

Our Ref: LM:DA/4498:D23/5157

Your Ref: WP22 002 WAT

16 February 2023

Jayson Watkin  
c/-Wildplan Pty Ltd  
PO Box 8028  
CAIRNS QLD 4870  
E-mail: [dominic@wildplan.com.au](mailto:dominic@wildplan.com.au)  
Attention: Dominic Hammersley

Dear Mr Hammersley

**Decision Notice – (Minor Change)**  
Given under section 83 of the *Planning Act 2016*

With reference to the abovementioned Development Application, please find attached the relevant Decision Notice, which was determined by the Chief Executive Officer as delegated – 09 February 2023.

Details of the decision are as follows:

**Application Details**

---

Application Number:	DA/4498
Street Address:	Aylen Hills Road IRON RANGE 4892
Real Property Description:	Lot 12 RP898805
Planning Scheme:	<i>Cook Shire Council Planning Scheme 2017 (v2)</i>

**Decision Details**

---

The original Decision Notice was dated 04 July 2022.

A Minor Change Decision Notice was issued 18 November 2022.

Council's Chief Executive Officer – as delegated – on 09 February 2023, decided to issue the following type of approval:

Approval Sought: Change Application (Minor) - Development Permit for Material Change of Use - Dwelling House and Home Based Business

#### **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*. This approval lapses if the first change of use does not happen within six (6) years.

#### **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.

#### **Reasons for the Decision**

---

The proposed changes are consistent with the approval and introduce no new impacts.

#### **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**.

#### **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](mailto:mail@cook.qld.gov.au).

Yours sincerely



Lisa Miller  
Manager  
Planning and Environment  
Cook Shire Council

enc: **Attachment 1 (A)** – Conditions imposed by the assessment manager  
**Attachment 2** – Approved Plans (D23/5208)  
**Attachment 3** – Notice of Decision – Statement of Reasons (D23/5209)  
**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:
  - Aerial Site & Locality Plan, Sheet No. A102, drawn by Max Slade Designs, dated 21 October 2022;
  - 3D View 2 and 3, Sheet No. 116, drawn by Max Slade Designs dated 21 October 2022;
  - 3D View 5, Sheet No. A117, drawn by Max Slade Designs dated 21 October 2022;
  - Floor Line & Footings, Sheet No. A118, drawn by Max Slade Designs dated 21 October 2022;
  - East & West and Front & Rear Elevations, drawn by Max Slade Designs Sheet No. A119, dated 21 October 2022; and
  - Dwelling House and WWII building floor plan, dated 2022.

**Approved Use and Staging**

2. The approved use comprises of:
  - Stage 1 - Dwelling House (for the existing building used as a dwelling and Bedroom 2)
  - Stage 2 - Home-based business (Bedroom 2)
  - Stage 3 – Dwelling House extensions (Bedroom 3 and Bedroom 4)
  - Stage 4 – Home-based business (Bedroom 4)
3. The development must be carried out in accordance with the approved staging.
4. Prior to the commencement of Stage 2, notification must be submitted with Council confirming that Stage 1 has been completed and the Building Final has been issued for the Dwelling House.
5. Prior to the commencement of Stage 4, notification must be submitted with Council confirming that Stage 3 has been completed and the Building Final has been issued.

**Limitations of Use**

6. The Home-based business (two (2) accommodation rooms) is approved within Bedroom 2 and Bedroom 4 only as detailed on the approved plan of development.
7. The maximum number of guests accommodated within the approved Home-based business must not exceed six (6) guests at any one time.

8. The approved Home-based business must be managed by the resident of the dwelling house. The resident of the dwelling house must reside on the property at all times.

#### **Building Demolition**

- ~~9. Prior to 4 February 2023, the building structures encroaching over the property boundary, as identified on the approved plan of development must be demolished or removed from the site.~~
9. Prior to 4 October 2023, the building structures encroaching over the property boundary, as identified on the approved plan of development must be demolished or removed from the site.

#### **Effluent Disposal**

- ~~10. Prior to 4 February 2023, a Plumbing Application for the onsite wastewater treatment and disposal system including details of the proposed wastewater disposal systems 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, alternatively lodge with Council a copy of the relevant plumbing approval for the existing onsite effluent disposal system.~~
10. Prior to 4 May 2023, a Plumbing Application for the onsite wastewater treatment and disposal system including details of the proposed wastewater disposal systems 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, alternatively lodge with Council a copy of the relevant plumbing approval for the existing onsite effluent disposal system.

#### **Water Supply**

11. A potable water supply must be provided to the property at the time of obtaining a Building Final for the dwelling house. This may be satisfied by the provision of a rainwater tank with a minimum capacity of 50,000 litres. Where an alternative source of water supply is available within the allotment, the applicant can provide certified evidence as to the flow rates and water quality of the bore water or other supply to eliminate or reduce the requirement of on-site water storage.

#### **Fire Management**

12. A Bushfire Management Plan, incorporating evacuation procedures and fire break/trail maintenance must be prepared to the satisfaction of Council’s delegated officer. The approved use must comply with the requirements of the Management Plan at all times. The approved use must comply with the requirements of the Management Plan at all times.

13. The development must be maintained at all times to a standard so as not to create a fire hazard.
14. The owner must ensure that fire fighting vehicles have access to the site and access to a designated water source for fire- fighting purposes.
15. All buildings (other than a class 10a) on the proposed site shall, unless varied by the Bushfire Management Plan:
  - i. Achieve setbacks from fire hazardous vegetation of 1.5 times the predominant mature canopy tree height or ten (10) metres, whichever is greater; and
  - ii. Be provided with a source of water for fire-fighting purposes of not less than 10,000 litres. This must be satisfied by the provision of an accessible dam, swimming pool, or water tank. In the case of a tank supply, delivery of the water should be provided through a 50mm male Camlock fitting. The outlet from the tank water supply shall be located within an accessible position within forty (40) metres from the habitable buildings.

#### **Access and Parking**

16. Vehicle access to the approved use must be achieved from the existing access from Aylen Hills Road
17. Stage 2 only – designated vehicle parking must be provided generally in accordance with the approved plan of development.
18. Internal access driveways and parking areas must be constructed from compacted gravel or similar material and be maintained to ensure no dust nuisance.

#### **Signage – Stage 2 only**

19. No more than one (1) advertising sign for the approved development is permitted on the subject site.
20. The sign must not exceed a maximum sign face area of 6m<sup>2</sup> and must not move, revolve, strobe or flash.
21. The sign must be kept clean, in good order and safe repair for the life of the approval.
22. The sign must be removed when no longer required.
23. The erection and use of the advertisement must comply with the Building Act and all other relevant Acts, Regulations and these approval conditions.

#### **Electricity**

24. The development must be connected to a reliable electricity supply.

#### **Stormwater**

25. Stormwater drainage must be directed to a legal point of discharge.

26. Site works must not adversely affect flooding or drainage characteristics of properties that are upstream, downstream, or adjacent to the development site.

#### **Vegetation Clearing**

27. Vegetation clearing must be limited to that required for firebreaks, dwelling house, and associated infrastructure. Any regulated vegetation not required to be cleared for building works or bushfire management purposes must be retained.

#### **Environment**

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

#### **Amenity**

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

#### **Compliance**

30. 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, 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 Cultural Heritage Act* and in particular 'the duty of care' that it imposes on all landowners.
5. This development approval does not approve or authorize the removal of vegetation that is otherwise protected under separate State or Federal legislation, including under the following:





# Cook Shire COUNCIL

- A. *Environment Protection and Biodiversity Conservation Act 1999 (Cth);*
- B. *Nature Conservation Act 1999 (Qld);*
- C. *Vegetation Management Act 1999 (Qld).*

6. The approved use is for a Dwelling house and Home-based business are defined as:

***Dwelling house*** means a residential use of premises involving—

- (a) *1 dwelling for a single household and any domestic outbuildings associated with the dwelling; or*
- (b) *1 dwelling for a single household, a secondary dwelling, and any domestic outbuildings associated with either dwelling.*

***Home-based business*** means the use of a dwelling or domestic outbuilding on premises for a business activity that is subordinate to the residential use of the premises.



Attachment 2 – Approved Plans (D23/5208)

**SUSTAINABLE BUILDING REQUIREMENTS FOR CLASS 1 BUILDINGS**

**Acceptable Solutions:**  
 Shower Roses to be AAA rating when assessed against AS/NZ 6400:2004 or as star rating under the Water Efficiency Labelling Scheme (WELS).

**Water Supply:**  
 In a service area for retail water service under the Water Act 2000, the water supplied to a new Class 1 building does not exceed pressure levels set out in AS/NZ 3550.1:2003 and if the main water pressure exceeds or could exceed 500 kPa, a water pressure limiting device is installed to ensure that the maximum operating pressure at the outlet within boundaries of the property does not exceed 500 kPa.

**Volume of Water used in Toilet:**  
 In a new Class 1 building, toilet cisterns have dual flush capability that does not exceed 4.5 litres on full flush and 3 litres on half flush.

**Energy Efficiency Lighting:**  
 In a new Class 1 building, fluorescent lights or compact fluorescent lights (CFLs) are used in 80% of the total area of all rooms. The total area is to include the floor area of the garage, where the garage is associated with the Class 1 building. Air conditioning systems must have an Energy Efficiency Rating of at least 2.9

**Hot Water System:**  
 In a new Class 1 building, a hot water supply is provided by:  
 (a) Solar hot water system, or  
 (b) A gas hot water system with a five star energy rating.

**GENERAL NOTES**

1. Refer any discrepancy to designer for written instructions
2. All work to be in accordance with the B.C.A. Class 1 & 10.
3. Plumbing & Drainage to comply with AS/NZS 3500.
4. Footings to comply with AS 2870.
5. Glazing to comply with AS 1288.
6. Cold formed steel to comply with AS/NZS 4600.
7. Timber framing to comply with AS 1684.3-2006.
8. Termite treatment: Timber to be preservative treated (L.O.S.P.) in accordance with AS 3660-2000.
9. Stormwater to be discharged to council regulations.
10. All structural fixed bolts, nuts and washers to be hot dipped galvanised.
11. Confirm all joinery fit-out details with proprietor prior to construction.



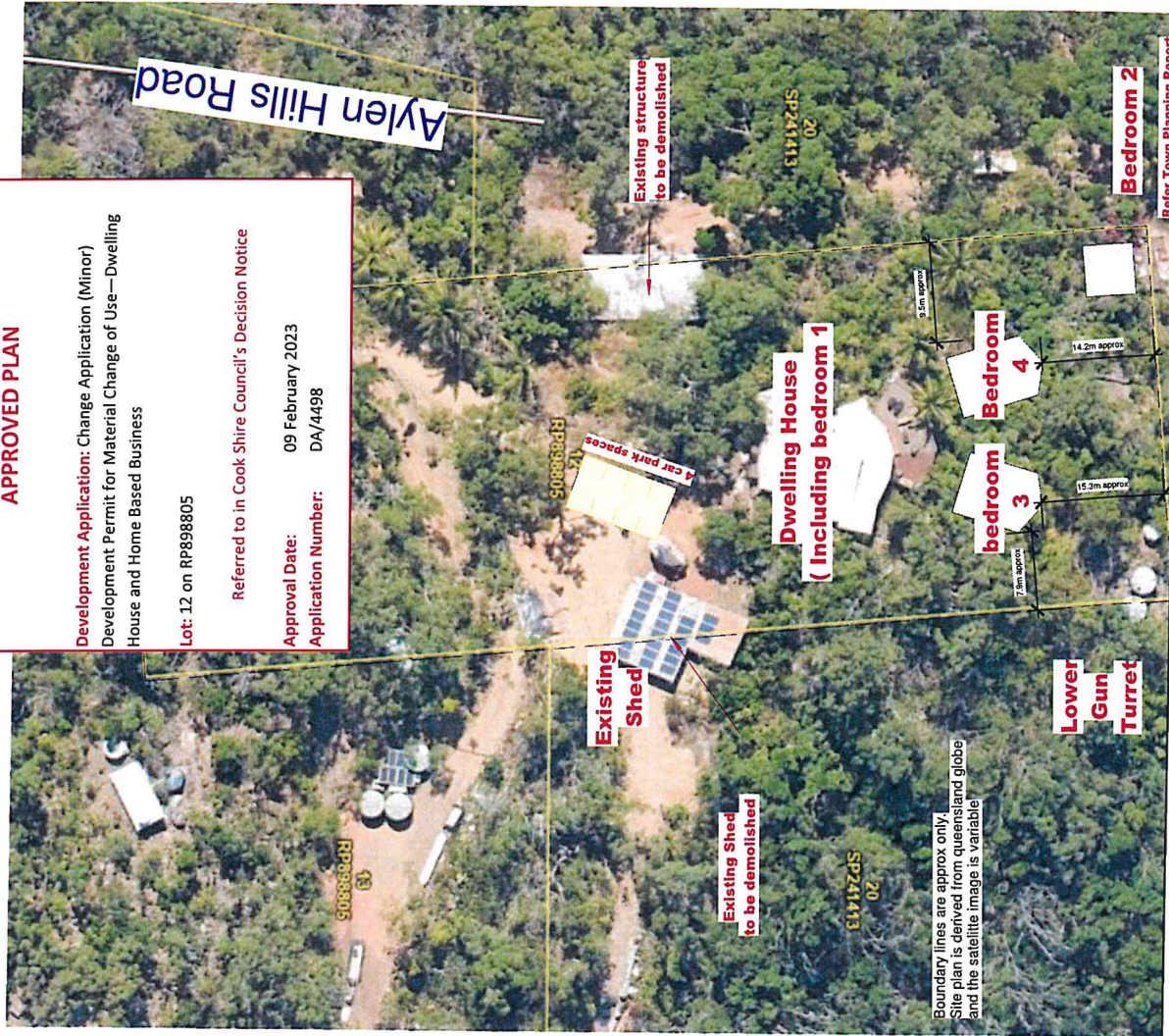
**COOK SHIRE COUNCIL**  
 DIGITALLY STAMPED  
 APPROVED PLAN

**Development Application:** Change Application (Minor)  
 Development Permit for Material Change of Use— Dwelling House and Home Based Business

**Lot:** 12 on RP898805

**Referred to in Cook Shire Council's Decision Notice**

**Approval Date:** 09 February 2023  
**Application Number:** DA/4498



Boundary lines are approx only  
 Site plan is derived from queensland globe  
 and the satellite image is variable

**Aerial Site & Locality Plan**

1 : 500

1



copyright

**B/A August 2022**

**CMG CONSULTING**  
 CONSULTING ENGINEERS  
 15 09 22  
 WE HEREBY CERTIFY THE STRUCTURAL DETAILS AS SHOWN ON THESE DRAWINGS FOR CONSTRUCTION IN WIND CLASSIFICATION C3

**Property Description**  
 Lot 12 on RP 898805  
 Locality - Portland Roads  
 Cook Shire Council

Sheet No. **A102**

Area of Land - 3720 sq m  
 Building Classification Class 1,3,9  
 Building Area - ..... sq m

**MAX SLADE DESIGNS**  
 Max Slade Designs Pty. Ltd.  
 OBSA Lic. No. 858479  
 Builder - Low Rise  
 Building Designer - Medium Rise  
 Phone 07 40 91 2099  
 maxslade@bigpond.net.au

Notes	All work must be in accordance with the Building Code of Australia. The Builder should verify all dimensions on site before commencing any work. TAKE MEASURED DIMENSIONS IN PREFERENCE TO SCALED IF IN DOUBT ASK !!
Client	<b>J Watkin</b>
Project	<b>Home Based Business</b>
Location	<b>Portland Roads</b>
Design Wind Classification - C3	
Date	October 2022
Drawn	Max Slade
Scale	1 : 500
Job No.	<b>M21 - 4828</b>
A.B.N. No. 16 010 608 321	
G.B.S.A. Lic. No. 858479	
Builder - Low Rise	
Building Designer - Medium Rise	
Phone 07 40 91 2099	
maxslade@bigpond.net.au	

Description

Number Date

**Notes**  
 All work must be in accordance with the Australian Standard AS/NZS 1170:2002 - Building Construction Code of Australia.  
 The Builder should verify all dimensions on site before commencing any work.  
**MEASURED DIMENSIONS IN PREFERENCE TO SCALED IF IN DOUBT ASK !!**

**Client**  
**J Watkin**

**Project**  
**Home Based Business**

**Location**  
**Portland Roads**

**Design Wind Classification - C3**  
 Date: October 2022  
 Drawn: Max Slade  
 Scale:  
**Job No.**  
**M21 - 4828**

A.B.N. No. 16 010 608 321  
 Max Slade Designs Pty. Ltd.  
 QBSA Lic. No. 459479  
 Builder - Low Rise  
 Building Designer - Medium Rise  
 Phone 07 40 91 2099  
 maxslade@bigpond.net.au

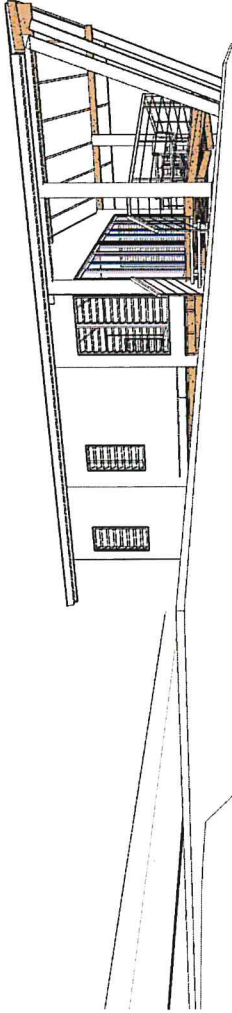
**B/A August 2022**

Sheet No.  
**A116**

WE HEREBY CERTIFY THE STRUCTURAL DETAILS AS SHOWN ON THESE DRAWINGS FOR CONSTRUCTION IN WIND CLASSIFICATION C3.

**15 09 22**

**CMG CONSULTING**  
 CIVIL & STRUCTURAL ENGINEERS  
 200 BUGHY ST.  
 MURFRESBORO NSW 2484  
 PH: (07) 4031 2779  
 FAX: (07) 4081 9013

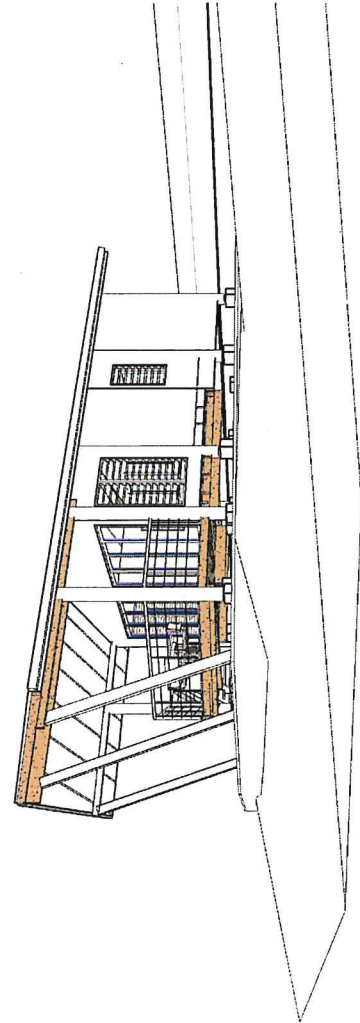


**COOK SHIRE COUNCIL**  
**DIGITALLY STAMPED**  
**APPROVED PLAN**

**Development Application:** Change Application (Minor) Development Permit for Material Change of Use—Dwelling House and Home Based Business  
**Lot:** 12 on RP898805  
**Referred to in Cook Shire Council's Minor Change/Decision Notice**  
**Approval Date:** 09 February 2023  
**Application Number:** DA/4498

**3D View 2**

1



**3D View 3**

2



copyright

Description

Number  
Date

**Notes**

All work must be in accordance with Local Authority By-laws and the Building Construction Code of Australia.  
The Builder should verify all dimensions on site before commencing any work.  
**TAKE FIGURED DIMENSIONS IN PREFERENCE TO SCALED DRAWINGS.**  
**IF IN DOUBT ASK !!**

**Client**

**J Watkin**

**Project**

**Home Based Business**

**Location**

**Portland Roads**

**Design Wind Classification - C3**

Date October 2022

Drawn Max Slade

Scale

**Job No.**

**M21 - 4828**

A.B.N. No. 16 010 608 321

Max Slade Design Pty. Ltd.

12/100/100/100/100/100

Builder - Low Rise

Building Designer - Medium Rise

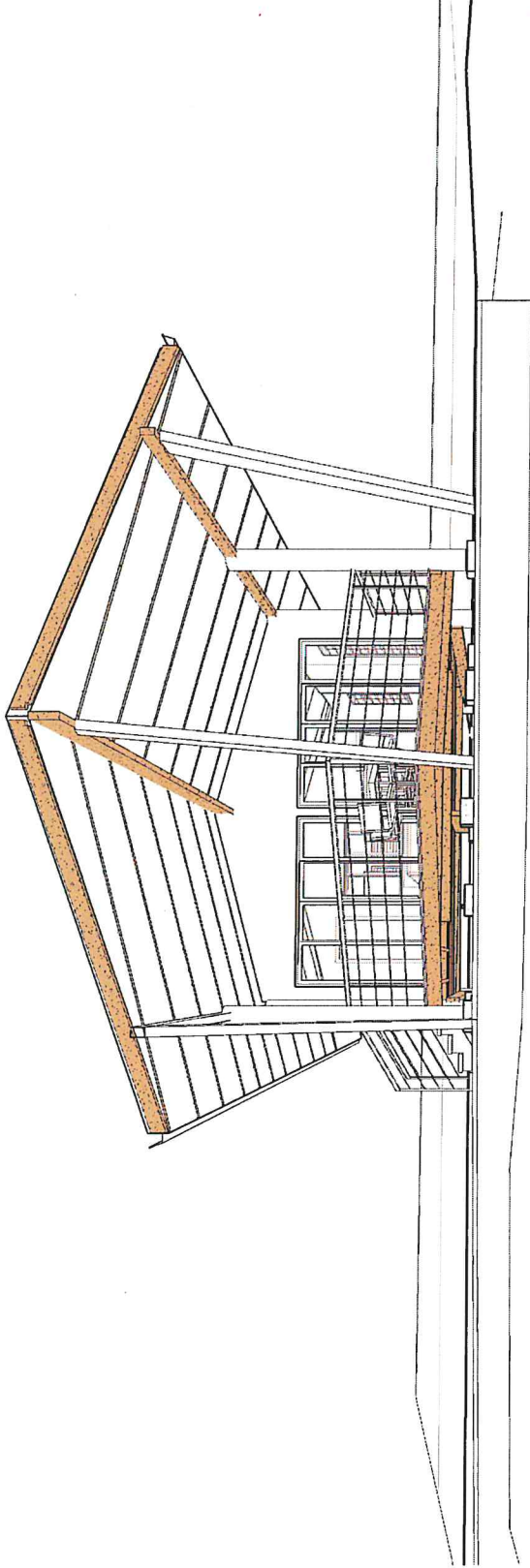
Phone 07 40 91 2099

maxslade@bigpond.net.au

**B/A August 2022**

Sheet No.

**A117**



**3D View 5**

**1**

**COOK SHIRE COUNCIL  
DIGITALLY STAMPED  
APPROVED PLAN**

**Development Application: Change Application (Minor)  
Development Permit for Material Change of Use—Dwelling  
House and Home Based Business  
Lot: 12 on RP898805**

**Referred to in Cook Shire Council's Minor Change Decision  
Notice**

**Approval Date: 09 February 2023**

**Application Number: DA/4498**

WE HEREBY CERTIFY THE STRUCTURAL DETAILS AS SHOWN ON THESE DRAWINGS FOR CONSTRUCTION IN WIND CLASSIFICATION C3.

**15 09 22**

**CMG CONSULTING**  
200 BUGHAN ST.  
MELBOURNE VIC 3048  
PH: (07) 4031 2779  
FAX: (07) 4031 5013



copyright

**EXTERNAL TIMBER WALL AND INTERNAL LOAD BEARING WALL FRAMING NOTES**

- STUDS - 90x35 MGP12 AT 450 CTS. FOR HT < 3000. FOR HT > 3000, PROVIDE 2x112 CYCLONE RODS AT CINDER TRUSSES.
- TOP PL. - 2/25x90 MGP12
- BTM PL. - 35x90 MGP12 ON CONCRETE FLOOR
- FRAMING M12 GALV HD BOLTS ON TIMBER FLOOR
- FRAMING M12 GALV HD BOLTS ON CONCRETE FLOOR. PROVIDE 2x112 CYCLONE RODS AT CINDER TRUSSES.
- STUDS EACH SIDE OF OPENINGS -

OPENING WIDTH	NO. STUDS EACH SIDE OF OPENING
900	2
1200	3
1500	4
1800	5
2100	6
2400	7
2700	8
3000	9
3300	10
3600	11
3900	12
4200	13
4500	14

- UNLESS NOTED OTHERWISE LUNEL SIZES TO BE -

SPAN (L.V.L.)	SEZAM SIZE (L1A)
900	75x75
1200	90x90
1500	105x105
1800	120x120
2100	135x135
2400	150x150
2700	165x165
3000	180x180
3300	195x195
3600	210x210
3900	225x225
4200	240x240
4500	255x255

- BRACING - PLY - DENOTES STRUCTURAL PLYWOOD BRACING WALLS. THICKNESS AND FRINGS TO BE IN ACCORDANCE WITH AS/NZS 1703.1. ALL BRACING TO BE IN ACCORDANCE WITH AS/NZS 1703.1. ALL BRACING TO BE IN ACCORDANCE WITH AS/NZS 1703.1.

- U.L.G. PROVIDE M12 CYCLONE RODS AT EACH END OF BRACING WALL AND AT 1000 CTS MAX BETWEEN.
- PROVIDE ANTI-RACKING CLEATS TO TOP OF BRACING WALLS IN ACCORDANCE WITH AS1664.3 RESIDENTIAL TIMBER-FRAMED CONSTRUCTION - CYCLONE

**Termite treatment**

All timber and trusses to be termite resistant  
 H2 internal and H3 external  
 Install 2 required notices - 1 in meterbox and 1 in the pantry  
 Staining method of protection and date installed  
 Owner is to visually inspect around house for termite activity every 12 months

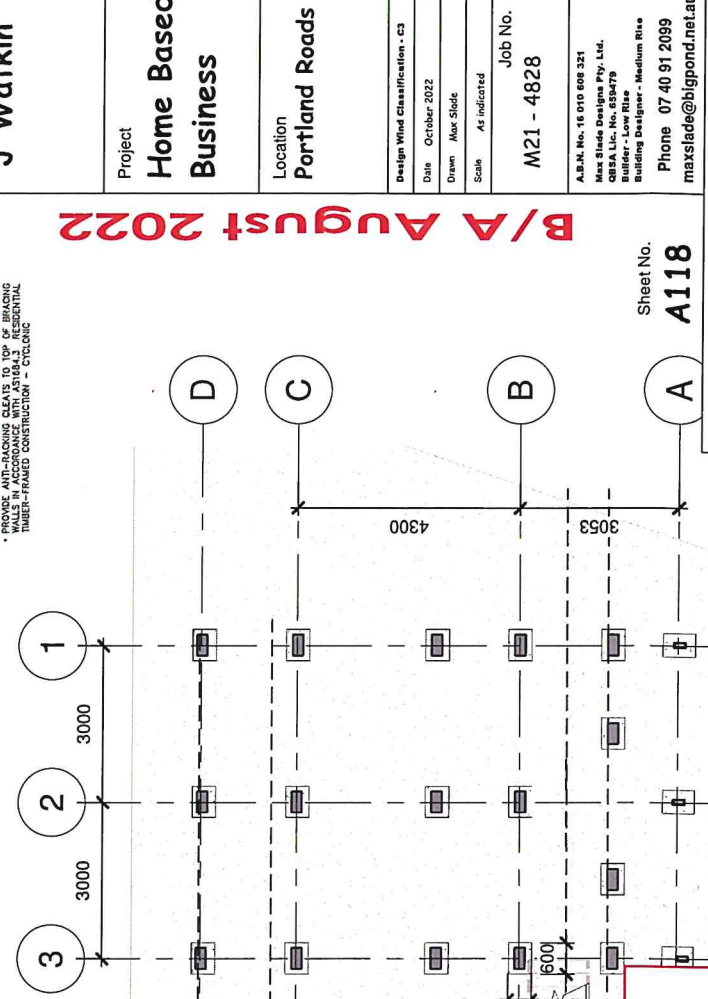
**SMOKE ALARM**

Smoke alarms are to be photoelectric alarms  
 240V/9V battery back up  
 locations of alarms as shown is approx only  
 Actual location to comply with AS3786  
 All alarms to be interconnected



Emergency back up light  
**CLEVERTRONICS L10**

WE HEREBY CERTIFY THE STRUCTURAL DETAILS AS SHOWN ON THESE DRAWINGS FOR CONSTRUCTION IN WIND CLASSIFICATION C3  
**CMG CONSULTING ENGINEERS** PTY LTD  
 15 09 22  
 208 BUCHAN ST. CANBERRA QLD 4870  
 AUSTRALIA  
 TEL: (07) 4051 8013  
 FAX: (07) 4051 8013



**B/A August 2022**

Job No.  
**M21 - 4828**

Sheet No.  
**A118**

Design Wind Classification - C3  
 Date - October 2022  
 Drawn - Max Slade  
 Scale - As indicated

Design Wind Classification - C3  
 Date - October 2022  
 Drawn - Max Slade  
 Scale - As indicated

Design Wind Classification - C3  
 Date - October 2022  
 Drawn - Max Slade  
 Scale - As indicated

Design Wind Classification - C3  
 Date - October 2022  
 Drawn - Max Slade  
 Scale - As indicated

A.B.N. No. 15 010 608 321  
 Max Slade Designs Pty. Ltd.  
 1/100 BROADWAY  
 BULLIOCH - LOW RISE  
 Building Designer - Medium Rise  
 Phone 07 40 91 2099  
 maxslade@bigpond.net.au



Beatrice Street  
 Atherton 4833  
 maxslade@bigpond.net.au

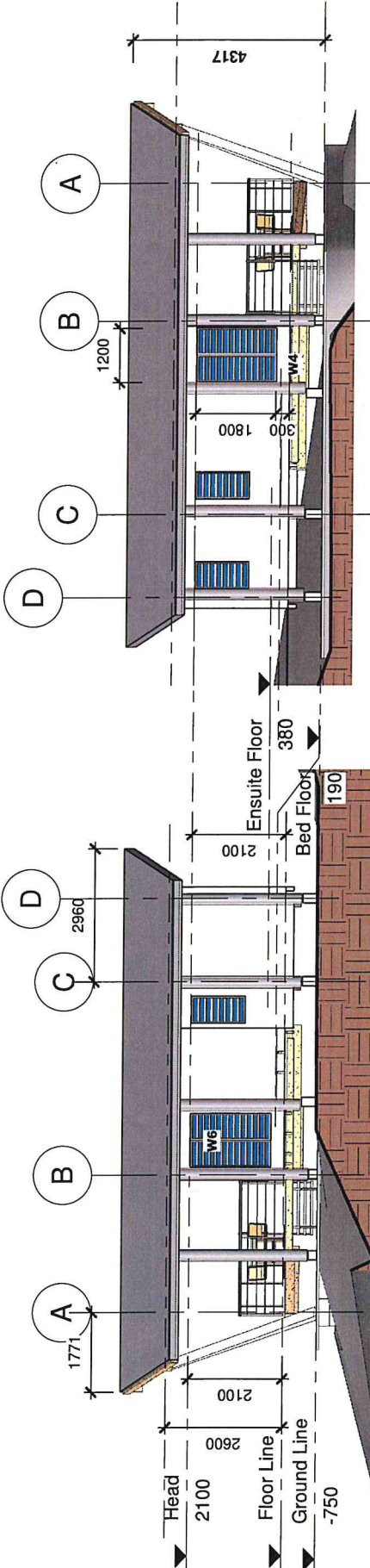
**COOK SHIRE COUNCIL**  
 DIGITALLY STAMPED  
**APPROVED PLAN**  
 Development Application: Change Application (Minor) Development Permit for Material Change of Use—Dwelling House and Home Based Business  
 Lot: 12 on RP898805  
 Referred to in Cook Shire Council's Minor Change/Decision Notice  
 Approval Date: 09 February 2023

1 : 100

1 : 100

1 : 100

copyright



1 East Elev  
1 : 100

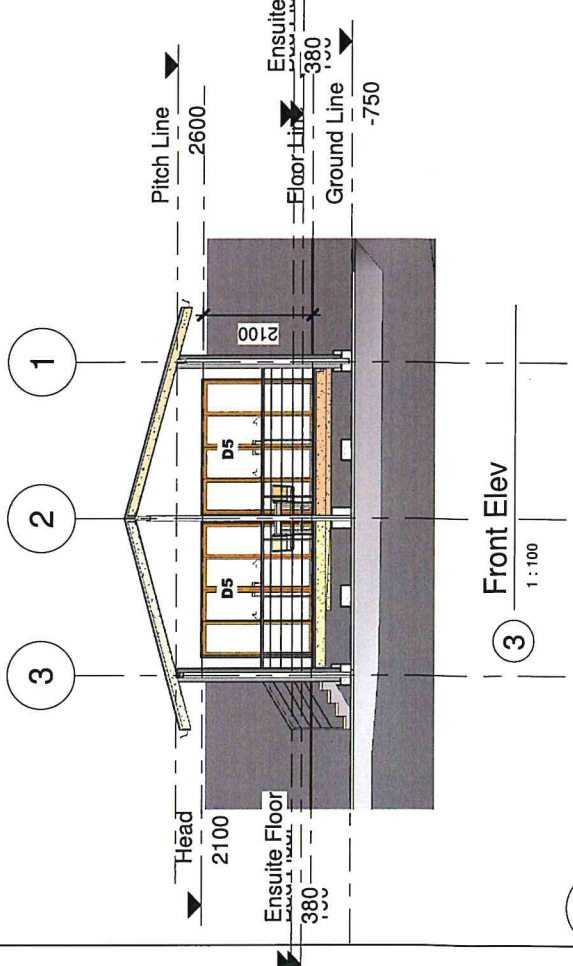
2 West Elev  
1 : 100

**COOK SHIRE COUNCIL**  
DIGITALLY STAMPED  
APPROVED PLAN

Development Application: Change Application (Minor) Development Permit for  
Material Change of Use—Dwelling House and Home Based Business  
Lot: 12 on RP898805  
Referred to in Cook Shire Council's Minor Change Decision Notice  
Approval Date: 09 February 2023  
Application Number: DA/4498

WE HEREBY CERTIFY THE STRUCTURAL  
DETAILS FOR CONSTRUCTION IN  
CONSTRUCTION IN WIND CLASSIFICATION C3.  
15 09 22  
**CMG CONSULTING** 208 BRUSH ST.  
CARPIS QLD 4870  
A/C (07) 4031 2773  
M/A (07) 4031 2973  
FAX (07) 4031 2973

**B/A August 2022**



3 Front Elev  
1 : 100

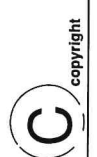
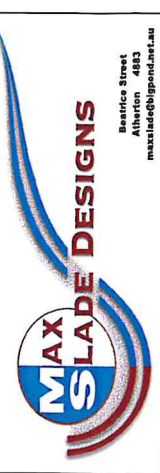
4 Rear Elev 1  
1 : 100

Sheet No.  
**A119**

Notes
All work must be in accordance with local Authority By-laws and Building Code of Australia. The Builder should verify all dimensions on site before commencing any work. TAKE FIGURED DIMENSIONS IN PREFERENCE TO SCALED IF IN DOUBT ASK !!

Client <b>J Watkin</b>
Project <b>Home Based Business</b>
Location <b>Portland Roads</b>
Design Wind Classification - C3
Date October 2022
Drawn Max Slade
Scale 1 : 100
Job No. <b>M21 - 4828</b>

A.L.B. No. 16 010 608 321 Max Slade Designs Pty. Ltd. 16/010 608 321 Building Designer - Low Rise Building Designer - Medium Rise Phone 07 40 91 2099 maxslade@bigpond.net.au
---



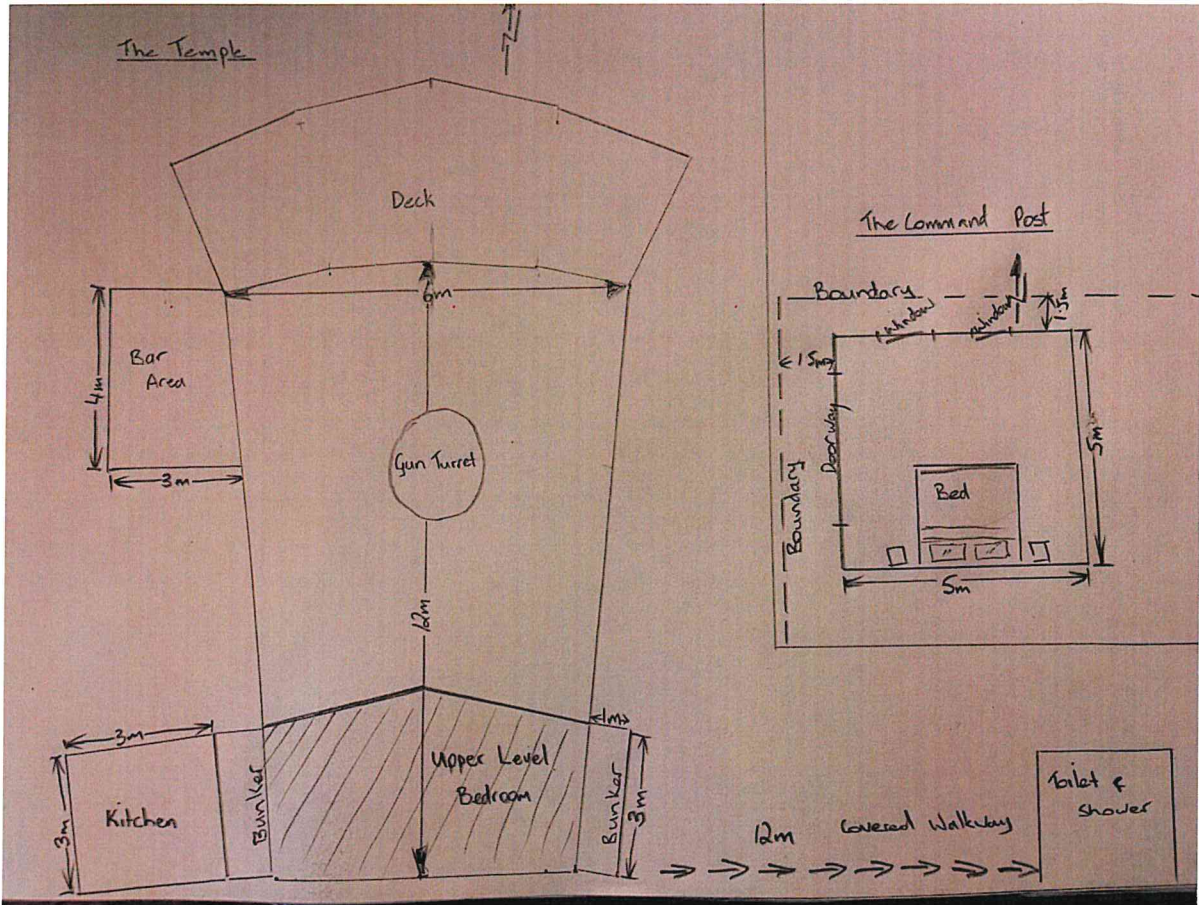


Figure G - Phase 1A: Dwelling House (Indicative Sketch) – Existing Building Work

Source: Applicant (2022)

**COOK SHIRE COUNCIL**  
**DIGITALLY STAMPED**  
**APPROVED PLAN**

**Development Application:** Change Application (Minor) Development Permit for Material Change of Use—Dwelling House and Home Based Business

**Lot:** 12 on RP898805

Referred to in Cook Shire Council's Minor Change Decision Notice

**Approval Date:** 09 February 2023

**Application Number:** DA/4498





**Attachment 3 – Notice of Decision – Statement of Reasons (D23/5209)**

## 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.*

### DESCRIPTION OF DEVELOPMENT

---

<b>Application Number:</b>	DA/4498
<b>Approval Sought:</b>	Change Application (Minor) - Development Permit for a Material Change of Use
<b>Description of the Development:</b>	Dwelling House & Home-based Business
<b>Street Address:</b>	Aylen Hills Road, Iron Range
<b>Property Description:</b>	Lot 12 on RP898805

### DECISION DETAILS

---

<b>Decision:</b>	Approved subject to conditions
<b>Date of Decision:</b>	09 February 2023

### APPLICABLE ASSESSMENT BENCHMARKS

---

<b>Planning Scheme:</b>	Cook Shire Council Planning Scheme (2017)
	<ul style="list-style-type: none"><li>• Rural Residential Zone code</li><li>• Home Based Business code</li><li>• Parking and Access code</li><li>• Works, Services and Infrastructure code</li><li>• Biodiversity Overlay code</li><li>• Bushfire Hazard Overlay code.</li></ul>

**State Planning Policy (SPP):** State Planning Policy (July 2017)

**Planning Regulation 2017:** This application did not trigger any matters prescribed by the regulation.

#### **PUBLIC NOTIFICATION**

---

The Minor Change Application was not subject to public notification.

#### **REASONS FOR THE DECISION**

---

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

- The proposed changes are consistent with the approval and introduce no new impacts.



**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)(c)(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.

- (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.

- (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

- (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.