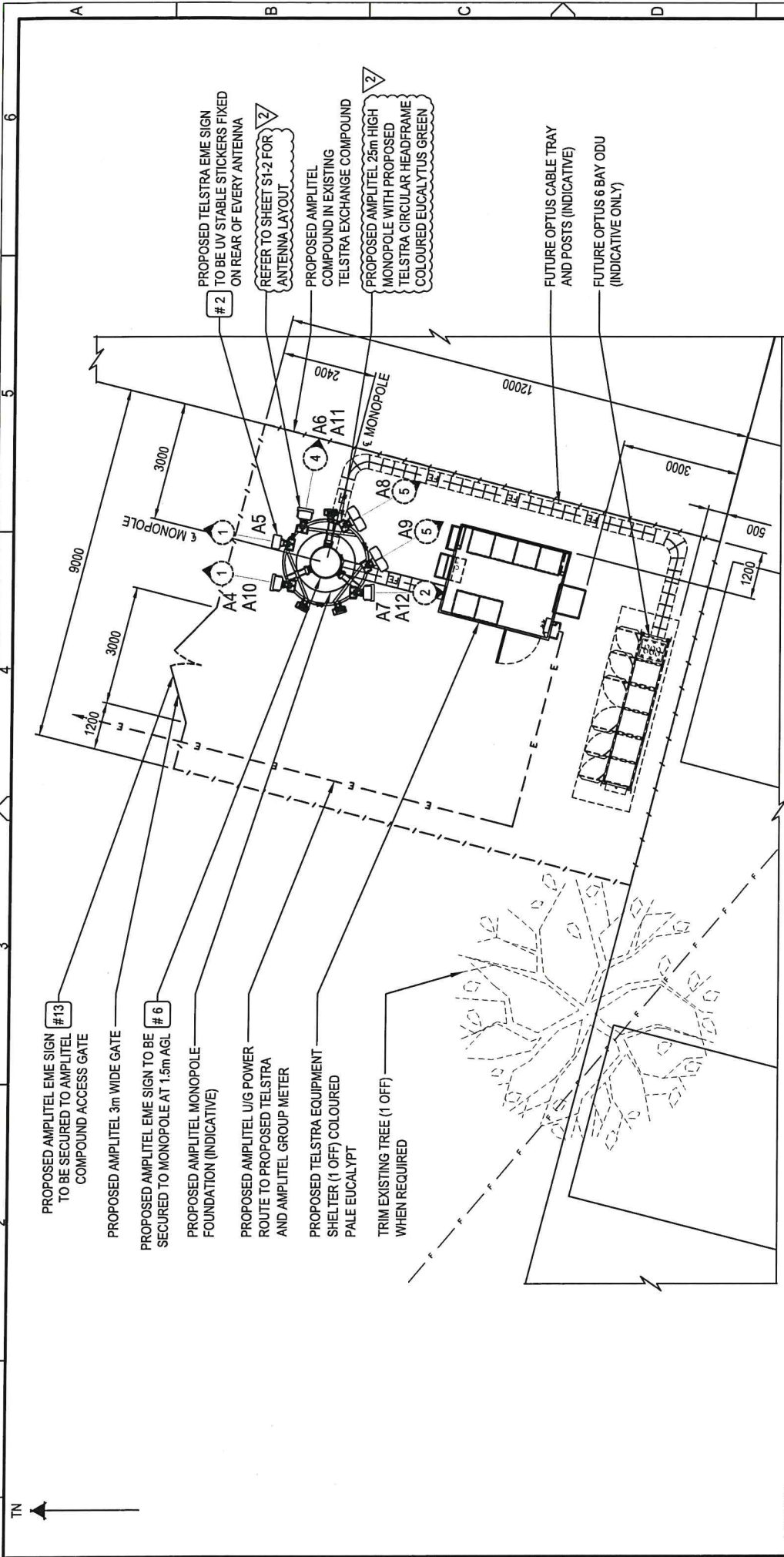


SITE ACCESS

SCALE 1:5000
0 50m 100m 150m 200m 250m SCALE 1:5000

PRELIMINARY

TOWER AMS SITE 56437	
COOKTOWN EXCHANGE	
SITE LAYOUT AND ACCESS	
NEAR 10 WALKER ST, COOKTOWN, QLD 4885	
DWG NO.	QXXXXX
SHT NO.	S1



- #13 PROPOSED AMPLITEL EME SIGN TO BE SECURED TO AMPLITEL COMPOUND ACCESS GATE
- PROPOSED AMPLITEL 3m WIDE GATE
- #6 PROPOSED AMPLITEL EME SIGN TO BE SECURED TO MONOPOLE AT 1.5m AGL
- PROPOSED AMPLITEL MONOPOLE FOUNDATION (INDICATIVE)
- PROPOSED AMPLITEL U/G POWER ROUTE TO PROPOSED TELSTRA AND AMPLITEL GROUP METER
- PROPOSED TELSTRA EQUIPMENT SHELTER (1 OFF) COLOURED PALE EUCALYPT
- TRIM EXISTING TREE (1 OFF) WHEN REQUIRED

- #2 PROPOSED TELSTRA EME SIGN TO BE UV STABLE STICKERS FIXED ON REAR OF EVERY ANTENNA
- REFER TO SHEET S1-2 FOR ANTENNA LAYOUT
- PROPOSED AMPLITEL COMPOUND IN EXISTING TELSTRA EXCHANGE COMPOUND
- PROPOSED AMPLITEL 25m HIGH MONOPOLE WITH PROPOSED TELSTRA CIRCULAR HEADFRAME COLOURED EUCALYPTUS GREEN
- FUTURE OPTUS CABLE TRAY AND POSTS (INDICATIVE)
- FUTURE OPTUS 6 BAY ODU (INDICATIVE ONLY)

SITE SETOUT PLAN

SCALE 1:100
 1m 0 1m 2m 3m 4m 5m SCALE 1:100

SERVICES LEGEND

- FE — ABOVE GROUND FEEDER CABLES
- - - E - - - BELOW GROUND ELECTRICAL SUPPLY

TO BE READ IN CONJUNCTION WITH SHEETS S1, S1-2, S3 & S3-1.

- NOTES:**
1. ALL EXTERNAL FEEDERS AND TAILS MUST BE BIRD PROOFED AS PER EXTERNAL PLANT POLICY 003615.
 2. ALL DIMENSIONS ARE IN MILLIMETRES UNLESS SPECIFIED OTHERWISE.
 3. THIS DRAWING SET IS A PRELIMINARY DRAWING ONLY AND IS ISSUED FOR COMMENT. IT IS NOT A DETAILED SURVEY / STRUCTURAL DRAWING AND THEREFORE COULD BE SUBJECT TO CHANGE.
 4. FOR EME SIGNS NOTED THIS ~~SET~~ REFER TO 005486 FOR DETAILS.
 5. ~~PROPOSED~~ TELSTRA EME SIGN TO BE UV STABLE STICKERS FIXED ON REAR OF EVERY ANTENNA.
 6. ~~PROPOSED~~ AMPLITEL EME SIGN TO BE SECURED TO MONOPOLE AT 1.5m AGL.
 7. ~~PROPOSED~~ AMPLITEL EME SIGN TO BE SECURED TO AMPLITEL COMPOUND GATE.
 8. CONSTRUCTOR TO PAINT AMPLITEL POLE, TELSTRA HEADFRAME & ANTENNAS TO EUCALYPTUS GREEN.

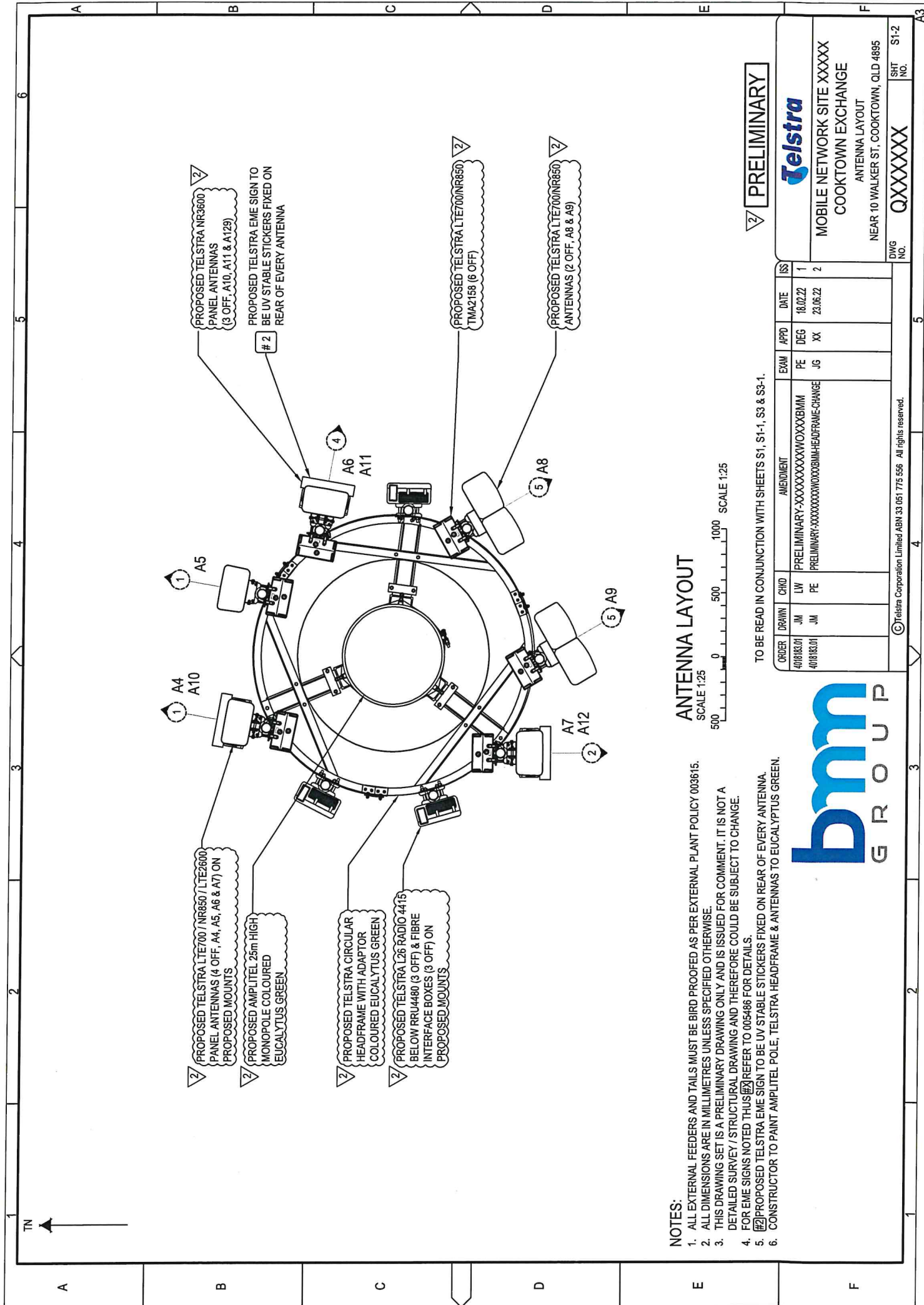
PRELIMINARY

ORDER	DRAWN	CHKD	AMENDMENT	EXAM	APPD	DATE	ISS
4/018183.01	JM	LW	PRELIMINARY-XXXXXXXXXXWXXXXBMM	PE	DEG	18.02.22	1
4/018183.01	JM	PE	PRELIMINARY-XXXXXXXXXXWXXXXBMM/HEADFRAME-CHANGE	JG	XX	23.06.22	2

		AMPLITEL <small>Part of the Telstra Group</small>	
TOWER AMS SITE 56437 COOKTOWN EXCHANGE SITE SETOUT PLAN		NEAR 10 WALKER ST, COOKTOWN, QLD 4895	
DWG NO. QXXXXX		SHT NO. S1-1	



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ANTENNA LAYOUT

SCALE 1:25
 500 1000 SCALE 1:25

- NOTES:**
1. ALL EXTERNAL FEEDERS AND TAILS MUST BE BIRD PROOFED AS PER EXTERNAL PLANT POLICY 003615.
 2. ALL DIMENSIONS ARE IN MILLIMETRES UNLESS SPECIFIED OTHERWISE.
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 4. FOR EME SIGNS NOTED THIS REFER TO 005486 FOR DETAILS.
 5. PROPOSED TELSTRA EME SIGN TO BE UV STABLE STICKERS FIXED ON REAR OF EVERY ANTENNA.
 6. CONSTRUCTOR TO PAINT AMPLITEL POLE, TELSTRA HEADFRAME & ANTENNAS TO EUCALYPTUS GREEN.

PRELIMINARY

TO BE READ IN CONJUNCTION WITH SHEETS S1, S1-1, S3 & S3-1.

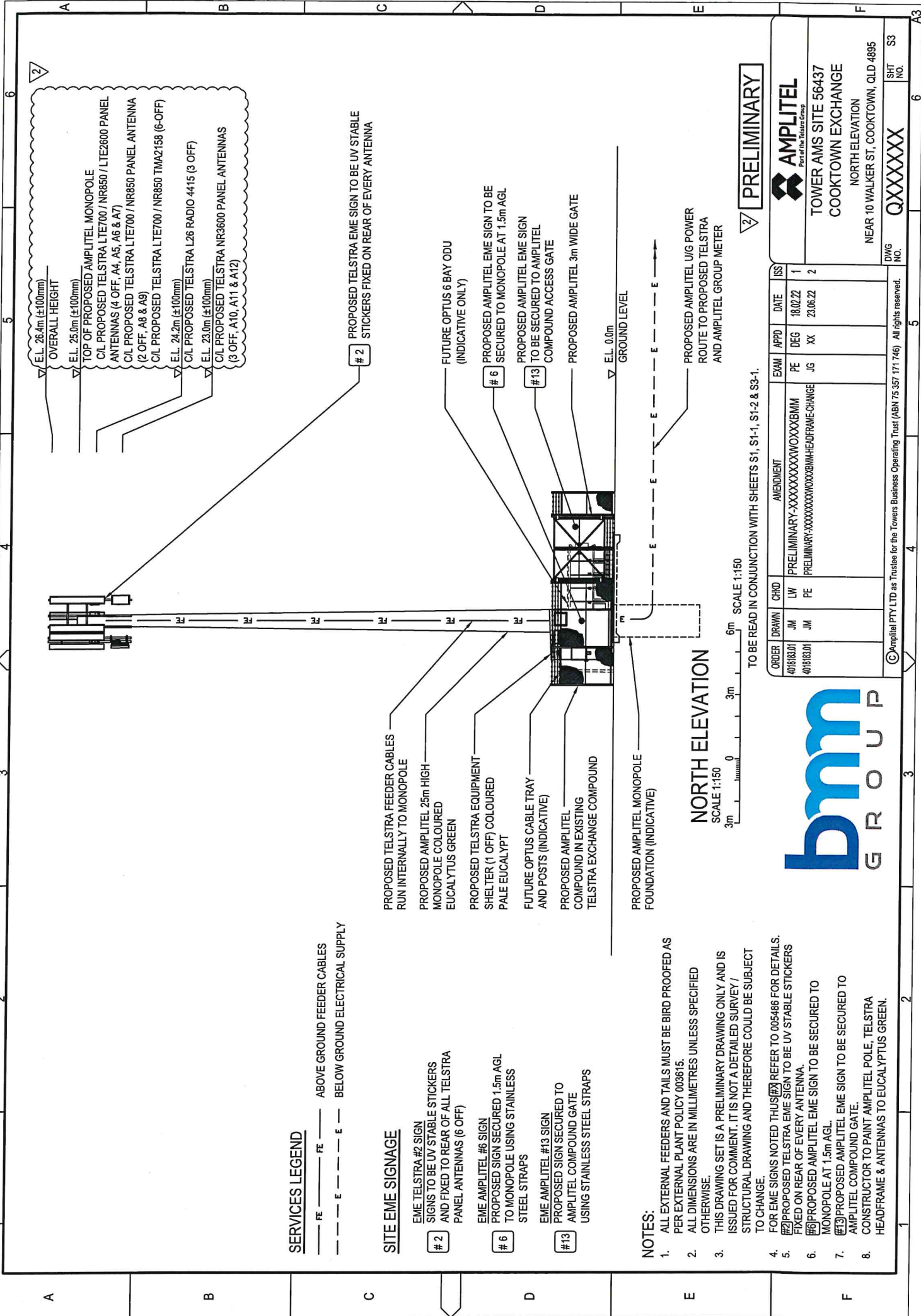
ORDER	DRAWN	CHKD	EXAM	APPD	DATE	ISS
4/01813.01	JM	LW	PE	DEG	18.02.22	1
4/01813.01	JM	PE	JG	XX	23.06.22	2

AMENDMENT	NO.	DATE
PRELIMINARY-XXXXXXXXXXXXXXXBMM	1	18.02.22
PRELIMINARY-XXXXXXXXXXXXXXXBMM-HEADFRAME-CHANGE	2	23.06.22

Telstra	
MOBILE NETWORK SITE XXXXX COOKTOWN EXCHANGE ANTENNA LAYOUT	
NEAR 10 WALKER ST, COOKTOWN, QLD 4895	
DWG NO. QXXXXX	SHT NO. S1-2



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SERVICES LEGEND

- FE ——— ABOVE GROUND FEEDER CABLES
- E - - - - - BELOW GROUND ELECTRICAL SUPPLY

SITE EME SIGNAGE

- #2 EME TELSTRA #2 SIGN
SIGNS TO BE UV STABLE STICKERS AND FIXED TO REAR OF ALL TELSTRA PANEL ANTENNAS (6 OFF)
- #6 EME AMPLITEL #6 SIGN
PROPOSED SIGN SECURED 1.5m AGL TO MONOPOLE USING STAINLESS STEEL STRAPS
- #13 EME AMPLITEL #13 SIGN
PROPOSED SIGN SECURED TO AMPLITEL COMPOUND GATE USING STAINLESS STEEL STRAPS

NOTES:

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4. FOR EME SIGNS NOTED THUS (E) REFER TO 005486 FOR DETAILS.
5. (E2) PROPOSED TELSTRA EME SIGN TO BE UV STABLE STICKERS FIXED ON REAR OF EVERY ANTENNA.
6. (E3) PROPOSED AMPLITEL EME SIGN TO BE SECURED TO MONOPOLE AT 1.5m AGL.
7. (E4) PROPOSED AMPLITEL EME SIGN TO BE SECURED TO AMPLITEL COMPOUND GATE.
8. CONSTRUCTOR TO PAINT AMPLITEL POLE, TELSTRA HEADFRAME & ANTENNAS TO EUCALYPTUS GREEN.

NORTH ELEVATION

SCALE 1:150
3m 0 3m 6m SCALE 1:150

TO BE READ IN CONJUNCTION WITH SHEETS S1, S1-1, S1-2 & S3-1.

PRELIMINARY

ORDER	DRAWN	CHKD	AMENDMENT	EVAM	APPD	DATE	ISS
4018183.01	JM	LW	PRELIMINARY-XXXXXXXXXXWXXXXBMM	PE	DEG	18.02.22	1
4018183.01	JM	PE	PRELIMINARY-XXXXXXXXXXWXXXXBMM-HEADFRAME-CHANGE	JG	XX	23.06.22	2



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TOWER AMS SITE 56437
COOKTOWN EXCHANGE
NORTH ELEVATION
NEAR 10 WALKER ST, COOKTOWN, QLD 4895

DWG NO. **QXXXXX** SHIT NO. **S3**

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ANTENNA No	ANTENNA TYPE & SIZE H x W x D	ANTENNA ACTION REQUIRED	ANTENNA HEIGHT C/L A.G.L.	PHYSICAL ANTENNA BEARING (°T)	SECTOR NO. & TECHNOLOGY
A4	COMMSCOPE RVVPX310.11B-T2H 2533 x 350 x 208mm	INSTALL	25m	10°	S1: LTE700/NR850 S1: LTE700/NR850 S1: LTE2600 S1: LTE2600 S1: LTE2600 S1: LTE2600
A5	COMMSCOPE RVVPX310.11B-T2H 2533 x 350 x 208mm	INSTALL	25m	10°	S1: LTE700/NR850 -
A6	COMMSCOPE RVVPX310.11B-T2H 2533 x 350 x 208mm	INSTALL	25m	100°	S4: LTE2600 S4: LTE2600 S4: LTE2600 S4: LTE2600
A7	COMMSCOPE RVVPX310.11B-T2H 2533 x 350 x 208mm	INSTALL	25m	180°	S2: LTE2600 S2: LTE2600 S2: LTE2600
A8	ARGUS 2LUPX210B-T2 2533 x 640 x 235	INSTALL	25m	150°	S2: LTE700/NR850 S2: LTE700/NR850 S2: LTE700/NR850 S2: LTE700/NR850
A9	ARGUS 2LUPX210B-T2 2533 x 640 x 235	INSTALL	25m	150°	S5: LTE700/NR850 S5: LTE700/NR850 S5: LTE700/NR850 S5: LTE700/NR850

ANTENNA No	ANTENNA TYPE & SIZE H x W x D	ANTENNA ACTION REQUIRED	ANTENNA HEIGHT C/L A.G.L.	PHYSICAL ANTENNA BEARING (°T)	SECTOR NO. & TECHNOLOGY
A10	ERICSSON AIR6488 810 x 400 x 200mm	INSTALL	23m	10°	S1: NR3500 S1: NR3500
A11	ERICSSON AIR6488 810 x 400 x 200mm	INSTALL	23m	100°	S4: NR3500 S4: NR3500
A12	ERICSSON AIR6488 810 x 400 x 200mm	INSTALL	23m	180°	S2: NR3500 S2: NR3500

TELSTRA ANTENNA CONFIGURATION TABLE

TELSTRA ANTENNA CONFIGURATION TABLE

PRELIMINARY

TO BE READ IN CONJUNCTION WITH SHEETS S1, S1-1, S1-2 & S3.

ORDER	DRAWN	CHKD	AMENDMENT	EXAM	APPD	DATE	ISS
4/018183.01	JM	LW	PRELIMINARY-XXXXXXXXXXXXXWXXXXXXXXMM	PE	DEG	18.02.22	1
4/018183.01	JM	PE	PRELIMINARY-XXXXXXXXXXXXXWXXXXXXXXMM/HE/FRAME-CHANGE	JG	XX	23.06.22	2



MOBILE NETWORK SITE XXXXX
COOKTOWN EXCHANGE
ANTENNA CONFIGURATION TABLE
NEAR 10 WALKER ST, COOKTOWN, QLD 4895

DWG NO. QXXXXX
SHT NO. S3-1

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Attachment 3 – Notice about a Decision Notice (D22/20904)

NOTICE ABOUT DECISION – STATEMENT OF REASONS

This Notice is prepared in accordance with s63(5) and s83(9) of the Planning Act 2016 to provide information about a decision that has been made in relation to a development application. The purpose of the Notice is to enable a public understanding of the reasons for the planning decision, specifically having regard to:

- *the relevant parts of the Planning Scheme and Assessment Benchmarks against which the application was assessed; and*
- *any other information, documents or other material Council was either required to, or able to, consider in its assessment.*

All terms used in this Notice have the meanings given them in the Planning Act 2016 or otherwise their ordinary meaning.

APPLICATION DETAILS

Application No:	DA/4474
Applicant:	BMM Group
Proposal:	Development Permit for a Material Change of Use
Description of the Development:	Telecommunications Facility
Street Address:	10 Walker Street, Cooktown 4895
Real Property Description:	Lot 101 on C1793
Planning Scheme:	Cook Shire Council Planning Scheme 2017
Land Zoning:	Centre Zone
Assessment Type:	Impact

DECISION DETAILS

Type of Decision:	Approval with Conditions
Type of Approval:	Development Permit for a Material Change of Use for Telecommunications Facility
Date of Decision:	23 August 2022

ASSESSMENT BENCHMARKS

The following Assessment Benchmarks applied to the development from the following Categorising Instruments:

Assessment Benchmarks	Comment
Planning Regulation 2017 (Schedule 9)	Schedule 9 is not applicable as the application is not for building work under the Building Act
Planning Regulation 2017 (Schedule 10)	The application did not trigger a referral to SARA under Schedule 10, Part 8, Division 2, Subdivision 1, Table 15, Item 1 – assessable development, development on or adjoining a Queensland Heritage Place, as the development did not result in works occurring on a Queensland Heritage place (stone kerb and channel).
Regional Plan	Section 2.2 of the Planning Scheme identifies that the Cape York Regional Plan has been adequately reflected in the Planning Scheme. A separate assessment against the Regional Plan is not required.
State Planning Policy, part E	Section 2.1 of the Planning Scheme identifies that the superseded version of the <i>State Planning Policy</i> is integrated in the Planning Scheme. A review of the current version of the SPP (July 2017) and assessment benchmark mapping applicable to Part E has determined that the state interests are reflected in the Planning Scheme and no additional assessment provisions in the current SPP (part E) or updated mapping are applicable requiring further assessment against the SPP.
Temporary State Planning Policy	There are no Temporary State Planning Policies

Local Categorising Instrument (Cook Shire Council Planning Scheme 2017):

- Strategic Framework;
- Centre Zone Code;
- Character Overlay;
- Parking and Access Code;
- Works, Services, and Infrastructure Code;

Local Categorising Instrument (Variation Approval)

Not Applicable

Local Categorising Instrument (Temporary Local Planning Instrument)

Not Applicable

PUBLIC NOTIFICATION

A review of Council's records has determined twenty-three (23) submissions were received.

- Twelve (12) – properly made submissions; and
- Eleven (11) – not properly made submissions.

Two (2) submissions (1 properly made and 1 not properly made) were in support of the application. Twenty-one (21) submissions were against.

REASONS FOR THE DECISION

The application is **approved** on the following grounds:

- a. An assessment was made against the applicable assessment benchmarks and the proposed development demonstrated compliance.
- b. The proposed development for Material change of Use for a Telecommunication Facility is an appropriate use to be located on the site.
- c. The facility has been designed and sited to improve the level of telecommunication service in the catchment while minimising impacts on the heritage values, streetscape and overall visual amenity.

REASONS FOR APPROVAL DESPITE NON-COMPLIANCE WITH ASSESSMENT BENCHMARKS

Not Applicable

ADDITIONAL RELEVANT MATTERS FOR IMPACT ASSESSMENT

Not Applicable

OTHER MATTERS PRESCRIBED BY THE PLANNING REGULATION 2017

Not Applicable

OTHER DETAILS

If you wish to obtain more information about Council's decision, including a copy of Council's Decision Notice and any conditions or plans relating to the development, please refer to Council's webpage.

Attachment 4 - Extract of Appeal Provisions (Chapter 6 part 1 of the *Planning Act 2016*).

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) 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
 - (iv) 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.

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- (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.

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- (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.

