

Our Ref: LM:DA/4218: AD2020/0004967

Your Ref: 18-412

13 November 2020

PJFM No.1 Pty Ltd
C/- Urban Sync Pty Ltd
PO Box 2970
Cairns QLD 4870
Attention: Stuart Ricketts

Dear Mr Ricketts

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 28 August 2020.

Applicant details

Applicant name: PJFM No.1 Pty Ltd
c/- Urban Sync Pty Ltd, Stuart Ricketts

Applicant contact details: Urban Sync Pty Ltd
PO Box 2970
Cairns QLD 4870

Application details

Application number: DA/4218
Approval sought: Development Permit for Reconfiguring a Lot

Description of the development proposed: Reconfiguration of a Lot - one (1) into two (2) lots

Location details

Street address: Honey Dam Road LAKELAND 4871
Real property description: Lot: 1 SP: 282417

Decision

Date of decision: 10 November

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. Operational Works Permit for Access Construction
2. Building Permit for the Rural Industry (Produce Handling Facility - ref: DA/3999)

Properly made submissions

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

Referral Agencies

Not applicable – no part of the application required referral.

Approved plans and specifications

A copy of the following plan is enclosed.

Drawing / report title	Prepared by	Date	Reference no.	Version / issue
Aspect of development: Reconfiguring a Lot				
PJFM No.1 Pty Ltd – Reconfiguration of a Lot – Proposed Lots 101 & 102 Cancelling Lot 1 on SP282417, Lakeland	RPS Australia East Pty Ltd	19/08/2020	PR147487- 1B.DWG	Issue B

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

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 2).

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

Environment and Planning

enc: **Attachment 1** – Conditions imposed by the assessment manager

Attachment 2 – Extract of Appeal Provisions (Chapter 6, Part 1 and Part 2 and Schedule 1 of the *Planning Act 2016*).

Attachment 1

A. Assessment Manager (Council) Conditions

Approved Plan

1. The development must be carried out generally in accordance with the Proposal Plan submitted with the application, except for any variations required to comply with the conditions of this approval. This includes:
 - Plan of Subdivision – Reconfiguration of a Lot Proposed Lots 101 & 102 Cancelling Lot 1 on SP282417 Lakeland – PJFM No. 1 Pty Ltd – Drawing No. PR1474487-1 – Issue B – Date: 19/8/2020.

Access

2. Access to proposed Lot 102 must be via the existing access on Honey Dam Road.
3. Access to proposed Lot 101 must be from Honey Dam Road. The access between the property boundary and the kerb and channel and must be dust suppressed and contain ancillary stormwater drainage. Construction must be to the requirements of the FNQROC Development Manual. Plans must be submitted for approval by Council's Director Infrastructure as part of an Operational Works application prior to works commencing.

Operational Works

4. Prior to the endorsement of the survey plan, Council will require approval for an Operational Works application for the following:
 - Dust suppressed access with ancillary stormwater drainage within the Honey Dam road reserve for proposed Lot 101 (see Condition 3).

This application will need to include plans prepared by a Registered Professional Engineer Queensland (RPEQ), and be in accordance with the FNQROC Development Manual, and to the satisfaction of Council's Director Infrastructure.

A Traffic Management Plan (prepared by a suitably qualified person for works within the road reserve) must be submitted for approval by Council's Director Infrastructure prior to works commencing.

On completion of the works, Council shall require a Certificate of Completion from an RPEQ and a set of as constructed plans submitted to Council.

Effluent Disposal

5. Each lot must be provided with a wastewater treatment and disposal system, prior to the construction of a dwelling house. Any application for wastewater treatment

and disposal must include details of the proposed wastewater disposal systems and calculation demonstrating compliance with the Plumbing and Wastewater Code and AS/NZS 1547:2000 – 'On-site domestic wastewater management'. Details to be provided at the time of a Plumbing and/or Building application.

Water Supply

6. A separate source of water supply must be provided to each of the proposed allotments, at the time of construction of a dwelling house. This would be satisfied by the provision of rainwater tanks, with a minimum capacity of 50,000 litres for each lot. 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 for on-site water storage.

Sediment Control

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

Stormwater Discharge

9. Stormwater drainage must be directed to a legal point of discharge. Any future buildings must direct stormwater from the roof top, to an approved legal point of discharge via a stormwater pipe.

Electricity

10. Each proposed lot must be provided with a reliable electricity supply at the time of the issue of any Certificate of Classification. Written evidence of such electricity supply must be provided to Council prior to the issue of a Certificate of Classification for building work on the lots created.

Fire Management

11. All lots, access driveways, and fire breaks must be maintained by the owners at all times so as not to create a fire hazard.

Environmental Protection

12. No state declared or environmental pest, plants, or animals are to be introduced onto the property.

13. The applicant must ensure that no soil or silt runoff occurs from the site during the construction and operational phase of the development.

Public Utilities

14. The developer is responsible for the cost of any alteration to Public Utilities as a result of complying with the condition of this approval.
15. Utilities design must be in accordance with the FNQROC Development Manual D8 Operational Works Design Guidelines "Utilities".

Compliance

16. All relevant Conditions of this Development Permit must be complied with prior to the Plan of Survey being submitted to Council for endorsement, unless stated otherwise.

Timing of Effect

17. The applicant must submit evidence to Council's Manager Planning and Environment that the Rural Industry (Produce Handling Facility Ref: DA/3999) is at construction Framing Stage prior to the endorsement of the Survey Plan.

Outstanding Charges

18. 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

19. The reconfiguring a lot approval authorised under this development Permit must be completed and the Plan of Survey submitted to Council for endorsement within four (4) years from the commencement of this approval or the approval will lapse.

B. Assessment Manager (Council) Advice

1. A development permit is required for carrying out any Building work and a Plumbing and Drainage Approval/Compliance Permit is required for plumbing and drainage works prior to any construction on these allotments.
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/owner is to ensure compliance with the requirements of the *Aboriginal Cultural Heritage Act 2003*, and in particular – 'the duty of c

IMPORTANT NOTE
 This plan was prepared as a Conceptual Reconfguration Plan only and accuracy of all aspects of the plan have not been verified.
 All lots, areas and dimensions are approximate only. Subject to relevant studies: Survey, Engineering and Government approvals.
 No reliance should be placed on the plan and RPS Australasia East Pty Ltd accepts no responsibility for any loss or damage suffered howsoever arising to any person who may use or rely on this plan.

DNRM DCDB (adjacent boundaries) (see work)
DNRM AERIAL PHOTOGRAPHY
 Based on aerial photography supplied by the State of Queensland (Department of Natural Resources & Mines) (2013). In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) resulting from any use of the data. Data must not be used for direct marketing or be used in breach of any privacy laws.
 The aerial photography used in this plan has not been verified. The aerial photography was taken on 11/01/2015 and is shown and positioned as appropriate only.
 Photography date: July 2015
 © State of Queensland (Department of Natural Resources & Mines) [2020]

EMERGENTS
 1. 19/02/20: A/M: 448 DAM (HIGH) PRODUCE HANDLING FACILITY
 2. 21/02/20: M/S: A/M: 448 DAM (HIGH) PRODUCE HANDLING FACILITY

PROJECT NUMBER
 4 MerrimD Merrim
SUBJECT
 SURVEYED
DATE
 14/07/18
PRJ147487-18.DWG

COMPLETED
 A3
SHEET SIZE
 A3
SHEET
 1
SHEETS
 1

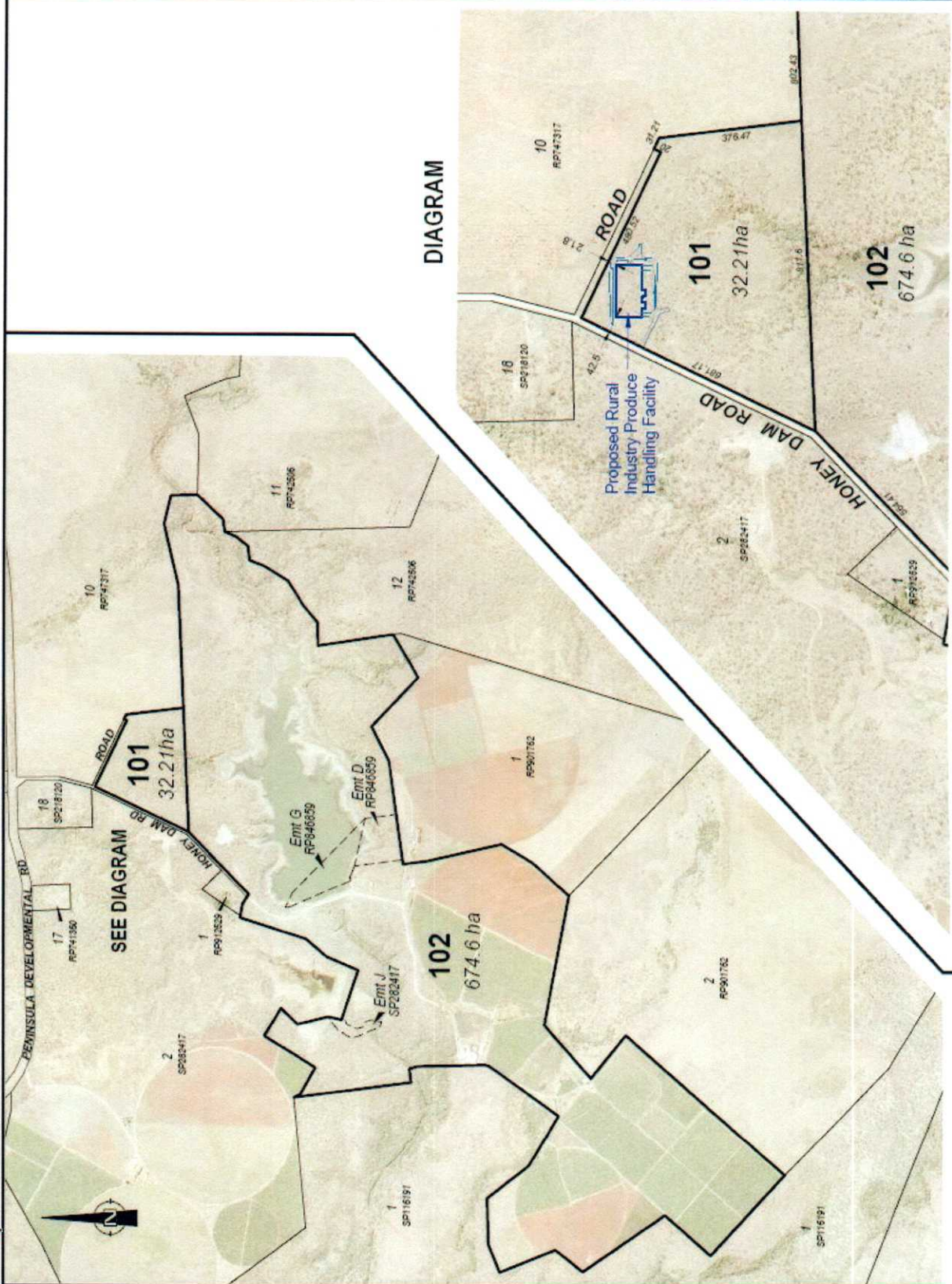
RPS AUSTRALASIA EAST PTY LTD
 RPS AUSTRALASIA EAST PTY LTD
 13/57 ALBERT ST
 PO BOX 1149
 CAULFIELD VIC 3161
 T +61 3 9594 4470
 F +61 3 9594 4471
 W rpsgroup.com

RPS

PJFM No. 1 PTY LTD

RECONFIGURATION OF A LOT
PROPOSED LOTS 101 & 102
CANCELLING LOT 1 ON SP282417
LAKELAND

SCALE
 1:10,000
DATE
 19/8/2020
DESIGNER/NO
 PR147487-1
TITLE
 B



SCALE
 1:10,000 IS APPLICABLE ONLY
 TO THE ORIGINAL SHEET SIZE (A3)

SCALE
 1:25,000 IS APPLICABLE ONLY
 TO THE ORIGINAL SHEET SIZE (A3)

PRELIMINARY ONLY

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.

Part 2

Development tribunal

Division 1

General

233 Appointment of referees

- (1) The Minister, or chief executive, (the *appointer*) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—
 - (a) has the qualifications or experience prescribed by regulation; and
 - (b) has demonstrated an ability—
 - (i) to negotiate and mediate outcomes between parties to a proceeding; and
 - (ii) to apply the principles of natural justice; and
 - (iii) to analyse complex technical issues; and
 - (iv) to communicate effectively, including, for example, to write informed succinct and well-organised decisions, reports, submissions or other documents.
- (2) The appointer may—
 - (a) appoint a referee for the term, of not more than 3 years, stated in the appointment notice; and
 - (b) reappoint a referee, by notice, for further terms of not more than 3 years.
- (3) If an appointer appoints a public service officer as a referee, the officer holds the appointment concurrently with any other appointment that the officer holds in the public service.
- (4) A referee must not sit on a tribunal unless the referee has given a declaration, in the approved form and signed by the referee, to the chief executive.

- (5) The appointer may cancel a referee's appointment at any time by giving a notice, signed by the appointer, to the referee.
- (6) A referee may resign the referee's appointment at any time by giving a notice, signed by the referee, to the appointer.
- (7) In this section—
 - appointment notice* means—
 - (a) if the Minister gives the notice—a gazette notice; or
 - (b) if the chief executive gives the notice—a notice given to the person appointed as a referee.

234 Referee with conflict of interest

- (1) This section applies if the chief executive informs a referee that the chief executive proposes to appoint the referee as a tribunal member, and either or both of the following apply—
 - (a) the tribunal is to hear a matter about premises—
 - (i) the referee owns; or
 - (ii) for which the referee was, is, or is to be, an architect, builder, drainer, engineer, planner, plumber, plumbing inspector, certifier, site evaluator or soil assessor; or
 - (iii) for which the referee has been, is, or will be, engaged by any party in the referee's capacity as an accountant, lawyer or other professional; or
 - (iv) situated or to be situated in the area of a local government of which the referee is an officer, employee or councillor;
 - (b) the referee has a direct or indirect personal interest in a matter to be considered by the tribunal, and the interest could conflict with the proper performance of the referee's functions for the tribunal's consideration of the matter.
- (2) However, this section does not apply to a referee only because the referee previously acted in relation to the preparation of a relevant local planning instrument.

- (3) The referee must notify the chief executive that this section applies to the referee, and on doing so, the chief executive must not appoint the referee to the tribunal.
- (4) If a tribunal member is, or becomes, aware the member should not have been appointed to the tribunal, the member must not act, or continue to act, as a member of the tribunal.

235 Establishing development tribunal

- (1) The chief executive may at any time establish a tribunal, consisting of up to 5 referees, for tribunal proceedings.
- (2) The chief executive may appoint a referee for tribunal proceedings if the chief executive considers the referee has the qualifications or experience for the proceedings.
- (3) The chief executive must appoint a referee as the chairperson for each tribunal.
- (4) A regulation may specify the qualifications or experience required for particular proceedings.
- (5) After a tribunal is established, the tribunal's membership must not be changed.

236 Remuneration

A tribunal member must be paid the remuneration the Governor in Council decides.

237 Tribunal proceedings

- (1) A tribunal must ensure all persons before the tribunal are afforded natural justice.
- (2) A tribunal must make its decisions in a timely way.
- (3) A tribunal may—
 - (a) conduct its business as the tribunal considers appropriate, subject to a regulation made for this section; and

- (b) sit at the times and places the tribunal decides; and
 - (c) hear an appeal and application for a declaration together; and
 - (d) hear 2 or more appeals or applications for a declaration together.
- (4) A regulation may provide for—
- (a) the way in which a tribunal is to operate, including the qualifications of the chairperson of the tribunal for particular proceedings; or
 - (b) the required fee for tribunal proceedings.

238 Registrar and other officers

- (1) The chief executive may, by gazette notice, appoint—
- (a) a registrar; and
 - (b) other officers (including persons who are public service officers) as the chief executive considers appropriate to help a tribunal perform its functions.
- (2) A person may hold the appointment or assist concurrently with any other public service appointment that the person holds.