



Our Ref: LM:DA/4483 AD2022/0002177

Your Ref: 22-774

04 July 2022

EFR Electrical

c/- Urban Sync Planning Development

PO Box 2970

E-mail: admin@urbansync.com.au

Attention: Stuart Ricketts

Dear Mr Ricketts

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 at a Council meeting on **28 June 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/4483
Approval Sought:	Development Permit for a Material Change of Use
Description of the Development:	Service Industry and Caretaker's Accommodation
Category of Development:	Assessable Development
Category of Assessment:	Code Assessment
Planning Scheme:	Cook Shire Council Planning Scheme 2017

Location Details

Street Address:	2 Unit Street, MARTON 4895
Real Property Description:	Lot 1 on plan M2412
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 Plumbing and Drainage Work
2. Development Permit for Building Work

Properly Made Submissions

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

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 E-mail: CairnsSARA@dsdilgp.qld.gov.au MyDAS2 online referrals: https://prod2.dev-assess.qld.gov.au/suite/	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (<i>Planning Regulation 2017</i>)

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

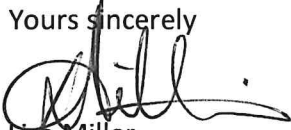
You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* are provided in Attachment 4 of this Decision Notice.

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

cc: E-mail: CairnsSARA@dsdilgp.qld.gov.au

enc: **Attachment 1 (A)** – Conditions imposed by the assessment manager
Attachment 1 (B) – Conditions imposed by a concurrence agency.
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(A) – Conditions imposed by the assessment manager (Cook Shire Council)

A. Assessment Manager (Council) Conditions

Approved Plans

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:
 - Site Plan, Drawing No. 01, Issue 2, dated 7 April 2022.

Limitations of Use – Caretaker's Accommodation

2. The Caretaker's Accommodation must not accommodate more than 3 (three) persons at any one time.

Confirmation of compliance with the Building Code of Australia

3. Within three (3) months of the approval taking effect, a Final Inspection Certificate must be submitted to Council for all buildings located onsite. Any building that does not obtain the required building approvals must be removed from site.

Effluent Disposal

4. Within three (3) months of the approval taking effect a Plumbing Application for the onsite wastewater treatment and disposal system including details of the proposed wastewater disposal system and calculation demonstrating compliance with the Queensland Plumbing and Wastewater Code and AS/NZS 1547:2000 'On-site domestic wastewater management' must be submitted to Council.

Water Supply

5. A potable water supply must be provided to the property at the time of obtaining a Building Final. This would be satisfied by the provision of a rainwater tank with a minimum capacity of 3,000 litres.

Access and Parking

6. Vehicle access to the approved use must be achieved from the existing three (3) access crossover from Unit Street.

7. Access crossovers, driveways, internal manoeuvring areas and parking areas must be constructed from compacted gravel or similar material and be maintained to ensure no dust nuisance.

Electricity

8. The proposed development must be connected to the electricity supply network.

Stormwater

9. Stormwater drainage must be directed to a legal point of discharge.
10. Site works must not adversely affect flooding or drainage characterises of properties that are upstream, downstream, or adjacent to the development site.

Waste Storage Area

11. Waste storage area must be appropriately sited and screened from view from the street.

Environment

12. The applicant must ensure that no sand, soil, or silt runoff occurs from the site. Erosion and sediment controls must be in place.

Amenity

13. The development shall have no adverse impact on the amenity of the surrounding area by way of light nuisance, dust or noise.

Compliance

14. All conditions of this Development Permit are to be complied with prior to the use commencing, or alternative timeframes as provided for in the conditions and, where relevant, maintained during operation.

B. Assessment Manager (Council) Advice

1. A development permit is required for carrying out Building Works, and a Plumbing and Drainage Approval/compliance permit is required for Plumbing

and Drainage Works prior to construction of any buildings 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 acceptable 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 Heritage Act* and in particular 'the duty of care' that it imposes on all landowners.

Attachment 1(b) – Conditions imposed by a concurrence agency
D22/13322 – Referral Decision Notice (SARA) – response; 03 Jun 22



SARA reference: 2204-28225 SRA
Council reference: DA/4483
Applicant reference: 22-774

3 June 2022

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

Attention: Lisa Miller

Dear Sir/Madam

SARA response—2 Unit Street, Cooktown

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

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency on 9 May 2022.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	3 June 2022
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

Description:	Development permit	Material Change of Use (Service Industry and Caretaker's Accommodation)
SARA role:	Referral Agency.	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017) Development application for a material change of use within 25m of a state transport corridor	

SARA reference: 2204-28225 SRA
Assessment Manager: Cook Shire Council
Street address: 2 Unit Street, Cooktown
Real property description: Lot 1 on M2412
Applicant name: EFR Electrical
Applicant contact details: C/- Urban Sync Pty Ltd
PO Box 2970
Cairns QLD 4870
admin@urbansync.com.au

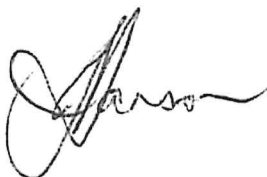
Representations

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

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

For further information please contact Sue Lockwood, Senior Planning Officer, on 40373222 or via email CairnsSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Joanne Manson
A/Manager (Planning)

cc EFR Electrical, admin@urbansync.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 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)

No.	Conditions	Condition timing
Material change of use		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4—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.	Direct access is not permitted between Endeavour Valley Road and the subject site.	At all times

Attachment 2—Advice to the applicant

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) V3.0. If a word remains undefined it has its ordinary meaning.

Attachment 3—Reasons for referral agency response

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

The reasons for SARA's decision are:

- the proposed development does not create a safety hazard for users of the state-controlled road.
- the design and construction of buildings and structures does not create a safety hazard by distracting users of the state-controlled road.

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 3.0), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system

Attachment 4—Change representation provisions

(page left intentionally blank – attached separately)

Attachment 2 – Approved Plans
D22/13320 – Proposed Plan of Development

SITE PLAN

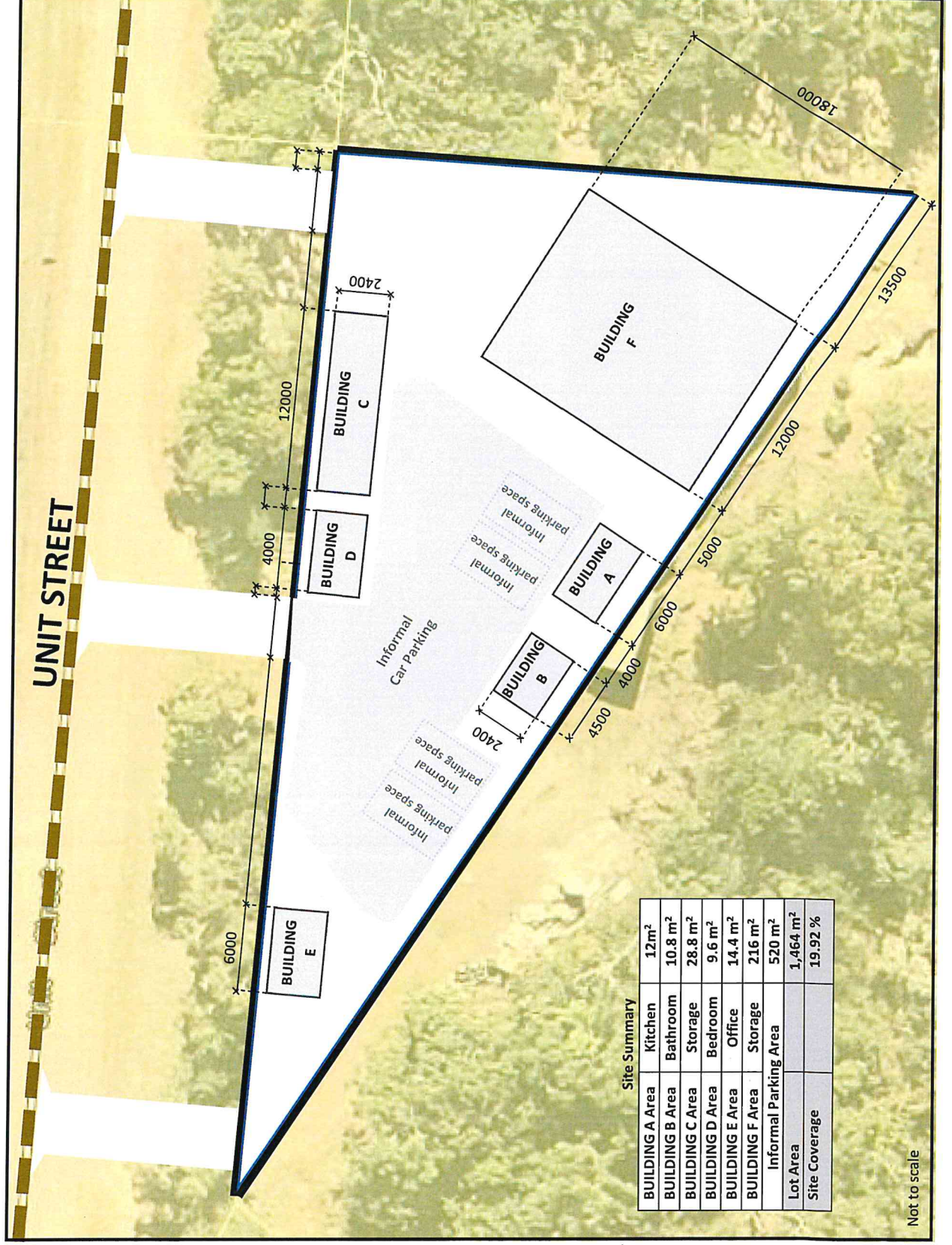
Peter Johnston 2 Unit Street, Cooktown (Lot 1 on M2412)

PROJECT No: 22-774

URBAN SYNC

Drawing No. 01, Issue 2

Date: 7 April 2022



Attachment 3 – Notice about a Decision Notice

**D22/15007 – Notice of Decision (Material Change of Use); Lot 1 M2412 – 2 Unit Street,
Marton**

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/4483
Applicant:	EFR Electrical, c/- Urban Sync Pty Ltd
Proposal:	Development Permit for a Material Change of Use
Description of the Development:	Service Industry and Caretaker's Accommodation
Street Address:	2 Unit Street, Marton
Real Property Description:	Lot 1 on M2412
Planning Scheme:	Cook Shire Council Planning Scheme 2017
Land Zoning:	Centre
Assessment Type:	Code Assessable

DECISION DETAILS

Type of Decision:	Approval with Conditions
Type of Approval:	Development Permit for a Material Change of Use for Service Industry and Caretaker's Accommodation
Date of Decision:	28 June 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 triggered a referral to SARA under Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 – for a material change of use within 25m of a State transport corridor.
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 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):

- Centre Zone Code;
- Residential Use Code;
- Parking and Access Code;
- Works, Services, and Infrastructure Code; and
- Rural Land Use Overlay.

Local Categorising Instrument (Variation Approval)

Not Applicable

Local Categorising Instrument (Temporary Local Planning Instrument)

Not Applicable



PUBLIC NOTIFICATION

Not Applicable

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 Service Industry and Caretaker's Accommodation is an appropriate use to be located on the site and will have no adverse impact on the character and amenity of the locality.
- c. The proposed development will not prejudice the long term commercial use of the site.

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&F 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.