

Our Ref: LM: lmc:DA/4770 AD2024/0004464

1 August 2024

Julie Venables and Phillip Mara
c/ - Sarah Rizvi
PO Box 805
KURANDA QLD 4881
E-mail: sarah.e.rizvi@gmail.com
Attention: Sarah Rizvi

Dear Ms Rizvi

Decision Notice - Approval

Given under section 63 of the *Planning Act 2016*

With reference to Development Application (DA/4770), please find attached the relevant Decision Notice, which was approved by Cook Shire Council in full, subject to conditions.

Details of the decision are as follows:

Decision Details

Date of Decision: Council approved the Development Application by delegation to the Chief Executive Officer on **29 July 2024**.

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

Variation approval details

Not Applicable

Application Details

Application Number: DA/4770

Approval Sought: Development Permit for a Material Change of Use

Description of the Development: Dwelling House (Secondary Dwelling)

Category of Development: Assessable Development

Category of Assessment: Code Assessment

Planning Scheme: Cook Shire Council Planning Scheme 2017 v2.0

Location Details

Street Address: Old Dairy Road, COOKTOWN 4895

Real Property Description: Lot 35 on SP273182

Local Government Area: Cook Shire

Assessment Manager Conditions

This approval is subject to the conditions in **Attachment 1**.

Further Development Permits

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

1. Development Permit for Plumbing and Drainage Work
2. Development Permit for Building Work

Properly Made Submissions

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

Referral Agencies

Not applicable - no part of the application required referral.

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

Not Applicable.

Approved Plans and Specifications

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

Currency Period for the Approval

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

Lapsing of approval if development started but not completed

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

Rights of Appeal

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

Other Details

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

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

Yours sincerely



Lisa Miller

Manager Planning and Environment

enc: **Attachment 1** Conditions Imposed by the Assessment Manager
Attachment 2 Approved Plans (D24/28155)
Attachment 3 Notice of Decision – Statement of Reasons (AD2024/0004463)
Attachment 4 Extract of Appeal Provisions (Chapter 6 part 1 of the *Planning Act 2016*)

Attachment 1 Conditions Imposed by the Assessment Manager (Cook Shire Council)

A. ASSESSMENT MANAGER (COUNCIL) CONDITIONS

No.	Condition	Timing
GENERAL		
1.	COMPLIANCE WITH CONDITIONS The Developer is responsible for ensuring compliance with this development approval and the conditions of the approval by an employee, agent, contractor, or invitee of the Developer.	At all times
2.	WORKS – DEVELOPER’S EXPENSE The cost of all works associated with the development and construction of the development, including services, facilities and/or public utility alterations required are met at no cost to the Council or relevant utility provider, unless otherwise stated in a development condition.	At all times
3.	WORKS - DAMAGE TO INFRASTRUCTURE The Developer must repair any damage to existing infrastructure (e.g. kerb and channel, footpath, or roadway) that may have occurred during any works undertaken as part of the development. Any damage that is deemed to create a hazard to the community, must be repaired immediately.	At all times
4.	WORKS – DESIGN & STANDARD Unless otherwise stated, all works must be designed, constructed, and maintained in accordance with the relevant Council policies, guidelines, and standards.	At all times
5.	WORKS – SPECIFICATION & CONSTRUCTION All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant Australian Standards and must be approved, supervised, and certified by a Registered Professional Engineer of Queensland (RPEQ).	At all times
6.	COMMENCEMENT OF USE The use must not commence until the conditions of the approval relevant to each stage have been complied with.	At all times
7.	INFRASTRUCTURE CONDITIONS All development conditions contained in this development approval about infrastructure under Chapter 4 of the Planning Act 2016 (the Act), should be read as being non-trunk infrastructure conditioned under section 145 of the Act, unless otherwise stated.	At all times

APPROVED PLANS & DOCUMENTS										
8.	<p>APPROVED PLANS & DOCUMENTS</p> <p>Undertake the approved development generally in accordance with the approved plans and documents, including any amendments made in red on the approved plan(s) or document(s):</p> <table border="1"> <thead> <tr> <th>Title</th> <th>Sheet No.</th> <th>Date</th> <th>Prepared By</th> </tr> </thead> <tbody> <tr> <td>Site Plan</td> <td>Not provided</td> <td>15/07/24</td> <td>Julie Venables and Phillip Mara</td> </tr> </tbody> </table>	Title	Sheet No.	Date	Prepared By	Site Plan	Not provided	15/07/24	Julie Venables and Phillip Mara	At all times
Title	Sheet No.	Date	Prepared By							
Site Plan	Not provided	15/07/24	Julie Venables and Phillip Mara							
9.	<p>CONDITIONS OF APPROVAL & APPROVED PLANS</p> <p>Where there is a conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval take precedence.</p>	At all times								

ON-SITE WATER SUPPLY		
10.	<p>A separate source of water supply must be provided for the proposed secondary dwelling at the time of construction. This would be satisfied by the provision of a rainwater tank with a minimum capacity of 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.</p>	At the time of construction of the secondary dwelling

ON-SITE SEWERAGE SUPPLY		
11.	<p>An on-site wastewater system must be provided for the proposed secondary dwelling at the time of construction. 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.</p>	At the time of construction of the secondary dwelling

ELECTRICITY SUPPLY		
12.	The proposed secondary dwelling must be connected to the reticulated electricity supply at the time of application for a development permit to carry out building works. If the development is proposed to be connected to another means of electricity supply, details of this supply must be provided for Council approval at the time of building application. At the time of construction of a dwelling house.	As stated.

BUILDING ENVELOPE		
13.	All proposed buildings or structures must be located within the identified building envelope in accordance with the approved plan of development.	At all times

BUSHFIRE MANAGEMENT		
14.	The development must be maintained at all times to a standard so as not to create a fire hazard.	At all times
15.	Any new building (other than a class 10a) erected on the subject site must: <ul style="list-style-type: none"> (i) Achieve setbacks from fire hazardous vegetation of 1.5 times the predominant mature canopy tree height or ten (10) metres, whichever is greater; (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 or the dam/pool shall be located within an accessible position within forty (40) metres from the habitable buildings. 	At the time of construction of a dwelling house

VEGETATION CLEARING		
16.	Vegetation clearing must be limited to that required for firebreaks, dwelling houses, and associated infrastructure. Any regulated vegetation not required for building works or bushfire management purposes must be retained.	At all times

INTERNAL WORKS - DRIVEWAYS		
17.	Construct an access driveway (compacted gravel or other impervious surface) to the building envelope in accordance with FNQROC Standard Drawing S1110. The driveway(s) require assessment of stormwater flows and provision of drainage infrastructure to facilitate access to building envelopes.	At the time of construction of the secondary dwelling

EXTERNAL WORKS - ACCESS		
18.	New access cross-over to the allotment must be to a Rural standard generally in accordance with FNQROC Standard Drawing S1105. The access must include drainage infrastructure with sufficient supporting calculations on sizing of the cross driveway culverts.	At the time of construction of the secondary dwelling

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

EROSION & SEDIMENT CONTROL		
20.	The developer/applicant must ensure that no sand, soil or silt runoff occurs from the site during the construction and operational phase of the development and erosion and sediment controls are in place.	At all times

STORMWATER		
21.	LAWFUL POINT OF DISCHARGE Stormwater drainage must be directed to a lawful point of discharge.	At all times
22.	DRAINAGE Site works must not adversely affect flooding or drainage characterises of properties that are upstream, downstream, or adjacent to the development site.	At all times

COMPLIANCE		
23.	All conditions of this Development Permit are to be complied with prior to the use commencing and, where relevant, maintained during operation.	At all times

ENVIRONMENTAL		
24.	PEST MANAGEMENT No State declared or environmental pest, plants, and animals are to be introduced onto the property.	At all times

AMENITY		
25.	EXTERNAL IMPACTS The development shall have no adverse impact on the amenity of the surrounding area by way of light nuisance, dust or noise.	At all times

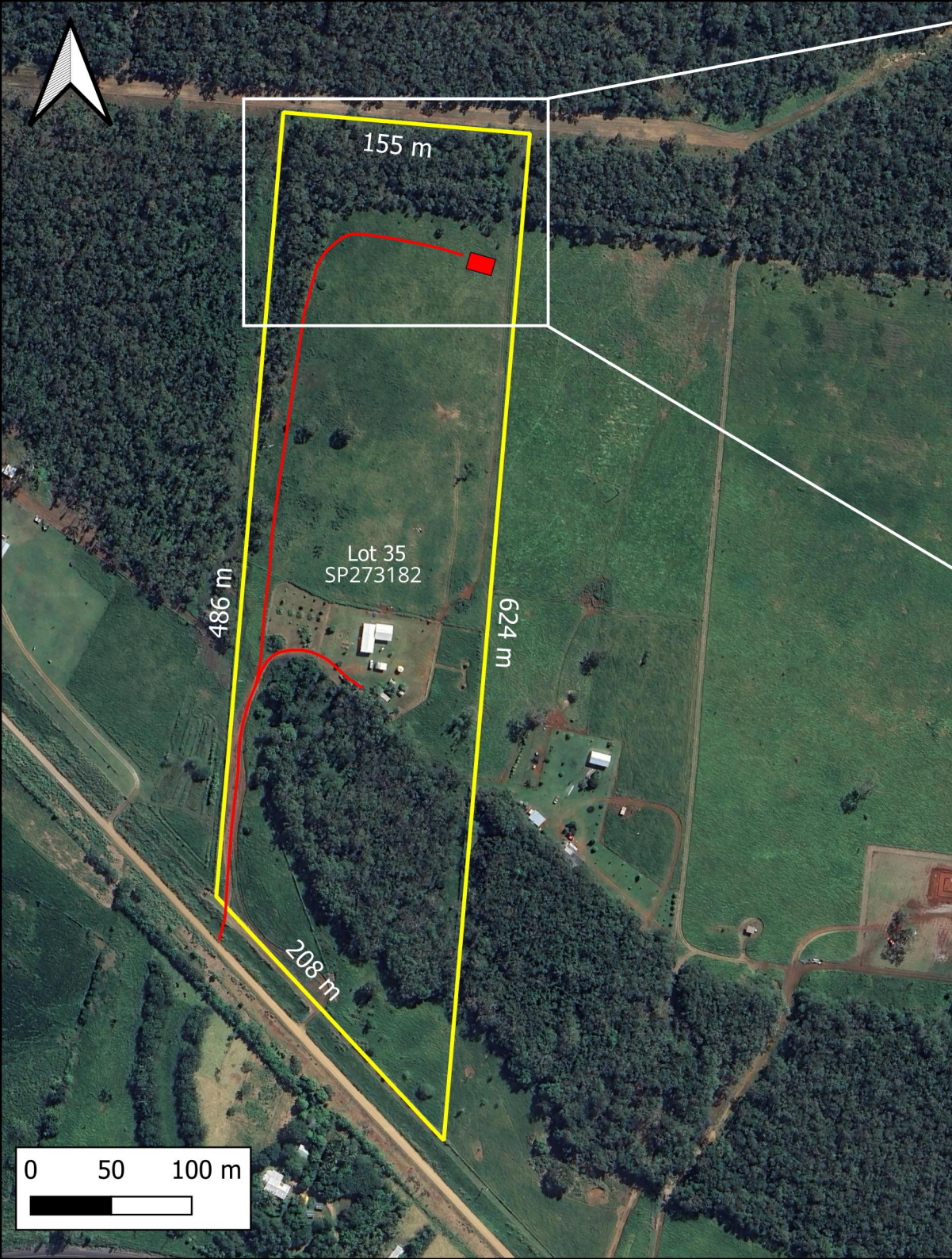
B. ASSESSMENT MANAGER (COUNCIL) ADVICE

1. The currency period for this application is six (6) years. Should the approved use not commence within this time, the approval shall lapse.
2. 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.
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. Removal of Protected Vegetation

This development approval does not approve of authorise the removal of vegetation that is otherwise protected under separate State or Federal legislation, including under the following:

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

Attachment 2 Approved Plans (D24/28155)



Legend

- Proposed driveway
- ▭ Property boundary Lot 35 SP273182
- ▭ Proposed secondary dwelling on Lot 35 Old Dairy Rd Cooktown, Qld

COOK SHIRE COUNCIL
DIGITALLY STAMPED
APPROVED PLAN

Development Application: Development Permit for Material Change of Use - Secondary Dwelling

Lot: 35 on SP273182

Referred to in Cook Shire Council's Decision Notice

Approval Date: 29 July 2024
Application Number: DA/4770

SCALE 1:50

3

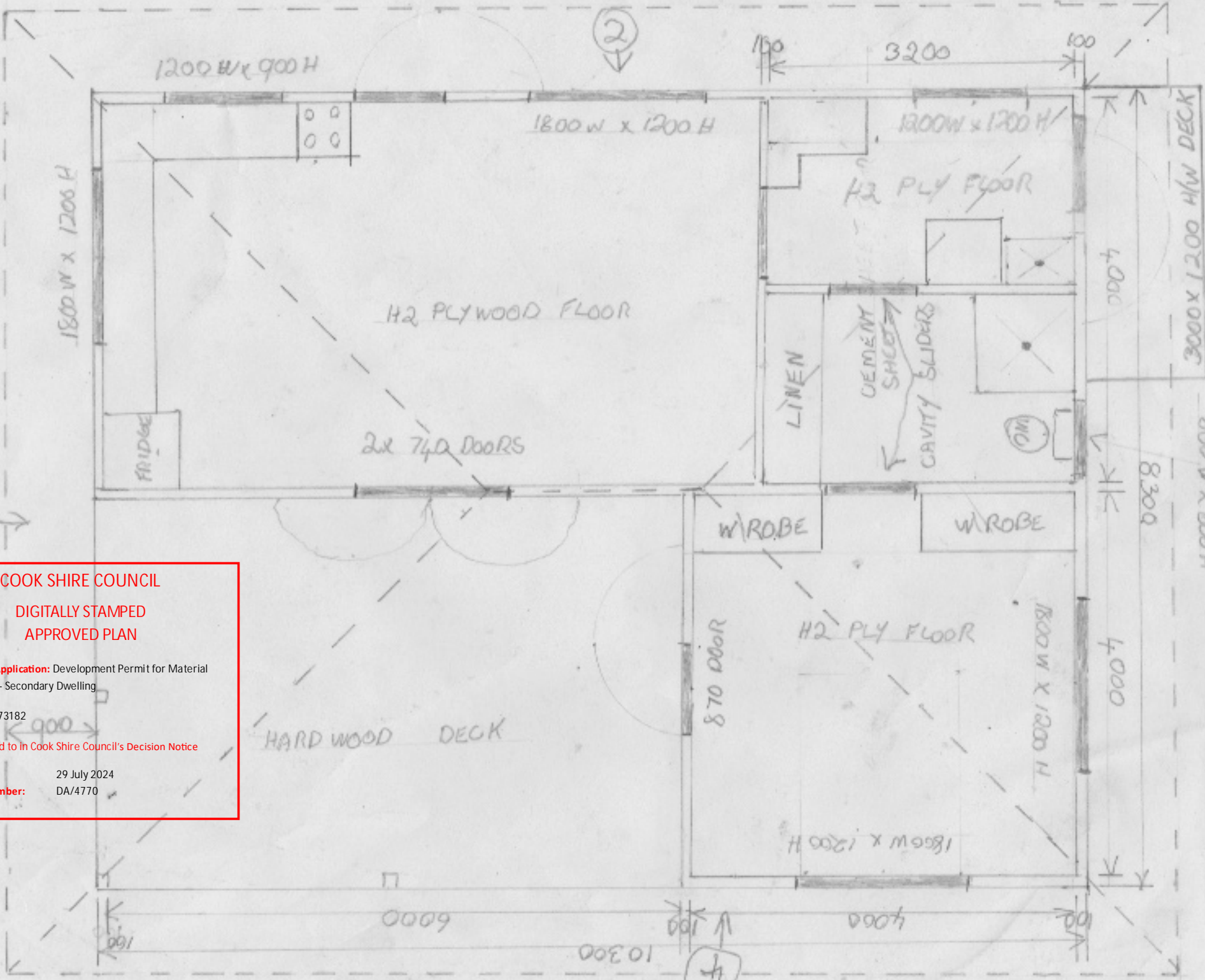
COOK SHIRE COUNCIL
DIGITALLY STAMPED
APPROVED PLAN

Development Application: Development Permit for Material Change of Use - Secondary Dwelling

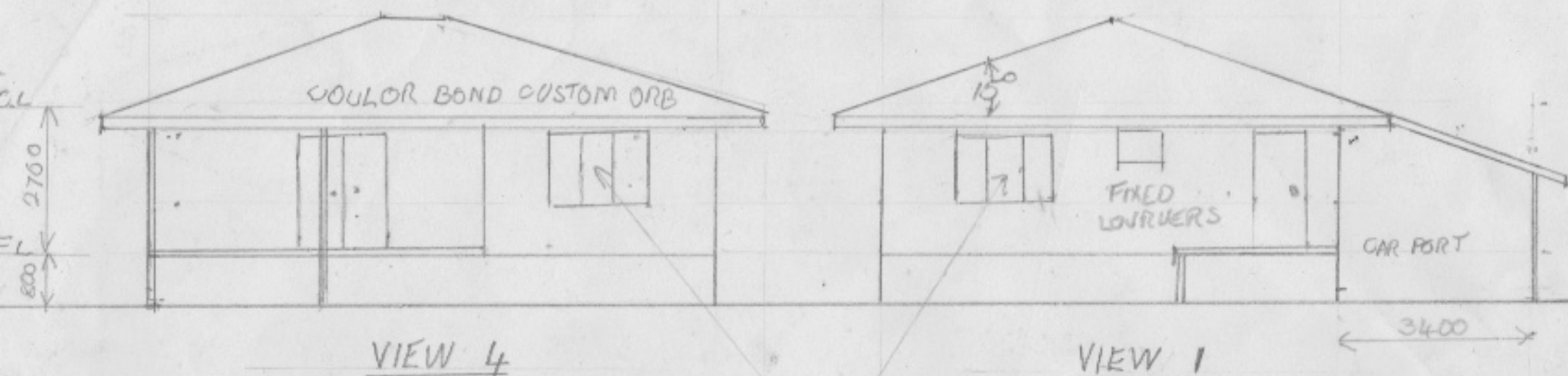
Lot: 35 on SP273182

Referred to in Cook Shire Council's Decision Notice

Approval Date: 29 July 2024
Application Number: DA/4770



4



COOK SHIRE COUNCIL
DIGITALLY STAMPED
APPROVED PLAN

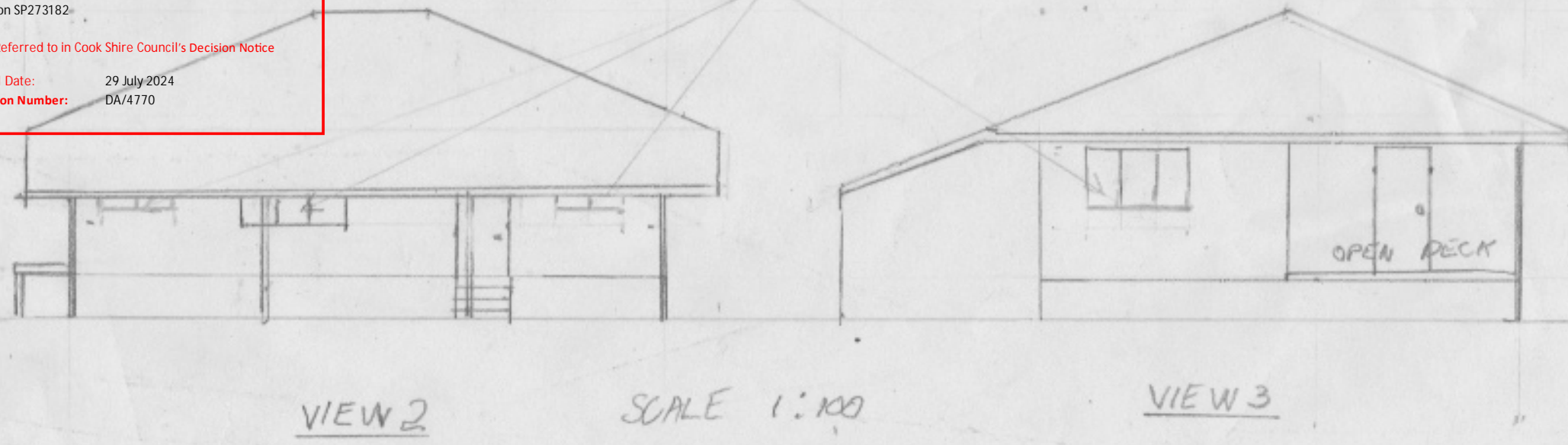
Development Application: Development Permit for Material Change of Use - Secondary Dwelling

Lot: 35 on SP273182

Referred to in Cook Shire Council's Decision Notice

Approval Date: 29 July 2024
Application Number: DA/4770

ALUMINIUM
CASMENT WINDOWS



VIEW 2

SCALE 1:100

VIEW 3

Attachment 3 Notice of Decision – Statement of Reasons (AD2024/0004463)

NOTICE ABOUT DECISION – STATEMENT OF REASONS

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

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

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

APPLICATION DETAILS

Application No:	DA/4770
Applicant:	Julie Venables and Phillip Mara c/ - Sarah Rizvi
Proposal:	Development Permit for a Material Change of Use
Description of the Development:	Dwelling House (Secondary Dwelling)
Street Address:	Old Dairy Road, COOKTOWN 4895
Real Property Description:	Lot 35 on SP273182
Planning Scheme:	Cook Shire Council Planning Scheme 2017 v2.0
Land Zoning:	Rural Zone
Assessment Type:	Code Assessment

DECISION DETAILS

Type of Decision:	Approval with conditions
Type of Approval:	Development Permit for a Material Change of Use - Dwelling House (Secondary Dwelling)
Date of Decision:	29 July 2024

ASSESSMENT BENCHMARKS

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

Assessment Benchmarks	Comment
<i>Planning Regulation 2017</i> (Schedule 9)	Schedule 9 is not applicable as the application is not for building work under the Building Act.
<i>Planning Regulation 2017</i> (Schedule 10)	This application did not require Referral to the State Assessment Referral Agency (SARA) under Schedule 10 of the Planning Regulation 2017.
Regional Plan	Section 2.2 of the Planning Scheme identifies that the Cape York Regional Plan has been adequately reflected in the Planning Scheme. A separate assessment against the Regional Plan is not required.
State Planning Policy (SPP), Part E	Section 2.1 of the Planning Scheme identifies that the superseded version of the State Planning Policy is integrated in the Planning Scheme. A review of the current version of the SPP (July 2017) and assessment benchmark mapping applicable to Part E has determined that no additional assessment provisions in the current SPP (Part E) or updated mapping are applicable requiring further assessment against the SPP. However, amendments to any part of the SPP or supporting mapping may result in a local planning instrument no longer appropriately integrating a particular State interest. In these instances the SPP and/or the supporting mapping apply to the extent of any inconsistency.
Temporary State Planning Policy	There are no Temporary State Planning Policies.

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

- Rural Zone Code
- Biodiversity Overlay Code
- Residential Use Code
- Parking and Access Code
- Works, Services and Infrastructure Code

Local Categorising Instrument (Variation Approval)

Not Applicable

Local Categorising Instrument (Temporary Local Planning Instrument)

Not Applicable

PUBLIC NOTIFICATION

Not Applicable

REASONS FOR THE DECISION

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

- a. An assessment was made against the applicable assessment benchmarks and the proposed development demonstrated compliance.
- b. The proposed development will have no detrimental impact on the property, surrounding properties, or the environment itself.

REASONS FOR APPROVAL DESPITE NON-COMPLIANCE WITH ASSESSMENT BENCHMARKS

Not Applicable

ADDITIONAL RELEVANT MATTERS FOR IMPACT ASSESSMENT

Not Applicable

OTHER MATTERS PRESCRIBED BY THE PLANNING REGULATION 2017

Not Applicable

OTHER DETAILS

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

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

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the *appellant*); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or

- (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
 - (iii) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
 - (iv) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.

- (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.