



Our Ref: LM:DA/4199 AD2020/00005421

Your Ref: R5-20

15 December 2020

Robert William Bradley
c/-Robert William Bradley & U&i Town Plan
PO Box 373
Cooktown Qld 4895
ramon@uitownplan.com.au

Dear Mr Samanes

Decision Notice - approval (with conditions)
Given under section 63 of the *Planning Act 2016*

The development application described below was properly made to Cook Shire Council on 8 December 2020.

Applicant details

Applicant name: Robert William Bradley
C/-U&i Town Plan

Applicant contact details: PO Box 426
Cooktown Qld 4895
Attention: Ramon Samanes

Application details

Application number: DA/4199

Approval sought: Development Permit for a Reconfiguration of a Lot

Description of the development:
proposed: Reconfiguring One (1) Lot into Two (2) Lots

Location details

Street address: 285 Jensens Crossing Road COOKTOWN 4895

Real property description: Lot: 1 RP: 744512

Decision

Date of decision: 8 December 2020

Decision Details: Approved in full with conditions

Details of the approval

Development Permit Reconfiguring a Lot

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. Building works
2. Operational Works Permit associated with Building Works

Referral Agencies - See Attachment 2.

The referral agencies for the application are:

Referral Agency	Referral Matter	Referral Role
Chief Executive - Department of State Development, Manufacturing, Infrastructure & Planning Far North Queensland Regional Office PO Box 2358 CAIRNS QLD 4870 Ph: (07) 07 4048 1111 Email: CairnsSARA@dsmip.qld.gov.au MyDAS2 online referrals: https://prod2.dev-assess.qld.gov.au/suite/	Schedule 10, Part 3, Division 4, Table 2 – Native Vegetation Clearing.	Concurrence

Approved plans and specifications

Copies of the approved plans, specifications and/or drawings are enclosed in
Attachment 1: Parts 1 & 2

Currency period for the approval

This approval lapses if a plan for the reconfiguration that, under the *Land Title Act 1994*, is required to be given to a local government for approval is not given within *four (4) years from the date of this development permit*.

Lapsing of approval if development started but not completed

Development approval, other than a variation approval – section 88(1) of the Planning Regulation

Any period required under a development condition.

Rights of appeal

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 be 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 3).

For further information please contact Town Planning, Planning and Environment Services or alternatively email: mail@cook.qld.gov.au on 07 4082 0500.

Yours sincerely



Lisa Miller
Manager
Planning and Environment

enc: **Attachment 1 (Part 1)** – Conditions imposed by the assessment manager
Attachment 1 (Part 2) - Approved Plans
Attachment 2– Concurrence Agency changed Referral Agency conditions
Attachment 3 – Rights of Appeal

Attachment 1 (Part 1)

Assessment Manager (Council) Conditions

A. Approved Plan

1. The development must be carried out generally in accordance with the following Proposal Plan (Appendix A) submitted with the application, except for any variations required to comply with the conditions of this approval:
 - AMENDED Plan of Development – 1 into 2 Lots @ 285 Jensens Crossing Road, Cooktown – Council Ref: DA/4199 / SARA Ref: 2007-17929 SRA (Print Date 01/10/2020)

Access

2. Access to proposed Lot 1 must be via the existing crossover on Poison Creek Road and via the existing driveway, as marked on the approved plan.
3. Access to proposed Lot 2 must be via the existing crossover on Poison Creek Road and via the driveway marked on the approved plan.

Water Supply

4. A separate source of water supply must be provided to each proposed lot at the time of construction of a dwelling house. This would be satisfied by the provision of a rainwater tank with a minimum capacity for 50,000 litres. Where an alternative source of 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.

Effluent Disposal

5. Any application for wastewater treatment and disposal must include 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’. Details are to be provided at the time of lodgement of a plumbing and building application.

Electricity

6. Each proposed lot must be provided with a reliable electricity supply at the time of construction of a dwelling house. Written evidence of such electricity supply must be provided at the time of lodgement of a building application for a house.

Fire Management

7. The development must be maintained at all times to a standard so as not to create a fire hazard.
8. Any new building (other than a class 10a) erected on any of the proposed lots shall:
 - Be sited in locations of lowest bushfire hazard within the lot;

- Achieve setbacks from fire hazardous vegetation of 1.5 times the predominant mature canopy tree height or ten (10) metres, whichever is the greater;
- 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 or the dam/pool shall be located within an accessible position within forty (40) metres from the habitable buildings. Details are to be provided at the time of building application.

Environmental Protection

9. No State Declared or environmental pests, plants and animals are to be introduced onto the property.
10. The applicant must ensure that no soil or silt runoff occurs from the site during the construction and operational phase of the development.

Stormwater Drainage

11. All stormwater drainage must be directed to a legal point of discharge.

Public Utilities

12. The developer is responsible for the cost of any alteration to the public utilities as a result of complying with conditions of this approval.
13. Utilities design must be in accordance with the FNQROC Development Manual D8 Operational Works Design Guidelines "Utilities.

Compliance

14. All relevant conditions of this development permit must be complied with prior to the Plan of Survey being submitted to Council for endorsement.

Outstanding Charges

15. All rates, service charges, interest and other charges levied on the land are to be paid prior to Council endorsement of the Plan of Survey.

Currency Period

16. The reconfiguration of a lot approval authorised by 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 this approval will lapse.

B. Advice (Council)

1. The applicant be advised that a further Development Permit is required for carrying out Building works for any proposed or existing structure on-site, along with Plumbing and Drainage Approval/Compliance Permits required for any Plumbing and Drainage works, prior to any building construction associated with this development.
2. The erection and use of any future buildings must comply with the *Building Act 1975* and all other relevant Acts, Regulations and Laws, and these approval conditions.
3. The applicant be advised that any future vegetation clearing of regulated vegetation identified on the approved plan of development must be approved by the Department of Natural Resources, Mines, and Energy prior to works commencing.
4. The applicant/owner is to ensure compliance with the requirements of the *Aboriginal Cultural Heritage Act 2003* and in particular 'the duty of care' that it imposes on all landowners.

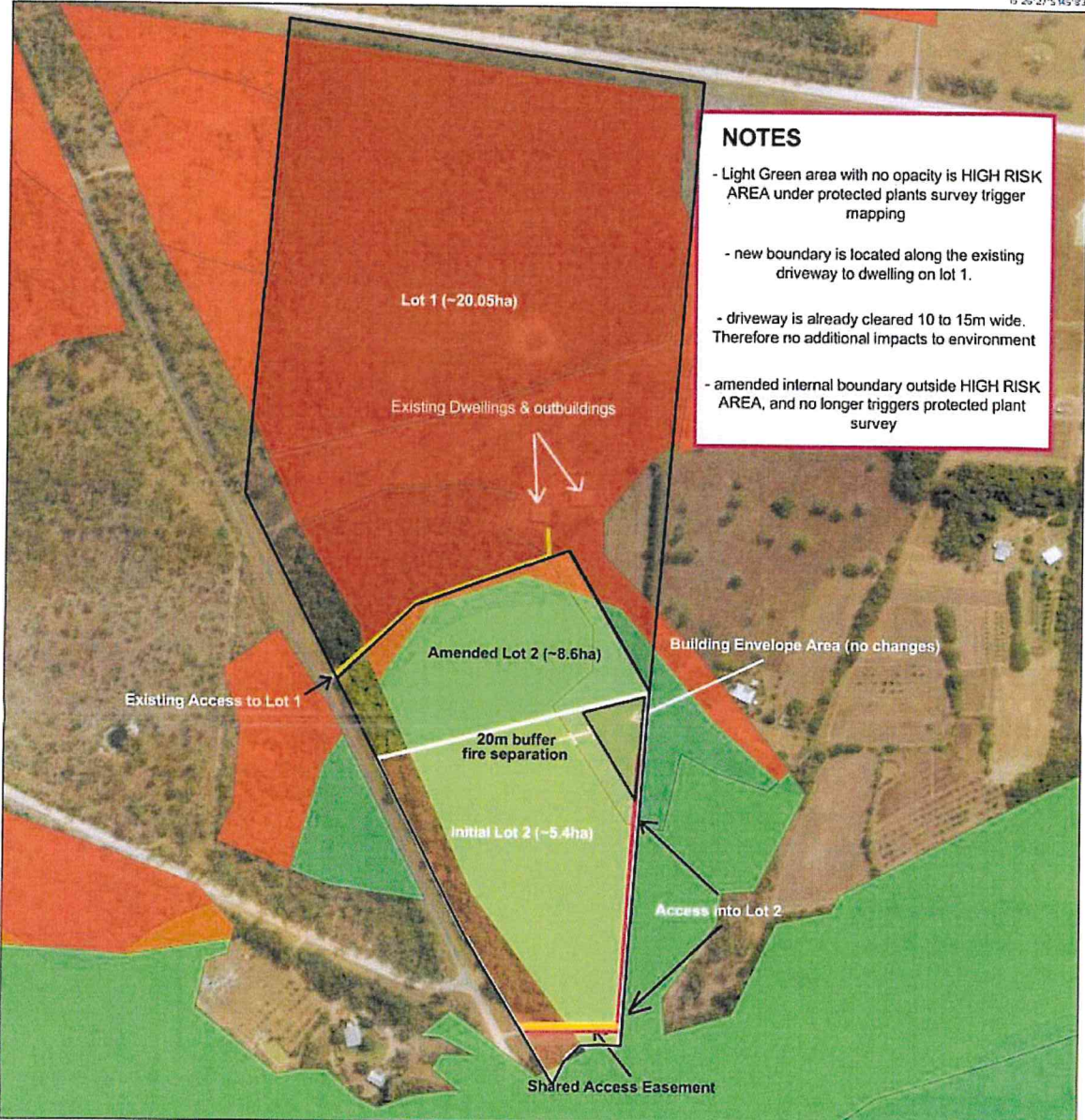
Attachment 1 (Part 2) Approved Plans

AMENDED Plan of Development - 1 into 2 Lots @ 285 Jensens Crossing Road, CKTN

Council Ref: DA/4199 / SARA Ref: 2007-17929 SRA

15°26'27.5145729°E

15°26'27.5145733°E



NOTES

- Light Green area with no opacity is HIGH RISK AREA under protected plants survey trigger mapping
- new boundary is located along the existing driveway to dwelling on lot 1.
- driveway is already cleared 10 to 15m wide. Therefore no additional impacts to environment
- amended internal boundary outside HIGH RISK AREA, and no longer triggers protected plant survey

15°27'0.5145720°E

15°27'0.5145724°E

A product of
Queensland Globe

Legend located on next page



Includes material © State of Queensland 2020. You are responsible for ensuring that the map is suitable for your purposes. The State of Queensland makes no representation or warranties in relation to the map contents and disclaims all liability.
Imagery includes material © CNES reproduced under license from Airbus DS, all rights reserved © ZIAT © Earth+, all rights reserved, 2019

0 100 metres
Scale: 1:3645

Printed at: A3
Print date: 1/10/2020
Datum: Geocentric Datum of Australia 1994
Projection: Web Mercator EPSG 102100

For more information, visit <https://qldglobe.information.qld.gov.au/help-info/contact-us.html>



Queensland Government

Department of Natural Resources, Mines and Energy

Attachment 2. Concurrence Agency (Queensland Treasury) Response Conditions:
From letter from the Queensland Treasury dated 18 November 2020.
Under section 56(1)(b) (i) of the *Planning Act 2016* the following condition must be attached to any development approval relating to this application.

RA29-N



Queensland Treasury

Our reference: 2007-17929 SRA
Your reference: DA/4199

18 November 2020

The Chief Executive Officer
Cook Shire Council
PO Box 3
COOKTOWN QLD 4895
mail@cook.qld.gov.au

Attention: Ms Lisa Miller

Dear Ms Miller

Changed referral agency response—285 Jensens Crossing Road, Cooktown
(Given under section 28 of the *Development Assessment Rules*)

On 3 November 2020, the State Assessment and Referral Agency (SARA) received notice of a change to the development application described below. SARA has assessed the changes and now provides this changed referral agency response which replaces the response dated 27 August 2020.

Applicant details

Applicant name: Robert William Michael Bradley C/- U&i Town Plan
Applicant contact details: PO Box 426
COOKTOWN QLD 4895
ramon@uitownplan.com.au

Location details

Street address: 285 Jensens Crossing Road, Cooktown
Real property description: Lot 1 on RP744512
Local government area: Cook Shire Council

Application details

Development permit Reconfiguring a Lot (one (1) lot into two (2) lots)

Referral triggers

The development application was referred to SARA under the following provisions of the Planning Regulation 2017:

- Schedule 10, Part 3, Division 4, Table 2, Item 1 (10.3.4.2.1) – Reconfiguring a lot that involves clearing native vegetation.

Changed referral agency conditions

Under section 56(1)(b)(i) of the *Planning Act 2016* (the Act), the changed conditions set out in Attachment 1 must be attached to any development approval.

Changed advice to the applicant

Changed advice to the applicant is set out in Attachment 2.

Reasons for changed referral agency response

The SARA must set out the reasons for the changed referral agency response. These reasons are set out in Attachment 3.

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 Jackie Larrarte, Senior Planning Officer, on 07 4122 0408 or via email CairnsSARA@dsmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Susan Kidd
Manager (Program Improvement)

cc Robert William Michael Bradley C/- U&i Town Plan, ramon@uitownplan.com.au

enc Attachment 1—Changed referral agency conditions
Attachment 2—Changed advice to the applicant
Attachment 3—Reasons for changed referral agency response
Attachment 4—Representations about a referral agency response provisions
Attachment 5—Approved plans and specifications

Attachment 1—Changed 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
10.3.4.2.1—Reconfiguring a lot that involves clearing native vegetation—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Natural Resources, Mines and Energy 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 conditions:		
1.	No clearing of vegetation is to occur within areas identified as Area A (A ¹ -A ³) as shown on the attached Technical Agency Response Plan (TARP) 2007-17929 SRA, dated <u>16 November 2020</u> 20-August 2020 .	At all times
2.	No built structure, other than for fences, roads and underground services, is to be established, constructed or located within areas identified as Area B (B ¹ -B ³) as shown on attached Technical Agency Response Plan (TARP) 2007-17929 SRA, dated <u>16 November 2020</u> 20-August-2020 .	At all times
3.	Any person(s) engaged or employed to carry out the clearing of vegetation under this development approval must be provided with a full copy of this development approval, and must be made aware of the full extent of clearing authorised by this development approval.	Prior to clearing

Attachment 2—Changed advice to applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the <i>State Development Assessment Provisions (SDAP)</i> , version 2.6. If a word remains undefined it has its ordinary meaning.
Vegetation advice	
2.	Despite this development approval, other permits or approvals may be required for the clearing of vegetation. To determine if the proposed clearing requires other approvals under other local, State or federal laws go to www.qld.gov.au (search 'vegetation clearing requirements').
3.	The State of Queensland publishes technical descriptions (http://www.qld.gov.au/environment/plants-animals/plants/ecosystems/technical-descriptions/) which provide a detailed description of the normal range in structure and floristic composition of remnant regional ecosystems and their component vegetation communities. They should be used in conjunction with the fields from the Regional Ecosystem Description Database (REDD) (http://www.qld.gov.au/environment/plants-animals/plants/ecosystems/download/) for a normal description of the regional ecosystem.
4.	To request an electronic file of the Derived Points (Attached to Plan: 2007-17929 SRA) as contained in this technical agency response, email a request to the Department of Natural Resources, Mines and Energy (DNRME) at northvegetation@dnrme.qld.gov.au and include application reference 2007-17929 SRA.

Attachment 3—Reasons for changed referral agency response

The reasons for SARA's changed referral agency response are:

- The proposed reconfiguration makes use of building envelopes and access tracks in existing cleared areas to minimise clearing and the creation of clearing exemptions.
- Through conditioning, the development complies with *State code 16: Native vegetation clearing of the SDAP*. Specifically, the development:
 - o minimises contributions to greenhouse gas emissions
 - o minimises clearing to conserve vegetation, avoid land degradation and loss of biodiversity and maintains ecological processes
 - o avoids impacts on vegetation that are matters of state environmental significance and where it can't be avoided, the development minimises and mitigates impacts.

Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (version 2.6), as published by SARA
- the *Development Assessment Rules*
- SARA DA Mapping system.

Attachment 4—Representations about a referral agency response provisions

(page left intentionally blank – attached separately)

Attachment 5—Approved plans and specifications

(page left intentionally blank – attached separately)

Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules¹ regarding representations about a referral agency response

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

¹ Pursuant to Section 68 of the *Planning Act 2016*

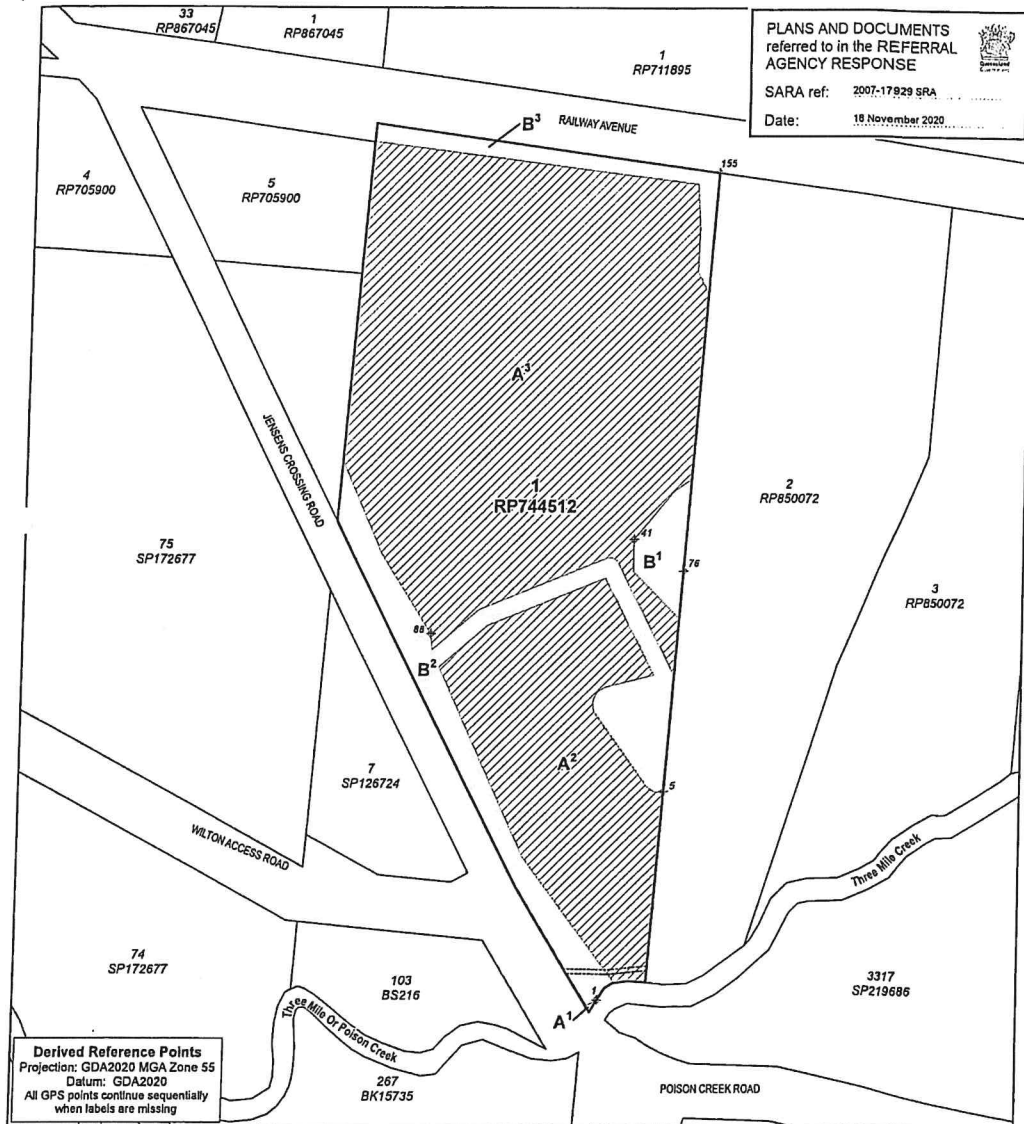
² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

Part 7: Miscellaneous

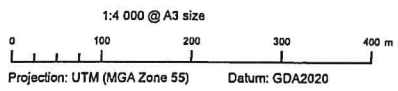
30 Representations about a referral agency response

30.1. 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.³

³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.



Derived Reference Points
 Projection: GDA2020 MGA Zone 55
 Datum: GDA2020
 All GPS points continue sequentially when labels are missing



Note: Derived Reference Points are provided to assist in the location of area boundaries. Responsibility for locating these boundaries lies solely with the landholder and delegated contractor(s).

The property boundaries shown on this plan are APPROXIMATE ONLY. They are NOT an accurate representation of the legal boundaries.

This plan must be read in conjunction with Decision Notice 2007-17929 SRA

<p>LEGEND</p> <ul style="list-style-type: none"> ⊕ Derived Reference Points for GPS (see attachment to plan) (Area start points shown only) □ Subject Lot(s) ▨ Area A (Parts A¹ - A³) ▨ Area B (Parts B¹ - B³) <p>Note: This is a colour plan and should only be reproduced in colour</p>	<p>Technical Agency Response Plan</p> <p>Plan of Area A (Parts A¹ - A³) and Area B (Parts B¹ - B³) in Lot 1 on Plan RP744512</p>		
	<p>LOCAL GOVT: Cook Shire LOCALITY OF Cooktown</p> <p>Compiled from: DCDB, RVM & NRM Notes on File</p> <p>Prepared by: SAK - j5623 Department: DNRME Region: NORTH Date: 18 November 2020</p>	<p>eLVAS Case ID: 2020/012280</p> <p>Version: 3</p>	<p>TARP 2007-17929 SRA Sheet 1 of 1</p>

**Attachment to Plan: 2007-17929 SRA
Derived Reference Points
Datum: GDA2020, Projection: MGA Zone 55**

PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE



SARA ref: 2007-17929 SRA

Date: 18 November 2020

Notes: Derived Reference Points are provided to assist in the location of area boundaries.
Responsibility for locating these boundaries lies solely with the landholder and delegated contractor(s).
Coordinates start at a point indicated on the accompanying plan and proceed in a clockwise direction.

Part ID	Unique ID	Easting	Northing	Part ID	Unique ID	Easting	Northing	Part ID	Unique ID	Easting	Northing
A1	1	299326	8291075	A3	61	299132	8291480	B2	121	299317	8291409
A1	2	299318	8291062	A3	62	299074	8291568	B2	122	299318	8291412
A1	3	299314	8291068	A3	63	299044	8291635	B2	123	299320	8291415
A1	4	299326	8291075	A3	64	299028	8291671	B2	124	299322	8291417
A2	5	299395	8291305	A3	65	299043	8291876	B2	125	299325	8291419
A2	6	299380	8291094	A3	66	299054	8292020	B2	126	299327	8291421
A2	7	299360	8291096	A3	67	299054	8292021	B2	127	299331	8291422
A2	8	299351	8291095	A3	68	299423	8291975	B2	128	299382	8291435
A2	9	299346	8291094	A3	69	299425	8291927	B2	129	299327	8291542
A2	10	299344	8291096	A3	70	299424	8291879	B2	130	299196	8291489
A2	11	299337	8291105	A3	71	299431	8291864	B2	131	299142	8291443
A2	12	299240	8291234	A3	72	299437	8291854	B2	132	299150	8291427
A2	13	299172	8291379	A3	73	299421	8291651	B2	133	299172	8291379
A2	14	299150	8291427	A3	74	299402	8291637	B2	134	299240	8291234
A2	15	299142	8291443	A3	75	299358	8291584	B2	135	299337	8291105
A2	16	299196	8291489	B1	76	299414	8291549	B2	136	299344	8291096
A2	17	299327	8291542	B1	77	299410	8291497	B2	137	299346	8291094
A2	18	299382	8291435	B1	78	299358	8291549	B2	138	299343	8291094
A2	19	299331	8291422	B1	79	299358	8291584	B2	139	299334	8291088
A2	20	299327	8291421	B1	80	299402	8291637	B2	140	299326	8291075
A2	21	299325	8291419	B1	81	299421	8291651	B2	141	299314	8291068
A2	22	299322	8291417	B1	82	299417	8291597	B2	142	299234	8291199
A2	23	299320	8291415	B1	83	299395	8291571	B2	143	299215	8291235
A2	24	299318	8291412	B1	84	299395	8291565	B2	144	299203	8291804
A2	25	299317	8291409	B1	85	299405	8291555	B2	145	299028	8291671
A2	26	299316	8291406	B1	86	299410	8291552	B2	146	299044	8291635
A2	27	299315	8291403	B1	87	299414	8291549	B2	147	299074	8291568
A2	28	299316	8291400	B2	88	299132	8291480	B2	148	299132	8291480
A2	29	299316	8291396	B2	89	299134	8291483	B2	149	299335	8291402
A2	30	299318	8291393	B2	90	299184	8291505	B2	150	299391	8291325
A2	31	299319	8291391	B2	91	299185	8291506	B2	151	299398	8291407
A2	32	299374	8291315	B2	92	299187	8291507	B2	152	299399	8291418
A2	33	299375	8291313	B2	93	299328	8291564	B2	153	299392	8291417
A2	34	299377	8291311	B2	94	299328	8291564	B2	154	299335	8291402
A2	35	299380	8291309	B2	95	299330	8291564	B3	155	299447	8291987
A2	36	299383	8291307	B2	96	299332	8291564	B3	156	299437	8291854
A2	37	299386	8291306	B2	97	299333	8291564	B3	157	299431	8291864
A2	38	299389	8291305	B2	98	299335	8291564	B3	158	299424	8291879
A2	39	299392	8291305	B2	99	299337	8291563	B3	159	299425	8291927
A2	40	299395	8291305	B2	100	299338	8291562	B3	160	299423	8291975
A3	41	299358	8291584	B2	101	299339	8291561	B3	161	299054	8292021
A3	42	299358	8291549	B2	102	299340	8291559	B3	162	299055	8292040
A3	43	299410	8291497	B2	103	299341	8291559	B3	163	299447	8291987
A3	44	299405	8291437	B2	104	299403	8291438				
A3	45	299403	8291438	B2	105	299405	8291437				
A3	46	299341	8291559	B2	106	299395	8291305				
A3	47	299340	8291559	B2	107	299392	8291305				
A3	48	299339	8291561	B2	108	299389	8291305				
A3	49	299338	8291562	B2	109	299386	8291306				
A3	50	299337	8291563	B2	110	299383	8291307				
A3	51	299335	8291564	B2	111	299380	8291309				
A3	52	299333	8291564	B2	112	299377	8291311				
A3	53	299332	8291564	B2	113	299375	8291313				
A3	54	299330	8291564	B2	114	299374	8291315				
A3	55	299328	8291564	B2	115	299319	8291391				
A3	56	299328	8291564	B2	116	299318	8291393				
A3	57	299187	8291507	B2	117	299316	8291396				
A3	58	299185	8291506	B2	118	299316	8291400				
A3	59	299184	8291505	B2	119	299315	8291403				
A3	60	299134	8291463	B2	120	299316	8291406				

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.

Schedule 1 Appeals

section 229

1 Appeal rights and parties to appeals

- (1) Table 1 states the matters that may be appealed to—
 - (a) the P&E court; or
 - (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
 - (a) the refusal, or deemed refusal of a development application, for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (b) a provision of a development approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (c) if a development permit was applied for—the decision to give a preliminary approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (d) a development condition if—
 - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and

Schedule 1

- (ii) the building is, or is proposed to be, not more than 3 storeys; and
 - (iii) the proposed development is for not more than 60 sole-occupancy units; or
 - (c) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
 - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
 - (g) a matter under this Act, to the extent the matter relates to the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
 - (h) a decision to give an enforcement notice—
 - (i) in relation to a matter under paragraphs (a) to (g); or
 - (ii) under the *Plumbing and Drainage Act 2018*; or
 - (i) an infrastructure charges notice; or
 - (j) the refusal, or deemed refusal, of a conversion application; or
 - (l) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
- (a) for a matter in subsection (2)(a) to (d)—
 - (i) a development approval for which the development application required impact assessment; and
 - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
 - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.

- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
 - (a) column 1 states the appellant in the appeal; and
 - (b) column 2 states the respondent in the appeal; and
 - (c) column 3 states the co-respondent (if any) in the appeal; and
 - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.
- (8) In this section—
storey see the Building Code, part A1.1.

Table 1
Appeals to the P&E Court and, for certain matters, to a tribunal

<p>1. Development applications</p> <p>For a development application other than an excluded application, an appeal may be made against—</p> <ul style="list-style-type: none"> (a) the refusal of all or part of the development application; or (b) the deemed refusal of the development application; or (c) a provision of the development approval; or (d) if a development permit was applied for—the decision to give a preliminary approval.
--

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	1 A concurrence agency that is not a co-respondent 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application
<p>2. Change applications For a change application other than an excluded application, an appeal may be made against—</p> <p>(a) the responsible entity's decision on the change application; or</p> <p>(b) a deemed refusal of the change application.</p>			

<p align="center">Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 The applicant</p> <p>2 If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice</p>	<p>The responsible entity</p>	<p>If an affected entity starts the appeal—the applicant</p>	<p>1 A concurrence agency for the development application</p> <p>2 If a chosen assessment manager is the respondent—the prescribed assessment manager</p> <p>3 A private certifier for the development application</p> <p>4 Any eligible advice agency for the change application</p> <p>5 Any eligible submitter for the change application</p>
<p>3. Extension applications</p> <p>For an extension application other than an extension application called in by the Minister, an appeal may be made against—</p> <p>(a) the assessment manager’s decision on the extension application; or</p> <p>(b) a deemed refusal of the extension application.</p>			

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 The applicant</p> <p>2 For a matter other than a deemed refusal of an extension application—a concurrence agency, other than the chief executive, for the application</p>	<p>The assessment manager</p>	<p>If a concurrence agency starts the appeal—the applicant</p>	<p>If a chosen assessment manager is the respondent—the prescribed assessment manager</p>
<p>4. Infrastructure charges notices</p> <p>An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds—</p> <p>(a) the notice involved an error relating to—</p> <p style="padding-left: 20px;">(i) the application of the relevant adopted charge; or</p> <p><i>Examples of errors in applying an adopted charge—</i></p> <ul style="list-style-type: none"> • the incorrect application of gross floor area for a non-residential development • applying an incorrect ‘use category’, under a regulation, to the development <p style="padding-left: 20px;">(ii) the working out of extra demand, for section 120; or</p> <p style="padding-left: 20px;">(iii) an offset or refund; or</p> <p>(b) there was no decision about an offset or refund; or</p> <p>(c) if the infrastructure charges notice states a refund will be given—the timing for giving the refund; or</p> <p>(d) for an appeal to the P&E Court—the amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</p>			

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the infrastructure charges notice	The local government that gave the infrastructure charges notice	—	—
<p>5. Conversion applications An appeal may be made against—</p> <p>(a) the refusal of a conversion application; or</p> <p>(b) a deemed refusal of a conversion application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The local government to which the conversion application was made	—	—
<p>6. Enforcement notices An appeal may be made against the decision to give an enforcement notice.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the enforcement notice	The enforcement authority	—	If the enforcement authority is not the local government for the premises in relation to which the offence is alleged to have happened—the local government

Table 2 Appeals to the P&E Court only			
<p>1. Appeals from tribunal An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of—</p> <p>(a) an error or mistake in law on the part of the tribunal; or</p> <p>(b) jurisdictional error.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A party to the proceedings for the decision	The other party to the proceedings for the decision	—	—
<p>2. Eligible submitter appeals For a development application or change application other than an excluded application, an appeal may be made against the decision to approve the application, to the extent the decision relates to—</p> <p>(a) any part of the development application or change application that required impact assessment; or</p> <p>(b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 For a development application—an eligible submitter for the development application</p> <p>2 For a change application—an eligible submitter for the change application</p>	<p>1 For a development application—the assessment manager</p> <p>2 For a change application—the responsible entity</p>	<p>1 The applicant</p> <p>2 If the appeal is about a concurrence agency's referral response—the concurrence agency</p>	Another eligible submitter for the application

**Table 2
Appeals to the P&E Court only**

3. Eligible submitter and eligible advice agency appeals
 For a development application or change application other than an excluded application, an appeal may be made against a provision of the development approval, or a failure to include a provision in the development approval, to the extent the matter relates to—
 (a) any part of the development application or change application that required impact assessment; or
 (b) a variation request.

Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 For a development application—an eligible submitter for the development application 2 For a change application—an eligible submitter for the change application 3 An eligible advice agency for the development application or change application	1 For a development application—the assessment manager 2 For a change application—the responsible entity	1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application

4. Compensation claims
 An appeal may be made against—
 (a) a decision under section 32 about a compensation claim; or
 (b) a decision under section 265 about a claim for compensation; or
 (c) a deemed refusal of a claim under paragraph (a) or (b).

Table 2 Appeals to the P&E Court only			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person dissatisfied with the decision	The local government to which the claim was made	—	—
5. Registered premises An appeal may be made against a decision of the Minister under chapter 7, part 4.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 A person given a decision notice about the decision 2 If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the affected area for the registered premises who is dissatisfied with the decision	The Minister	—	If an owner or occupier starts the appeal—the owner of the registered premises
6. Local laws An appeal may be made against a decision of a local government, or conditions applied, under a local law about— (a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or (b) the erection of a building or other structure.			

Table 2 Appeals to the P&E Court only			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who— (a) applied for the decision; and (b) is dissatisfied with the decision or conditions.	The local government	—	—

Table 3 Appeals to a tribunal only			
1. Building advisory agency appeals			
An appeal may be made against giving a development approval for building work to the extent the building work required code assessment against the building assessment provisions.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A building advisory agency for the development application related to the approval	The assessment manager	The applicant	1 A concurrence agency for the development application related to the approval 2 A private certifier for the development application related to the approval

Table 3 Appeals to a tribunal only			
<p>2. Inspection of building work An appeal may be made against a decision of a building certifier or referral agency about the inspection of building work that is the subject of a building development approval under the Building Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant for the development approval	The person who made the decision	—	—
<p>3. Certain decisions under the Building Act and the <i>Plumbing and Drainage Act 2018</i> An appeal may be made against—</p> <p>(a) a decision under the Building Act, other than a decision made by the Queensland Building and Construction Commission, if an information notice about the decision was given or required to be given under that Act; or</p> <p>(b) a decision under the <i>Plumbing and Drainage Act 2018</i>, other than a decision made by the Queensland Building and Construction Commission, if an information notice about the decision was given or required to be given under that Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who received, or was entitled to receive, an information notice about the decision	The entity that made the decision	—	—
<p>4. Local government failure to decide application under the Building Act An appeal may be made against a local government's failure to decide an application under the Building Act within the period required under that Act.</p>			

Table 3 Appeals to a tribunal only			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who was entitled to receive notice of the decision	The local government to which the application was made	—	—
<p>5. Failure to make a decision about an application or other matter under the <i>Plumbing and Drainage Act 2018</i></p> <p>An appeal may be made against a failure to make a decision under the <i>Plumbing and Drainage Act 2018</i>, other than a failure by the Queensland Building and Construction Commission to make a decision, within the period required under that Act, if an information notice about the decision was required to be given under that Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who was entitled to receive an information notice about the decision	The entity that failed to make the decision	—	—