



Your Reference:

Our Reference: DA 18/19-031

Contact: Kelli Doyle

30 April 2019

Attention: Michael Schmidt
Ilfracombe Motors
PO Box 23
ILFRACOMBE QLD 4727

Dear Michael

Decision notice – approval (with conditions)

(Given under section 63 of the Planning Act 2016)

The development application described below was properly made to Longreach Regional Council on 18 April 2019.

Applicant Details

Applicant Name: Michael Schmidt – Ilfracombe Motors


Applicant contact details: ilfracombemotors@hotmail.com

Application details

Application Number: DA18/19-031

Approval sought: Development application for Material Change of Use –
Development Permit for Low Impact Industry (Motor Vehicle Repair
Workshop)

Details of proposed development: The application seeks a development permit approval to establish a
Motor Vehicle Repair Workshop within an existing shed structure
over the subject site.



Location details

Street Address: 54-56 Mitchell Street, Ilfracombe

Real property description: Lot 2 I4178

Decision

Date of decision: 18 April 2019

Decision details: Approved in full with conditions

Details of the approval

Development Permit Development application for Material Change of Use – Development Permit for Low Impact Industry (Motor Vehicle Repair Workshop)

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 application can be carried out:

Building Works – Development Permit

Properly made submissions

Not applicable – No part of the application required public notification.

Right 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 also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the Planning Act 2016).

A copy of the relevant appeal provisions are attached.

Currency period of the approval

This development approval will lapse at the end of the period set out in section 85 of the *Planning Act 2016*, being:

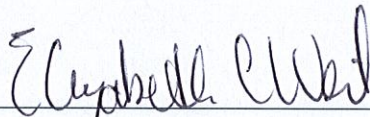
- Material Change of Use - 6 years

Approved plans and specifications

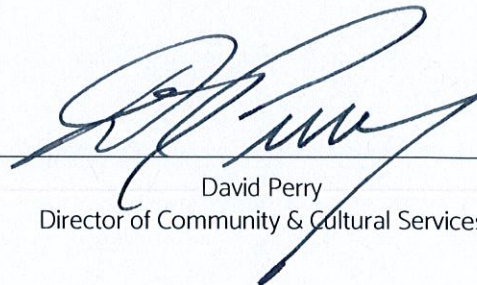
Plan / Document Title	Drawing Number	Date	Prepared by
Site Plan	DA18/19-031 A	19 March 2019	Unknown

Should you require further assistance in relation to this matter, please do not hesitate to contact Kelli Doyle, Council's Town Planning Support Officer, on (07) 4658 4111.

Sincerely



Elizabeth West
A/Chief Executive Officer



David Perry
Director of Community & Cultural Services



Longreach Regional Council – Standard Conditions for use in Development Assessment

Standard Conditions – Material Change of Use

1. NATURE OF DECISION

1.1 Approval is granted for a development permit for a Material Change of Use for a Low Impact Industry (Motor Vehicle Repair Workshop) at 54-56 Mitchell Street, Ilfracombe on land described as Lot 2 I4178.

Relevant Period

1.2 The relevant period for this approval is in accordance with Section 85 of the *Planning Act 2016*.

Compliance Timing

1.3 Comply with all conditions of this development approval at no cost to Council and prior to the commencement of the use, unless otherwise stated in a specific condition.

Notification of Commencement of Use

1.4 The applicant must give Council a written notice of commencement for the development which contains the following:

- application number;
- site address;
- name and telephone number (work and after hours) of a suitable contact person to arrange a site inspection;
- the commencement date for the use.

Timing

The notification is to be sent directly to Council's Planning Department and must be provided within 1 week of the use commencing.

2 APPROVED DOCUMENTS

2.1 The development of the site must be carried out generally in accordance with the following approved plans and documents; except as altered by other conditions of this development approval:

Plan / Document Title	Drawing Number	Date	Prepared by
Site Plan	DA18/19-031 A	19 March 2019	Unknown

Decision notice and approved plans/drawings to be submitted with subsequent application(s)

2.2 A copy of this decision notice and accompanying stamped approved plans/drawings must be submitted with any operational works or building works application relating to or arising from this development approval.

Timing

As indicated within the wording of the condition.

Decision notice and approved plans/drawings to be retained on site

Timing

At all times.

2.3 A copy of this decision notice and stamped approved plans/drawings must be retained on site at all times. This decision notice must be read in conjunction with the stamped approved plans to ensure consistency in construction, establishment and maintenance of approved works.

3 AMENITY

Hours of operation

Timing

At all times once use has commenced.

3.1 All activities associated with the approved development are limited to:

- a. 8:00am – 5:00pm Monday to Friday; and
- b. No operation of Saturday, Sundays and Public Holidays.

Noise Attenuation – Roller Doors

Timing

At all times once use has commenced.

3.2 The sliding door on the eastern façade of the workshop and the most two most western roller doors on the southern facade of the workshop structure, must remain closed during any repairing and servicing of vehicles.

Location of equipment and ventilation/refrigeration units

Timing

At all times once use has commenced.

3.3 All service equipment, mechanical ventilation and refrigeration units associated with the use of the premises must be installed, located and screened to the satisfaction of the Chief Executive Officer and must not cause nuisance or disturbance to persons outside the boundaries of the premises.

Refuse storage area

Timing

Prior to the commencement of the use and maintained for the life of the development.

3.4 A screened refuse storage area must be located on-site and be located behind the main building façade.

Screening of storage

Timing

At all times once use has commenced.

3.5 The storage of any machinery or materials must be screened so as not to be visible from any road that the site fronts.

3.6 The location of outdoor storage is to be to the satisfaction of the Chief Executive Officer.

No nuisance from lighting

Timing

At all times.

3.7 All external lighting devices provided as part of the approved development must:

- a. be positioned on the premises and shielded so as not

- to cause glare or other nuisance to surrounding residents and motorists; and
- b. not exceed 8.0 lux at 1.5 meters beyond the boundary of the site.

4 CAR PARKING, LOADING & UNLOADING

Loading and unloading of vehicles – operations

4.1 Loading and unloading of vehicles must:

- a. Not cause undue disruption in Mitchell Street and Leichhardt Street; and
- b. As practically possible, stand entirely within the site when waiting to be loaded and unloaded.

Timing

At all times once use has commenced.

5 ACCESS, KERB & CHANNEL, FOOTPATHS

Design of cross-over

5.1 A vehicular crossing (location as per the approved plans) in Leichhardt Street must be constructed by the applicant (at no cost to Council) in accordance with the following Council Standard Drawing/s for vehicular crossings in accordance with Institute of Public Works Engineering Australasia (IPWEA) Standard Drawing RS-056, Vehicle Crossings – Rural Driveway.

Timing

Prior to the commencement of the use.

Access to the building

5.2 Any stairs, ramps, associated handrails and tactile ground surface indicators must be located wholly within private property.

Timing

At all times.

6 LANDSCAPING

6.1 A landscape plan must be submitted to the satisfaction of Council that provides;

- a. Tree/shrub planting in locations generally in accordance with the tree planting shown on the approved Site Plan but also extending along the eastern side boundary up to the northern façade of the Dwelling House over the subject site.
- b. landscaped garden beds, comprising of predominantly native species and trees and shrubs, in various locations within the subject site.

Timing

Approval of the landscaping plan must be obtained prior to:

- (i) the commencement of use; or
- (ii) the issue of a certificate of classification

The landscape plan must reflect the approved layout (including amendments through this approval) and comply with the Landscape code. The plan must also demonstrate the following:

- a. Locations and names of existing and proposed trees;
- b. Location of drainage, sewerage and other underground services and overhead power lines;
- c. Fence sizes and materials;

- d. Locations and species of proposed plants;
- e. A method of retaining roof storm water for irrigation maintenance of landscaped areas.

Use of quality landscape materials

Timing

At all times.

6.1 All plants, materials, hardscape and watering systems proposed in response to condition 6.1 must be of acceptable quality and be installed and maintained to the satisfaction of the Chief Executive Officer, prior to the commencement of the use.

7 ADVERTISING DEVICES

Advertising device approval required

Timing

At all times.

7.1 No advertising device is to be erected on the premises without the necessary development permit for operational work (advertising device).

8 EROSION AND SEDIMENT CONTROL

Erosion and sediment control

Timing

At all times while works are occurring.

8.1 Erosion and sediment control:

- a. Erosion, sediment and dust control measures must be implemented in accordance with the approved plan/drawings and the *Best Practice Erosion & Sediment Control* (IECA Australasia, November 2008).

9 WASTE

Design of waste storage facilities

Timing

Prior to the commencement of the use.

9.1 Sufficient waste storage including general waste, recyclable waste and other development-specific waste types are to be provided wholly within nominated Development Envelope.

9.2 Waste and recycling storage facilities must be provided in accordance with the following provisions:

- a. Adequate waste containers must be provided to contain the volume and type of waste and recyclable matter generated by the development;
- b. Waste storage area must be designed and constructed so it can be easily cleaned whilst ensuring that no waste or recyclable matter is released to the stormwater system or any waterway.
- c. The applicant must enter into a contract/agreement with a private waste collector, if using skip bins;
- d. General waste in wheelie bins must be brought to the

- kerbside for collection;
- e. The applicant must contact Council for the supply of wheelie bins, at their cost.

10 CONSTRUCTION ACTIVITY AND NOISE

Management of construction activity

10.1 Construction activity must be limited to the hours of 6.30am to 6.30pm Monday to Saturdays, with no work to occur on Sundays.

10.2 The release of dust and particulate matter from construction activities must not cause an environmental nuisance.

Timing

At all times while works are occurring.

Noise management

10.3 Noise from construction activities must not cause an environmental nuisance.

Timing

At all times while works are occurring.

11 ENGINEERING

General – Engineering standard

11.1 Construct all works in accordance with the approved plans of development and in accordance with Council's adopted standards.

11.2 The cost of carrying out works and providing services to the proposed development, as required by the conditions of approval, shall be at the expense of the applicant.

Timing

As indicated within the wording of the condition

Rectification

11.3 Be responsible for the full cost of any alteration necessary to electricity, telephone, water mains, sewer mains, stormwater drainage systems or easements and/or other public utility installations resulting from the development or from road and drainage works required in connection with the development.

Timing

At all times

13 SEWERAGE/WASTE WATER INFRASTRUCTURE

Wastewater

13.1 If required, connect the development to Council's wastewater reticulation system via internal reticulation works, at the applicant's cost.

Timing

Prior to the commencement of the use.

13.2 A Plumbing Application must be submitted to Council.

14 WATER SUPPLY RETICULATION

14.1 Connect the development to Council's water reticulation system via internal reticulation works, at the applicant's cost.

Timing

Prior to the commencement of the use.

14.2 A Plumbing Application must be submitted to Council.

15 ELECTRICITY AND TELECOMMUNICATIONS

Electricity and Telecommunications - General

15.1 Provide electricity supply and telecommunications to the development at the applicant's cost.

Timing

Prior to the commencement of the use.

16 GENERAL

16.1 If any item of cultural heritage is identified during site works, all works must cease and the relevant State Agency must be notified. Work can resume only after State Agency clearance is obtained.

Timing

As indicated within the wording of the condition

16.2 Pay all outstanding rates, sewerage, cleaning, water charges or other charges due to Council prior to the issuing of any building certification of the proposal.

ADVICE

(a) When an Application Lapses

Should the development not be completed within the relevant period, this approval will lapse. A new application will need to be made to Council, unless an approval has been obtained for an extension of this period.

For your information

(b) Changes requiring further approval

Changes to the approved design that are not generally in accordance with the approved plans/drawings require approval in accordance with the *Planning Act 2016*.

For your information

The *Planning Act 2016* sets out the procedures for changing approvals where the change can be classified as a minor change. If the change is not a minor change, the change application must be assessed in accordance with Section 86 of the *Planning Act 2016*.

(c) Appeals

The applicant has a right of appeal to the Planning and Environment Court regarding this decision, pursuant to Schedule 1 of the *Planning Act 2016*. A copy of that section is attached to the decision notice.

For particular material changes of use, an appeal can also be made to a Building and Development Committee. Please refer to the prerequisites in Sections 308(3)5 of the *Planning Act 2016*, attached to this decision notice, to determine whether you have appeal rights to a Building and Development Committee.

Submitters who made properly made submissions have a right of appeal to the Planning and Environment Court regarding this decision, pursuant to Schedule 1 of the *Planning Act 2016*. A copy of that section is attached to the decision notice.

A right of appeal to the Planning and Environment Court regarding this decision is available, pursuant to Schedule 1 of the *Planning Act 2016*. A copy of that section is attached to the decision notice.

A right of appeal to the Planning and Environment Court regarding this decision is available, pursuant to Schedule 1 of the *Planning Act 2016*. A copy of that section is attached to the decision notice.

Timeframes associated with appeals are set out in attached information.

(d) Applicant's responsibilities

For your information

The applicant is responsible for securing all necessary approvals and tenure, providing statutory notifications and complying with all relevant laws.

Nothing in this decision notice alleviates the need for the applicant to comply with all relevant local, State and Commonwealth laws and to ensure appropriate tenure arrangements have been made where the use of/reliance upon land other than that owned by the applicant is involved. Without limiting this obligation, the applicant is responsible for:

- a Obtaining all other/further necessary approvals, licences, permits, resource entitlements etc by whatever name called required by law before the development the subject of this approval can be lawfully commenced and to carry out the activity for its duration;
- b Providing any notifications required by law (by way of

- example only, to notify the administering authority pursuant to the *Environmental Protection Act 1994* of environmental harm being caused/threatened by the activity, and upon becoming aware the premises is being used for a 'notifiable activity');
- c Securing tenure/permission from the relevant owner to use private or public land not owned by the applicant (including for access required by conditions of approval);
 - d Ensuring the correct siting of structures on the land. An identification survey demonstrating correct siting and setbacks of structures may be requested of the applicant to ensure compliance with this decision notice and applicable codes;
 - i) Providing Council with proof of payment of the Portable Long Service Leave building construction levy (or proof of appropriate exemption) where the value of the Operational Works exceeds \$80,000. Acceptable proof of payment is a Q.Leave – Notification and Payment Form approved by the Authority. Proof of payment must be provided before Council can issue a development permit for the Operational Works. This is a requirement of section 77(1) of the *Building and Construction Industry (Portable Long Service Leave) Act 1991*; and
 - ii) Making payment of any outstanding Council rates and charges applicable to the development site prior to the lodgement of subdivision plans.

(e) Aboriginal Cultural Heritage Act

For your information

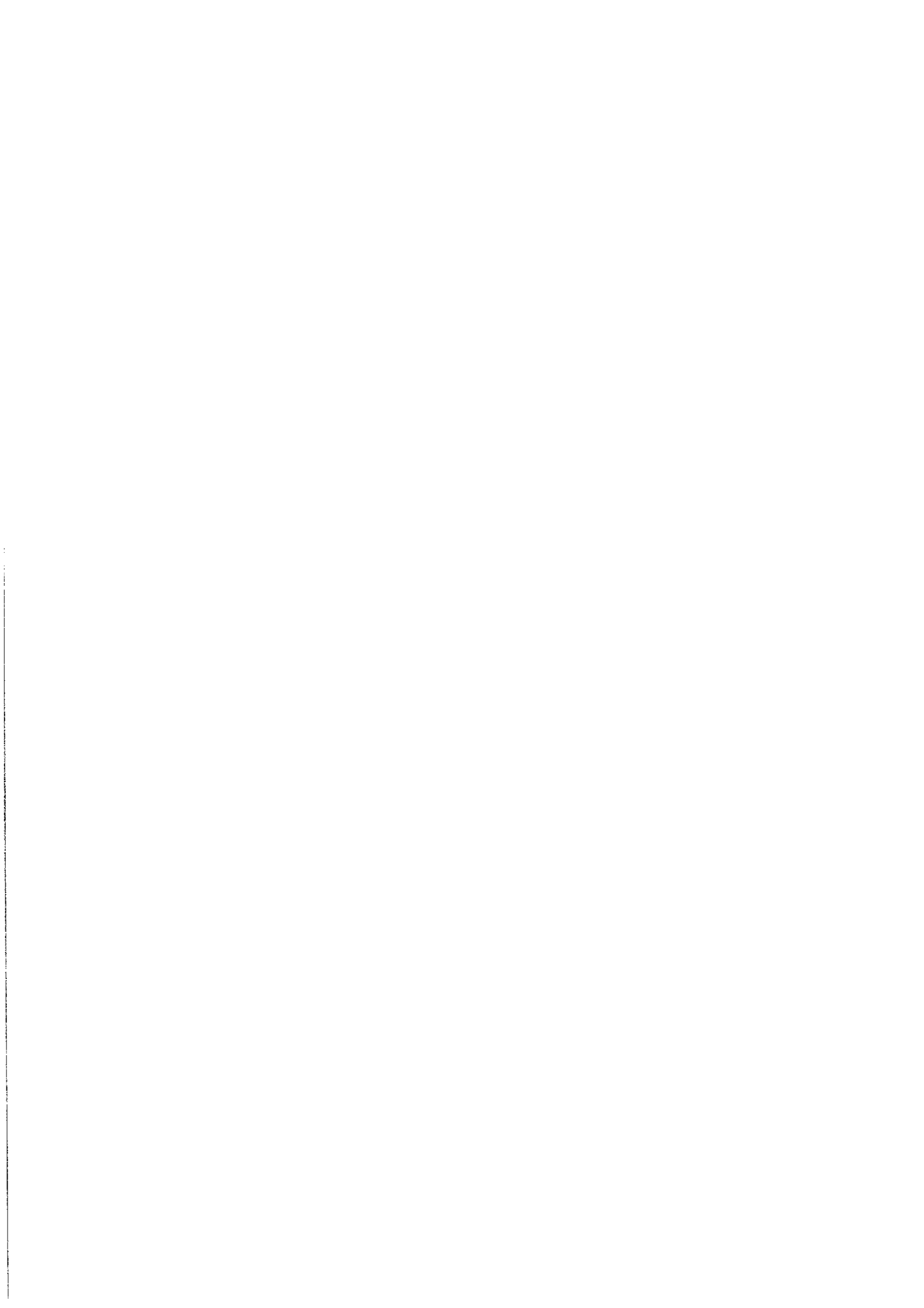
The *Aboriginal Cultural Heritage Act 2003* ('AHCA') is administered by the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs (DATSIMA). The AHCA establishes a duty of care to take all reasonable and practicable measures to ensure any activity does not harm Aboriginal cultural heritage. This duty of care:

- a. Is not negated by the issuing of this development approval;
- b. Applies on all land and water, including freehold land;
- c. Lies with the person or entity conducting an activity; and
- d. If breached, is subject to criminal offence penalties.

Those proposing an activity involving surface disturbance beyond that which has already occurred at the proposed site must observe this duty of care.

Details of how to fulfil this duty of care are outlined in the duty of care guidelines gazetted with the AHCA.

The applicant should contact DATSIMA's Cultural Heritage Coordination Unit on (07) 3405 3050 for further information on the responsibilities of developers under the AHCA.



- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.
- (3) In this section—
 - conduct* means an act or omission.
 - representative* means—
 - (a) of a corporation—an executive officer, employee or agent of the corporation; or
 - (b) of an individual—an employee or agent of the individual.
 - state of mind*, of a person, includes the person's—
 - (a) knowledge, intention, opinion, belief or purpose; and
 - (b) reasons for the intention, opinion, belief or purpose.

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 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.

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- (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, table 1, item 1—each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); 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 by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.
- (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 Other appeals

- (1) Subject to this chapter, 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.

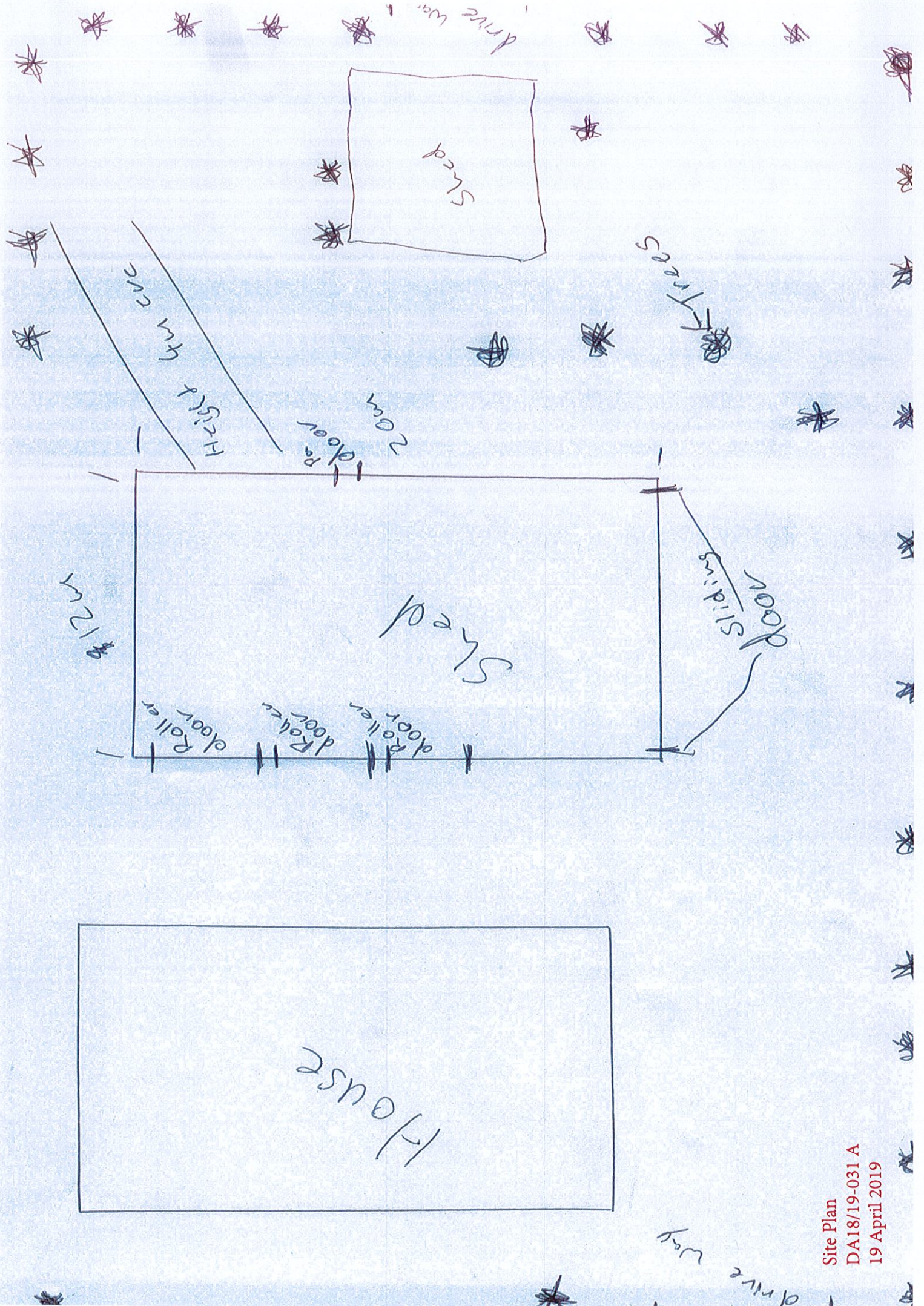
non-appealable, for a decision or matter, means the decision or matter—

- (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.





Site Plan
 DA18/19-031 A
 19 April 2019

