



TORRES SHIRE COUNCIL

To lead, provide and facilitate a sustainable, safe
and culturally vibrant community

P.O Box 171
THURSDAY ISLAND 4875

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Email: admin@torres.gld.gov.au
ABN 34 108 162 398

DATE: 26 April 2024

Our Ref: IDAS23/19
Enquire to: Phil Turner
Telephone: (07) 4069 1336

Ergon Energy
c/- Angela Cobcroft
26 Reddacliff Street
NEWSTEAD QLD 4006

Email: angela.cobcroft@energyq.com.au

Dear Madam

Decision Notice – Minor Change

Given under section 83 of the Planning Act 2016

With reference to the abovementioned Development Application, please find attached the relevant Decision Notice, which was approved by Torres Shire Council in full, subject to conditions.

Details of the decision are as follows:

DATE OF DECISION

Council approved the Development Application at the Council meeting on 23 April 2024.

APPLICATION DETAILS

Application No:	IDAS23/19
Approval Sought:	Minor Change - Development Permit for a Material Change of Use
Description of the Development	Office
Planning Scheme:	<i>Torres Shire Council Planning Scheme 2022</i>

LOCATION DETAILS

Street Address:	5 & 7 Aplin Road, Thursday Island
Real Property Description:	Lot 1 & 2 on RP748738

DECISION DETAILS

The original decision date was 23 January 2024, with the original Decision Notice dated 25 January 2024.

Torres Shire Council, on 23 April 2024, decided to issue the following type of approval:

- Minor Change to Development Permit – Material Change of Use (Office)

CURRENCY PERIOD

The use of the subject land must be commenced within a period of six (6) years from the date, unless otherwise stated, the original approval takes effect in accordance with section 71 of the *Planning Act 2016*. Should the subject use not be commenced prior to the expiry of such period, this approval will lapse.

ASSESSMENT MANAGER CONDITIONS

This approval is subject to the conditions in Attachment 1.

PROPERLY MADE SUBMISSIONS

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

REFERRAL AGENCIES

The referral agencies for the original application are:

Referral Agency	Referral Matter
State Assessment and Referral Agency (SARA) Far North Queensland Regional Office PO Box 2358 CAIRNS QLD 4870 Ph: 07 4037 3214 Email: CairnsSARA@dasilgp.qld.gov.au MyDAS2 online referrals: https://prod2.dev-assess.qld.gov.au/suite/	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4

FURTHER DEVELOPMENT PERMITS REQUIRED

- Development Permit for Plumbing and Drainage Work
- Development Permit for Building Work.

OTHER REQUIREMENTS UNDER SECTION 43 OF THE PLANNING REGULATION 2017

Not Applicable

APPROVED PLANS AND SPECIFICATIONS

The approved plans are attached to this Decision Notice (*Attachment 3*)

RIGHTS OF APPEAL

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the Planning Act 2016 are attached (*Attachment 5*).

OTHER DETAILS

You are further advised that the truth and accuracy of the information provided in the application form and accompanying information is relied on when assessing and deciding this application. If you find an inaccuracy in any of the information provided above or have a query or need to seek clarification about any of these details, please contact Torres Shire Council on (07) 4069 1336.

DELEGATED PERSON

Name: Dalassa Yorkston

Signature: 

Date: 24.04.2024

- Enc. **Attachment 1** – Conditions imposed by the Assessment Manager
Attachment 2 – Conditions imposed by a Referral Agency
Attachment 3 – Approved Plans
Attachment 4 – Notice about a Decision Notice
Attachment 5 – Extract of Appeal Provisions (*Planning Act 2016*).

CONDITIONS IMPOSED BY THE ASSESSMENT MANAGER

1.0 PARAMETERS OF APPROVAL

- 1.1 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.

Timing: At all times.

- 1.2 Where these conditions refer to “TSC” in relation to requiring Torres Shire Council to approve or be satisfied as to any matter, or conferring on the TSC a function, power or discretion, that role of the TSC may be fulfilled in whole or in part by a delegate appointed for that purpose by TSC.

Timing: At all times.

- 1.3 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.

Timing: At all times.

- 1.4 The developer is required to have repaired any damage to existing infrastructure that may have occurred during any works carried out associated with the development. To the extent the damage is deemed to create a hazard to the community, it must be repaired immediately.

Timing: At all times.

- 1.5 Unless otherwise stated, all works must be designed, constructed, and maintained in accordance with the relevant Council policies, guidelines, and standards, and the FNQROC Development Manual.

Timing: At all times.

- 1.6 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).

Timing: At all times.

- 1.7 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.

Timing: At all times

2.0 APPROVED PLANS AND DOCUMENTS

- 2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit.

Plan/Document Name	Drawing Number	Issue	Date
Existing Site Plan	1634-SD-A-01	TP1	Nov-23
Proposed Site Plan	1634-SD-A-02	TP1	Nov-23
Floor Plans	1634-SD-A-03	TP1	Nov-23
Elevations	1634-SD-A-04	TP1	Nov-23
Elevations	1634-SD-A-05	TP1	Nov-23

Plan/Document Name	Drawing Number	Issue	Date
Existing Site Plan	1634-SD-A-01	TP2	Mar 24
Proposed Site Plan	1634-SD-A-02	TP2	Mar 24
Floor Plans	1634-SD-A-03	TP2	Mar 24
Elevations	1634-SD-A-04	TP2	Mar 24
Elevations	1634-SD-A-05	TP2	Mar 24

Timing: At all times.

- 2.2 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.

Timing: At all times

3.0 AMALGAMATION OF LOTS

- 3.1 The lots must be amalgamated to form one (1) title.

Timing: Within two (2) years of the development approval taking effect.

4.0 PARKING AND ACCESS

- 4.1 A minimum of eight (8) car parking spaces must be provided on site. Car parking spaces and internal driveways must be located as per the approved plan of development and be concrete or bitumen sealed, comply with Australian Standard 2890.1 – Parking Facilities – off-street parking, and be constructed to the requirements of the FNQROC Development Manual.

Timing: At all times.

- 4.2 The parking spaces must be kept available for use and must not be used for the storage of goods at any time.

Timing: *At all times.*

- 4.3 Access to the proposed development must be provided in accordance with the approved plans of development.

Timing: *At all times.*

- 4.4 A minimum of five (5) bicycle parking spaces and end of trip facilities must be provided.

Timing: *At all times.*

5.0 STORMWATER

- 5.1 Stormwater drainage must be directed to a lawful point of discharge being Aplin Street.

Timing: *At all times.*

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

Timing: *At all times.*

- 5.3 All stormwater infrastructure must be designed, constructed, and maintained in accordance with the *FNQROC Development Manual* and the *Queensland Urban Drainage Manual*.

Timing: *At all times.*

6.0 SEWERAGE AND WATER

- 6.1 Connect the development to Council's reticulated sewerage and water network. Sufficient reticulated water capacity must be provided for domestic and firefighting purposes.

Timing: *Prior to the commencement of the use and at all times thereafter.*

- 6.2 Design and construct all sewerage and water works in accordance with the approved plans, *FNQROC Development Manual*, *Water Supply (Safety and Reliability) Act* and the *Plumbing and Drainage Act*.

Timing: *Prior to the commencement of the use and at all times thereafter.*

- 6.3 Remove all redundant sewerage and water infrastructure, including but not limited to pipes and connection points.

Timing: *Prior to the commencement of the use and at all times thereafter.*

7.0 BUSHFIRE HAZARD SIGNAGE

- 7.1 Signage must be installed at the entrance to the carparking area identifying that the car parking area is within an identified bushfire hazard area.

Timing: *Prior to the commencement of use and maintained at all times.*

- 7.2 Signage must be installed at the entrance to the Office building identifying that the building is located within an identified bushfire hazard area.

Timing: Prior to the commencement of use and maintained at all times.

8.0 LANDSCAPING

- 8.1 Landscaping must include suitable native tree and plant species and must be provided in accordance with the approved plans of development. The landscaping must be subject to ongoing maintenance and replanting programme (if necessary).

Timing: Prior to the commencement of the use and at all times thereafter.

9.0 AMENITY – GENERAL

- 9.1 Install and maintain suitable screening to all air conditioning and plant and service facilities located on the top or external face of the building. The screening structures must be constructed from materials that are consistent with materials used elsewhere on the façade of the building.

Timing: At all times.

10.0 AMENITY - LIGHTING

- 10.1 Maintain outdoor lighting to comply with AS4282:1997 - Control of the obtrusive effects of outdoor lighting.

Timing: At all times.

11.0 AMENITY AND ENVIRONMENTAL HEALTH

- 11.1 Undertake the approved development so there is no environmental nuisance or detrimental effect on any surrounding land uses and activities by reason of the emission of noise, vibration, odour, fumes, smoke, vapour, steam soot, ash, wastewater, waste products, oil or otherwise.

Timing: At all times.

12.0 WASTE STORAGE

- 12.1 All bins and waste storage areas must be located on site, and not visible from the street or neighbouring properties.

Timing: At all times.

13.0 ELECTRICITY & TELECOMMUNICATIONS

- 13.1 Connect the development to reticulated electricity supply and telecommunications to the standard of the relevant service provider.

Timing: Prior to the commencement of the use and at all times thereafter.

14.0 FILLING AND EXCAVATION

- 14.1 Any excavating and filling activities are to be carried out in accordance with the *FNQROC Development Manual*, ensuring works do not result in the ponding or permanent retention of surface water either on the site or on adjoining land.

Timing: At all times.

15.0 SITE WORKS AND EROSION AND SEDIMENT CONTROL

- 15.1 Site works must be constructed such that they do not, at any time, in any way restrict, impair, or change the natural flow of runoff water, or cause a nuisance or worsening to adjoining properties or infrastructure.

Timing: Prior to the commencement of any construction works required by this development.

- 15.2 Prepare and implement an Erosion and Sediment Control Strategy (ESCS) in accordance with the *FNQROC Development Manual* as it relates to the construction phase. The ESCS must be available for inspection by TSC officers during the construction phase.

Timing: Prior to commencement of the use.

- 15.3 Implement the ESCS for the duration of the construction phase and until such time all exposed soils areas are permanently stabilised (for example, turfed, hydro mulched, concreted, or landscaped).

Timing: Prior to commencement of the use.

16.0 CONSTRUCTION AND ENVIRONMENTAL MANAGEMENT PLAN

- 16.1 The applicant must submit a Construction and Environmental Management Plan (CEMP) to Council for review and approval. The CEMP must be prepared by a suitably qualified professional and adequately demonstrate how:
- (i) Traffic and parking generated during construction activities and works will be managed to minimise impacts on the surrounding area;
 - (ii) Best practice waste management strategies during the construction phase; and
 - (iii) Mitigate potential adverse impacts associated with dust, noise and lighting emissions, sediment and stormwater run-off.

Timing: Prior to the commencement of construction and at all times during construction.

B. ASSESSMENT MANAGER (COUNCIL) ADVISORY NOTES

1. This approval, granted under the provisions of the Planning Act 2016, shall lapse six (6) years from the day the approval takes effect in accordance with the relevant provisions of s85 of the Planning Act 2016.
2. Prior to commencing any construction activities, the applicant/developer will be required to obtain further development permits for building work, and plumbing and drainage work, as required under relevant legislation for this work.
3. Infrastructure Charges must be paid to Council as indicated on the Infrastructure Charges Notice at the rate applicable at the time of payment.
4. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
5. No building materials or the like are to be stored on the footpath unless an appropriate approval from Council is obtained, including the payment of associated fees.

6. All building site managers must take all action necessary to ensure building materials and/or machinery on construction sites are secured immediately following the first potential cyclone warning and that relevant emergency telephone contacts are provided to Council Officers, prior to Commencement of Works.
7. The Environmental Protections Act 1994 states a person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm. Environmental harm includes environmental nuisance. In this regard, persons and entities, involved in civil, earthworks and construction phases of this development, are to adhere to their 'general environmental duty' to minimise the risk of causing environmental harm.
8. Environmental harm is defined by the Act as any adverse effect, or potential adverse effect whether temporary or permanent and of whatever magnitude, duration or frequency on an environmental value and includes environmental nuisance. Therefore, no person should cause any interference with the environment or amenity of the area by reason of the emission of noise, vibration, smell, fumes, smoke vapour, steam, soot, ash, dust, wastewater, waste products, grit, sediment, oil or otherwise, or cause hazards likely in the opinion of the Council.
9. This development approval does not authorise any activity that may harm Aboriginal and Torres Strait Islander cultural heritage. It is also advised that any land use activities must comply with the Aboriginal Cultural Heritage Act 2003 or the Torres Strait Islander Heritage Act 2003.
10. The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 applies to action that has, will have or is likely to have a significant impact on matters of national environmental significance. Further information on the EPBC Act can be obtained from the Department of Agricultural, Water and the Environment website <https://www.environment.gov.au/epbc/about>

CONDITIONS IMPOSED BY A REFERRAL AGENCY

Attached under separate cover (this page has been intentionally left blank)



SARA reference: 2311-37797 SRA
Council reference: IDAS 23/19
Applicant reference: -

13 December 2023

Chief Executive Officer
Torres Shire Council
PO Box 171
THURSDAY ISLAND QLD 4875
admin@torres.qld.gov.au

Attention: Phil Turner

Dear Sir/Madam

SARA referral agency response—5 & 7 Aplin Road, Thursday Island

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 16 November 2023.

Response

Outcome:	Referral agency response – with conditions
Date of response:	13 December 2023
Conditions:	The conditions in Attachment 1 must be attached to any development approval
Advice:	Advice to the applicant is in Attachment 2
Reasons:	The reasons for the referral agency response are in Attachment 3

Development details

Description:	Development Permit for a Material change of use - Office
SARA role:	Referral agency
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 (Planning Regulation 2017) - Material change of use of premises near a State transport corridor
SARA reference:	2311-37797 SRA

Assessment manager: Torres Shire Council

Street address: 5 & 7 Aplin Road, Thursday Island

Real property description: Lot 1 on RP748738 and Lot 2 on RP748738

Applicant name: Ergon Energy Corporation Limited

Applicant contact details: 26 Reddacliff Street
Newstead QLD 4006
angela.cobcroft@energyq.com.au

State-controlled road access permit: This referral included an application for a road access location, under section 62A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Approved
- Reference: TMR23-041038
- Date: 6 December 2023

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at cairns.office@tmr.qld.gov.au or on (07) 4045 7151.

Human Rights Act 2019 considerations: A consideration of the 23 fundamental human rights protected under the *Human Rights Act 2019* has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.

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 Isley Peacey, Senior Planning Officer, on 4037 3202 or via email CairnsSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



David Hooper
Manager

cc Ergon Energy Corporation Limited, angela.cobcroft@energyq.com.au

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations about a referral agency response provisions
Attachment 5 - Documents referenced in conditions

Attachment 1—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 documents referenced below are found at Attachment 5)

No.	Conditions	Condition timing
Development Permit – Material Change of Use (Office)		
10.9.4.2.4.1 - Material change of use of premises near a State transport corridor —The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads 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 condition(s):		
1.	The road access location is to be located generally in accordance with TMR Layout Plan (669 – 1.10km) prepared by Queensland Government Transport and Main Roads, dated 5/12/2023, Reference TMR23-41038, Issue A.	At all times.

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> , its regulation or the State Development Assessment Provisions (SDAP) (version 3.0). If a word remains undefined it has its ordinary meaning.

Attachment 3—Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

The reasons for the SARA's decision are:

The development complies with State code 1: Development in a state-controlled road environment (State code 1) of the State Development Assessment Provisions (SDAP) version 3.0. Specifically, the development:

- does not create a safety hazard for users of a state-controlled road
- does not compromise the structural integrity of state-controlled roads, road transport infrastructure or road works
- does not result in a worsening of the physical condition or operating performance of state-controlled roads and the surrounding road network
- does not compromise the state's ability to construct, or significantly increase the cost to construct state-controlled roads and future state-controlled roads
- does not compromise the state's ability to maintain and operate state-controlled roads, or significantly increase the cost to maintain and operate state-controlled roads
- does not compromise the structural integrity of public passenger transport infrastructure or compromise the operating performance of public passenger transport services
- avoids or mitigates significant adverse impacts resulting from environmental emissions generated by vehicles on the state-controlled road.

Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (version 3.0), as published by SARA
- the Development Assessment Rules
- SARA DA Mapping system
- section 58 of the *Human Rights Act 2019*

Attachment 4—Representations about a referral agency response provisions

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Attachment 5—Documents referenced in conditions

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PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE

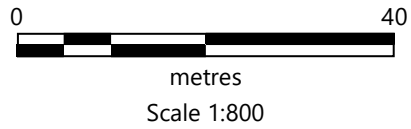
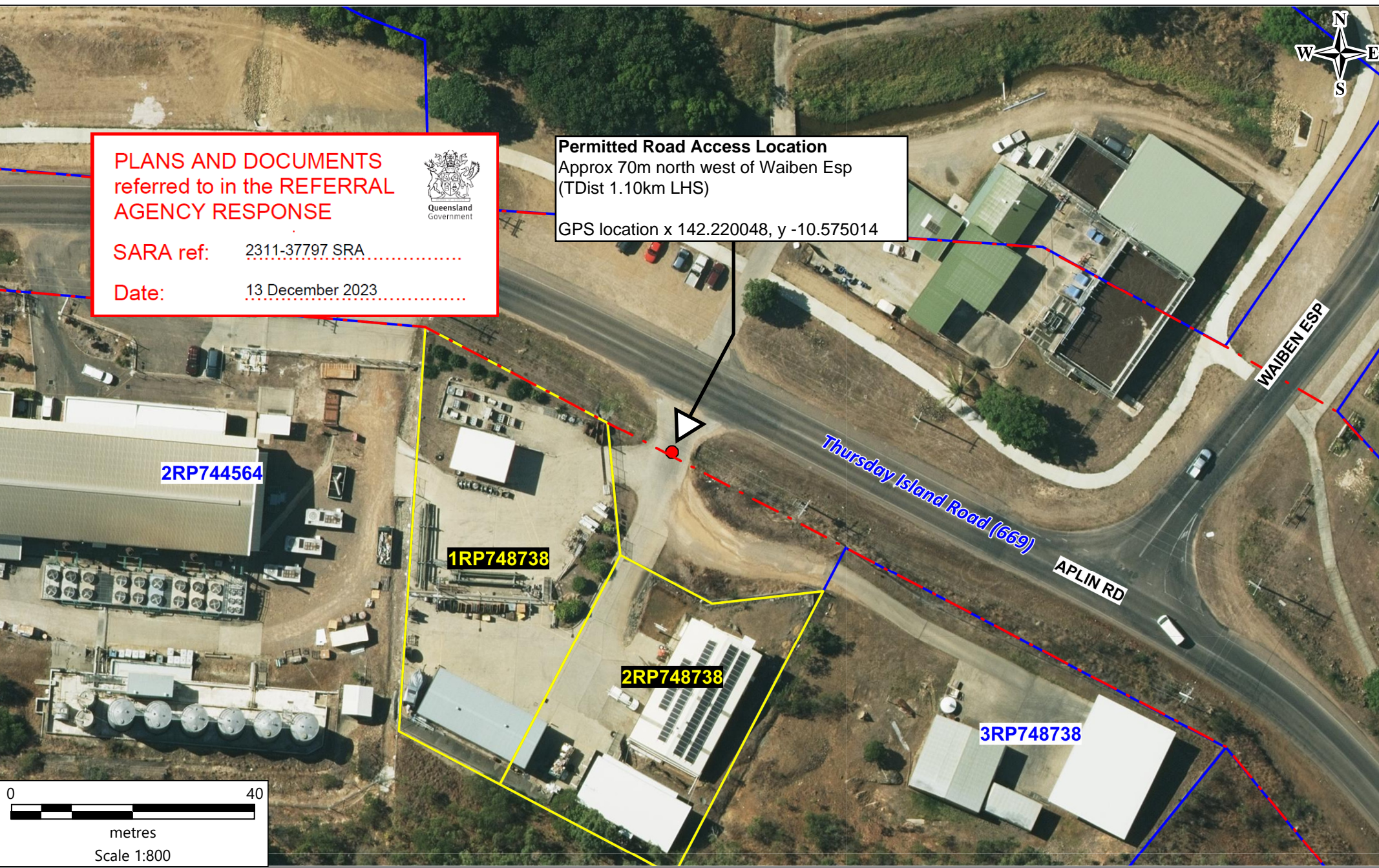
SARA ref: 2311-37797 SRA

Date: 13 December 2023



Permitted Road Access Location
 Approx 70m north west of Waiben Esp
 (TDist 1.10km LHS)

GPS location x 142.220048, y -10.575014



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Branch/Unit : **Corridor Management / Far North District**

Projection/Datum : Geocentric Datum of Australia (GDA) 2020

File ref: TMR23-41038

Land parcels

Subject land

State controlled road corridor

TMR Layout Plan (669 - 1.10km)

Plan: 1 / 1

Issue: A

Drawn by: RPK

Queensland Government Transport and Main Roads

Date: 5/12/2023

Disclaimer: While every care is taken to ensure the accuracy of this data, Pitney Bowes Software Pty Ltd and/or the State of Queensland and/or QR Limited makes no representations or warranties about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which you might incur as a result of the data being inaccurate or incomplete in any way and for any reason.

Based on [Dataset - State Digital Road Network (SDRN)] provided with the permission of Pitney Bowes Software Pty Ltd (Current as at 04 / 10), [Dataset - Rail_Centre_Line, May 2010] provided with the permission of QR Limited and other state government datasets

Our ref TMR23-041038
Your ref
Enquiries Ronald Kaden



6 December 2023

Department of
Transport and Main Roads

Decision Notice – Permitted Road Access Location (s62(1) *Transport Infrastructure Act 1994*)

This is not an authorisation to commence work on a state-controlled road¹

Development application reference number IDAS 23/19, lodged with Torres Shire Council involves constructing or changing a vehicular access between Lot 2RP748738, 1RP748738, the land the subject of the application, and Thursday Island Road (Aplin Road) (a state-controlled road).

In accordance with section 62A(2) of the *Transport Infrastructure Act 1994* (TIA), this development application is also taken to be an application for a decision under section 62(1) of TIA.

Applicant Details

Name and address Ergon Energy
26 Reddacliff Street
Newstead QLD 4006

Application Details

Address of Property 7 Aplin Road, Thursday Island QLD 4875
Real Property Description 2RP748738, 1RP748738
Aspect/s of Development Development Permit for Material Change of Use for Proposed Office (520m2) on existing Ergon Energy Depot

Decision (given under section 67 of TIA)

It has been decided to approve the application, subject to the following conditions:

No.	Conditions of Approval	Condition Timing
1	The Permitted Road Access Location is approximately 70 metres north west of Waiben Esplanade in accordance with: 1. TMR Layout Plan (669 - 1.10km) Issue A 05/12/2023.	At all times.
2	Direct access is prohibited between Thursday Island Road (Aplin Road) and Lots 1 & 2 on RP748738 at any other location other than the Permitted Road Access Location described in Condition 1.	At all times.

¹ Please refer to the further approvals required under the heading 'Further approvals'

Reasons for the decision

The reasons for this decision are as follows:

- a) Currently the subject site (Lots 1 & 2 on RP748738) gains vehicle access to Thursday Island Road (Aplin Road), a state-controlled road via a stub road which serves as access to three properties.
- b) The proposed development will require a changed access as the proposed development is increasing vehicle movements to the subject site.
- c) As the proposed development is increasing generation, a new section 62 approval is required to be issued by TMR.

Please refer to **Attachment A** for the findings on material questions of fact and the evidence or other material on which those findings were based.

Information about the Decision required to be given under section 67(2) of TIA

1. There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
2. This decision has been based on the current land use and the historic nature of the access subject to this decision. Be advised that if the land is further developed and/or intensified, the department will reassess the access requirements in accordance with the department's policies at that time to ensure that the road safety and transport efficiency outcomes for the state-controlled road network are maximised. This may or may not require all future access to be provided via the local road network.
3. In accordance with section 70 of the TIA, the applicant for the planning application is bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for information.

Further information about the decision

1. In accordance with section 67(7) of TIA, this decision notice:
 - a) starts to have effect when the development approval has effect; and
 - b) stops having effect if the development approval lapses or is cancelled; and
 - c) replaces any earlier decision made under section 62(1) in relation to the land.
2. In accordance with section 485 of the TIA and section 31 of the *Transport Planning and Coordination Act 1994* (TPCA), a person whose interests are affected by this decision may apply for a review of this decision only within 28 days after notice of the decision was given under the TIA. A copy of the review provisions under TIA and TPCA are attached in **Attachment C** for information.
3. In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for information.

Further approvals

The Department of Transport and Main Roads also provides the following information in relation to this approval:

1. Road Access Works Approval Required – Written approval is required from the department to carry out road works that are road access works (including driveways) on a state-controlled road in accordance with section 33 of the TIA. This approval must be obtained prior to commencing any works on the state-controlled road. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the department to make an application.

If further information about this approval or any other related query is required,] Ronald Kaden, Technical Officer (Development Control) should be contacted by email at cairns.office@tmr.qld.gov.au or on (07) 4045 7151.

Yours sincerely



Liliya Yates
A/Principal Engineer (Civil)

Attachments: Attachment A – Decision evidence and findings
Attachment B - Section 70 of TIA
Attachment C - Appeal Provisions
Attachment D - Permitted Road Access Location Plan

Attachment A

Decision Evidence and Findings

Evidence or other material on which findings were based:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version / Issue
TMR Layout Plan (669 - 1.10km)	Queensland Government Transport and Main Roads	05 December 2023	TMR23-41038	A
Proposed Site Plan	Clarke and Prince Architects	06 November 2023	1634-SD-A-02	TP1
Vehicle Access to state- controlled roads policy	Queensland Government Transport and Main Roads	2019	-	-

Attachment B

Section 70 of TIA

Transport Infrastructure Act 1994

Chapter 6 Road transport infrastructure

Part 5 Management of State-controlled roads

70 Offences about road access locations and road access works, relating to decisions under s 62(1)

- (1) This section applies to a person who has been given notice under section 67 or 68 of a decision under section 62(1) about access between a State-controlled road and adjacent land.
- (2) A person to whom this section applies must not—
 - (a) obtain access between the land and the State-controlled road other than at a location at which access is permitted under the decision; or
 - (b) obtain access using road access works to which the decision applies, if the works do not comply with the decision and the noncompliance was within the person's control; or
 - (c) obtain any other access between the land and the road contrary to the decision; or
 - (d) use a road access location or road access works contrary to the decision; or
 - (e) contravene a condition stated in the decision; or
 - (f) permit another person to do a thing mentioned in paragraphs (a) to (e); or
 - (g) fail to remove road access works in accordance with the decision.

Maximum penalty—200 penalty units.

- (3) However, subsection (2)(g) does not apply to a person who is bound by the decision because of section 68.

Attachment C
Appeal Provisions

Transport Infrastructure Act 1994
Chapter 16 General provisions

485 Internal review of decisions

- (1) A person whose interests are affected by a decision described in schedule 3 (the **original decision**) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
 - (a) applies to the review; and
 - (b) provides—
 - (i) for the procedure for applying for the review and the way it is to be carried out; and
 - (ii) that the person may apply to QCAT to have the original decision stayed.

485B Appeals against decisions

- (1) This section applies in relation to an original decision if a court (the appeal court) is stated in schedule 3 for the decision.
- (2) If the reviewed decision is not the decision sought by the applicant for the review, the applicant may appeal against the reviewed decision to the appeal court.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 3—
 - (a) applies to the appeal; and
 - (b) provides—
 - (i) for the procedure for the appeal and the way it is to be disposed of; and
 - (ii) that the person may apply to the appeal court to have the original decision stayed.
- (4) Subsection (5) applies if—
 - (a) a person appeals to the Planning and Environment Court against a decision under section 62(1) on a planning application that is taken, under section 62A(2), to also be an application for a decision under section 62(1); and
 - (b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.

- (5) The court may order—
 - (a) the appeals to be heard together or 1 immediately after the other; or
 - (b) 1 appeal to be stayed until the other is decided.
- (6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.
- (7) In this section—

original decision means a decision described in schedule 3.

reviewed decision means the chief executive's decision on a review under section 485.

31 Applying for review

- (1) A person may apply for a review of an original decision only within 28 days after notice of the original decision was given to the person under the transport Act.
- (2) However, if—
 - (a) the notice did not state the reasons for the original decision; and
 - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)the person may apply within 28 days after the person is given the statement of the reasons.
- (3) In addition, the chief executive may extend the period for applying.
- (4) An application must be written and state in detail the grounds on which the person wants the original decision to be reviewed.

32 Stay of operation of original decision

- (1) If a person applies for review of an original decision, the person may immediately apply for a stay of the decision to the relevant entity.
- (2) The relevant entity may stay the original decision to secure the effectiveness of the review and any later appeal to or review by the relevant entity.
- (3) In setting the time for hearing the application, the relevant entity must allow at least 3 business days between the day the application is filed with it and the hearing day.
- (4) The chief executive is a party to the application.
- (5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the relevant entity with it on the chief executive at least 2 business days before the hearing.
- (6) The stay—
 - (a) may be given on conditions the relevant entity considers appropriate; and
 - (b) operates for the period specified by the relevant entity; and
 - (c) may be revoked or amended by the relevant entity.
- (7) The period of a stay under this section must not extend past the time when the chief executive reviews the original decision and any later period the relevant entity allows the applicant to enable the applicant to appeal against the decision or apply for a review of the decision as provided under the QCAT Act.
- (8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.

(9) In this section—

relevant entity means—

- (a) if the reviewed decision may be reviewed by QCAT—QCAT; or
- (b) if the reviewed decision may be appealed to the appeal court—the appeal court.

35 Time for making appeals

(1) A person may appeal against a reviewed decision only within—

- (a) if a decision notice is given to the person—28 days after the notice was given to the person; or
- (b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

(2) However, if—

- (a) the decision notice did not state the reasons for the decision; and
- (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

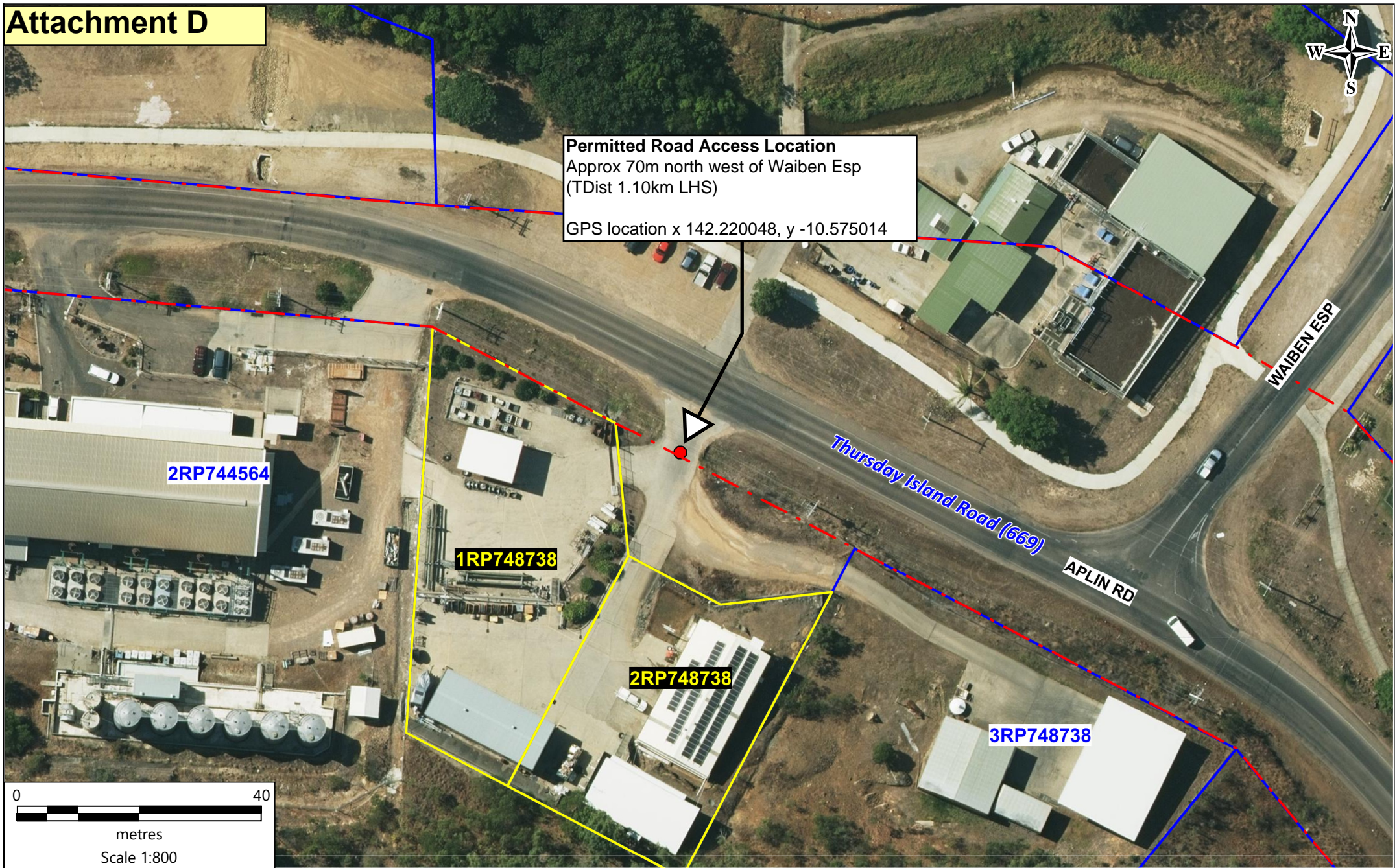
the person may apply within 28 days after the person is given a statement of the reasons.

(3) Also, the appeal court may extend the period for appealing.

Attachment D



Permitted Road Access Location
 Approx 70m north west of Waiben Esp
 (TDist 1.10km LHS)
 GPS location x 142.220048, y -10.575014



© The State of Queensland, 2010 © Pitney Bowes Software Pty Ltd, 2010 © QR Limited, 2010

Branch/Unit : **Corridor Management / Far North District**

Projection/Datum : Geocentric Datum of Australia (GDA) 2020

File ref: TMR23-41038

Land parcels
 Subject land
 State controlled road corridor

TMR Layout Plan (669 - 1.10km)

Plan: 1 / 1

Issue: A

Drawn by:
RPK



Queensland Government
Transport and Main Roads

Date: 5/12/2023

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.

APPROVED PLANS

Attached under separate cover (this page has been intentionally left blank)



ENERGY QUEENSLAND LIMITED THURSDAY ISLAND DEPOT REDEVELOPMENT

5 - 7 APLIN ROAD, THURSDAY ISLAND, QLD



1 LOCALITY PLAN
SCALE - 1 : 24000

DRAWING LIST

- 1634 - SD -A-00 COVER SHEET
- 1634 - SD -A-01 EXISTING SITE PLAN
- 1634 - SD -A-02 PROPOSED SITE PLAN
- 1634 - SD -A-03 FLOOR PLANS
- 1634 - SD -A-04 ELEVATIONS
- 1634 - SD -A-05 ELEVATIONS

AMENDMENTS	DATE	DO NOT SCALE DRAWINGS. USE FIGURED DIMENSIONS ONLY.
TP1 TOWN PLANNING SUBMISSION	06/11/23	DIMENSIONS SHOWN ARE NOMINAL. ALLOWANCE TO BE MADE FOR FINISHED SIZES. VERIFY ALL DIMENSIONS AND SITE CONDITIONS PRIOR TO COMMENCING WORK. THIS DOCUMENT IS AND SHALL REMAIN THE PROPERTY OF CLARKE AND PRINCE PTY LTD. UNAUTHORISED USE OF THIS DOCUMENT IN ANY WAY IS PROHIBITED.
TP2 AMENDED TOWN PLANNING APPLICATION	15/03/24	



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e. cp@clarkeandprince.com.au
w. www.clarkeandprince.com.au

DRAWN	BDB	SCALE	SIZE	PROJECT
APPROVED	MM	1 : 24000	A3	THURSDAY ISLAND DEPOT REDEVELOPMENT
		DATE	MAR 24	5-7 APLIN ROAD, THURSDAY ISLAND
				ENERGY QUEENSLAND LIMITED
				FOR
				DWG
				COVER SHEET
				DWG No.
				1634 - SD - A-00
				STAMP
				TOWN PLANNING
				ISSUE
				TP2



CAR PARKING	
EXISTING	2 SPACES

PROPERTY INFORMATION

LOT NUMBER: 1 & 2
 PLAN NUMBER: RP748738
 SITE AREA: 3,296m²

EXISTING SITE GFA		
BUILDING	USE	GFA
1	STORAGE SHED	234m ²
1	OFFICE	94m ²
2	CARETAKERS RESIDENCE	140m ²
3	STORAGE SHED	160m ²
4	STORAGE SHED	45m ²
TOTAL		673m²

EXISTING SITE COVERAGE		
TYPE	AREA	PERCENTAGE
HARDSTAND	2,024m ²	61%
BUILDINGS	623m ²	19%
LANDSCAPING	649m ²	20%
TOTAL	3,296m²	100%

TORRES SHIRE COUNCIL
 DIGITALLY STAMPED
 APPROVED PLAN

Development Application: Minor Change—Development Permit for Material Change of Use (Office)

RP Details: Lot 1 and Lot 2 on RP748738

Referred to in Council's Decision Notice

Approval Date: 23 April 2024

Application Number: IDAS 23/19

1 EXISTING SITE PLAN
 SCALE - 1 : 500

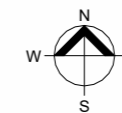
AMENDMENTS	DATE
TP1 TOWN PLANNING SUBMISSION	06/11/23
TP2 AMENDED TOWN PLANNING APPLICATION	15/03/24

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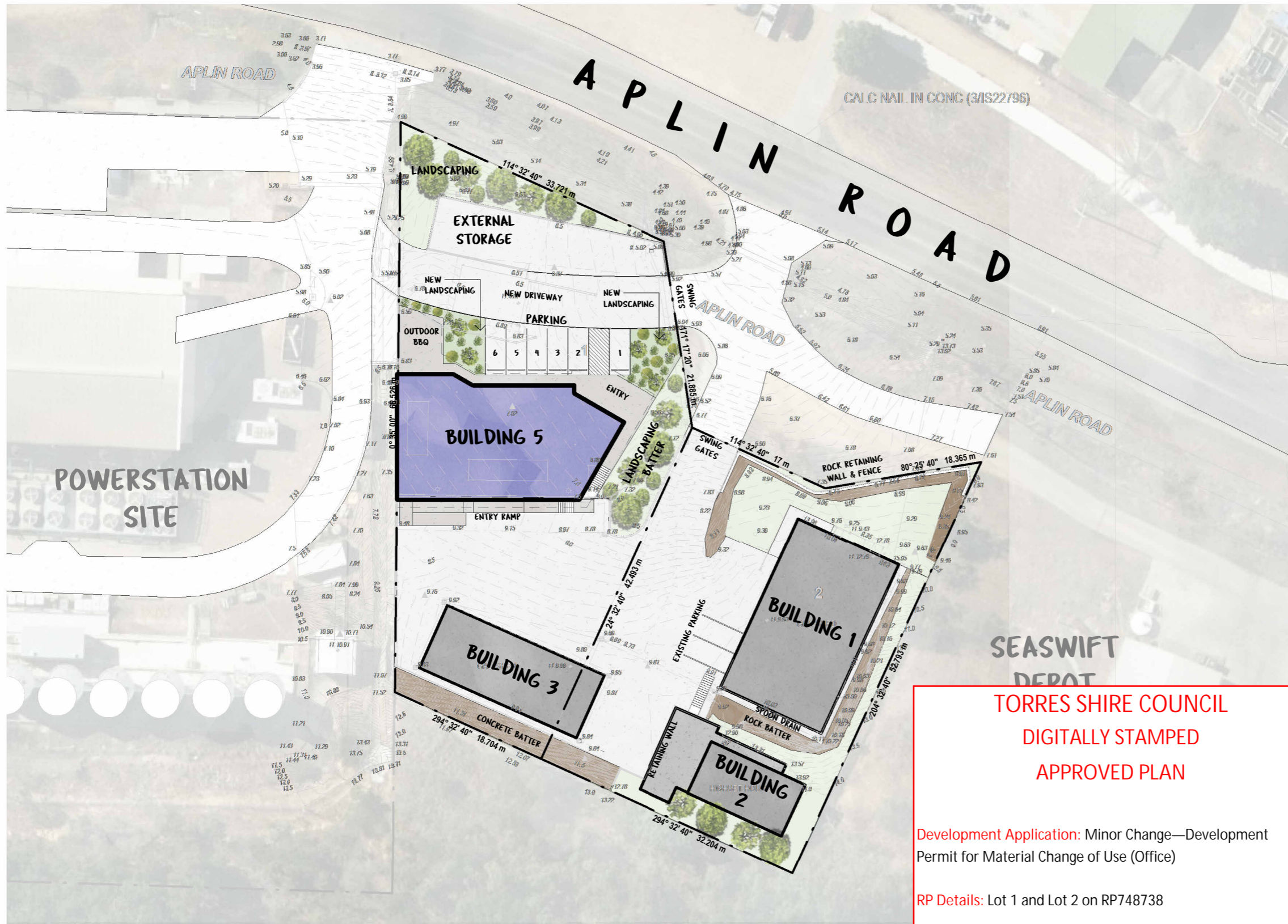


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DRAWN	BDB	SCALE	1 : 500	SIZE	A3
APPROVED	MM	DATE	MAR 24		



PROJECT	THURSDAY ISLAND DEPOT REDEVELOPMENT		
	5-7 APLIN ROAD, THURSDAY ISLAND		
	ENERGY QUEENSLAND LIMITED		
FOR			
DWG	EXISTING SITE PLAN		
DWG No.	1634 - SD - A-01	STAMP	TOWN PLANNING
			ISSUE TP2



CAR PARKING	
EXISTING	2 SPACES
PROPOSED	6 SPACES
TOTAL	8 SPACES

PROPERTY INFORMATION
 LOT NUMBER: 1 & 2
 PLAN NUMBER: RP748738
 SITE AREA: 3,296m²

EXISTING SITE GFA		
BUILDING	USE	GFA
1	STORAGE SHED	234m ²
1	OFFICE	94m ²
2	CARETAKERS RESIDENCE	140m ²
3	STORAGE SHED	160m ²
4	STORAGE SHED	45m ²
TOTAL		673m ²

PROPOSED SITE GFA		
BUILDING	USE	GFA
1 (EXIST.)	STORAGE SHED	279m ²
2 (EXIST.)	CARETAKERS RESIDENCE	140m ²
3 (EXIST.)	STORAGE SHED	160m ²
5	OFFICE	546m ²
TOTAL		1,125m ²

EXISTING SITE COVERAGE		
TYPE	AREA	PERCENTAGE
HARDSTAND	2,024m ²	61%
BUILDINGS	623m ²	19%
LANDSCAPING	649m ²	20%
TOTAL	3,296m ²	100%

PROPOSED SITE COVERAGE		
TYPE	AREA	PERCENTAGE
HARDSTAND	1730m ²	52%
BUILDINGS	905m ²	27%
LANDSCAPING	661m ²	21%
TOTAL	3,296m ²	100%

TORRES SHIRE COUNCIL
DIGITALLY STAMPED
APPROVED PLAN

Development Application: Minor Change—Development Permit for Material Change of Use (Office)

RP Details: Lot 1 and Lot 2 on RP748738

Referred to in Council's Decision Notice

Approval Date: 23 April 2024
 Application Number: IDAS 23/19

- OTHER MINOR BUILDING WORKS**
 (NOT PART OF THIS DA)
- BUILDING 1**
- NEW CLADDING TO BUILDING TO REPLACE EXISTING DILAPIDATED CLADDING
 - INTERNAL DEMOLITION OF OFFICES AND MEETING ROOMS. SPACE TO BE USED AS WAREHOUSE.
 - NEW HARDSTAND IN FRONT OF BUILDING

1 PROPOSED SITE PLAN
 SCALE - 1 : 500

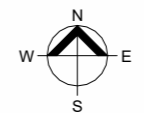
AMENDMENTS	DATE
TP1 TOWN PLANNING SUBMISSION	06/11/23
TP2 AMENDED TOWN PLANNING APPLICATION	15/03/24

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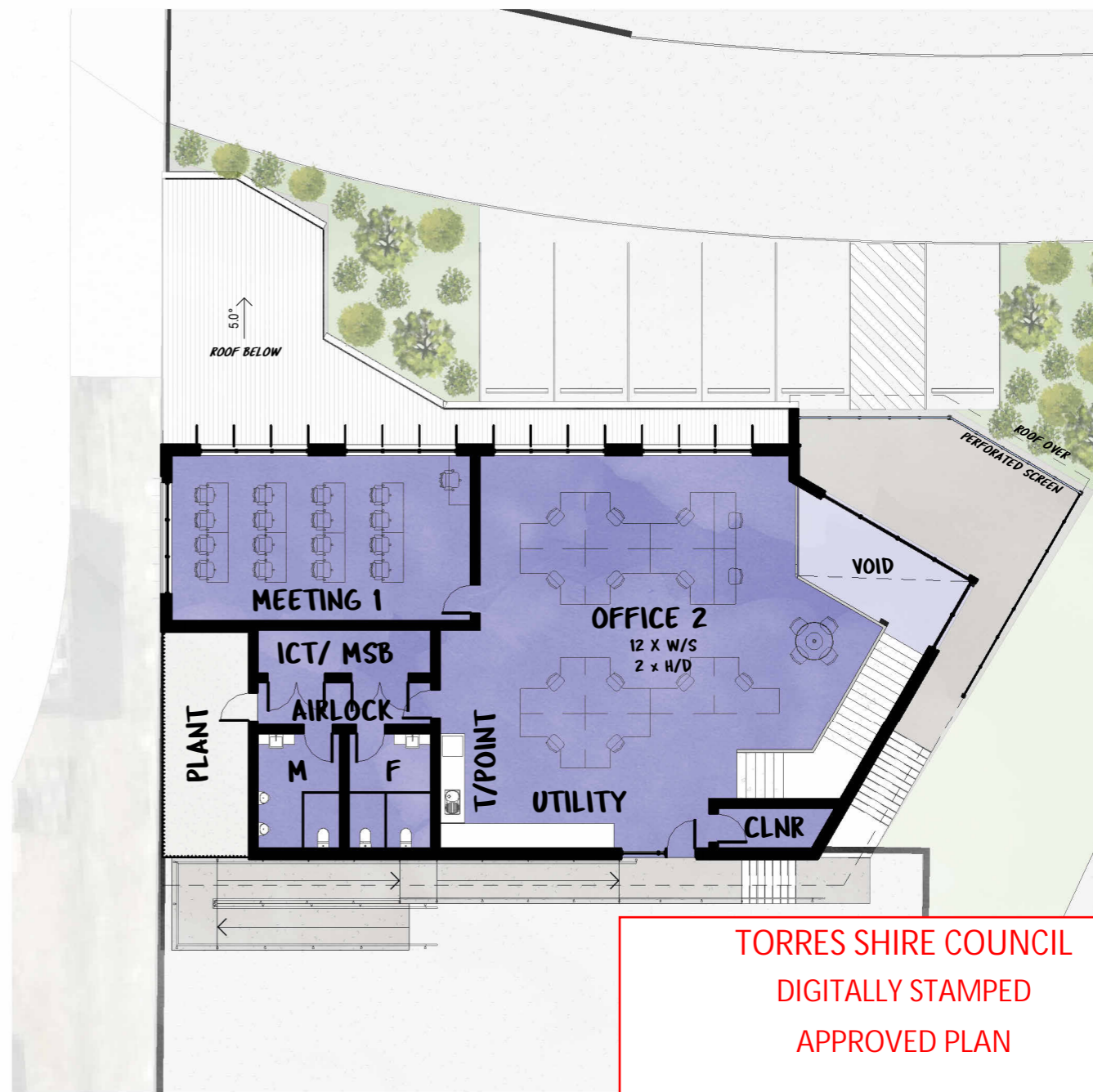


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DRAWN	BDB	SCALE	1 : 500	SIZE	A3
APPROVED	MM	DATE	MAR 24		



PROJECT	THURSDAY ISLAND DEPOT REDEVELOPMENT		
	5-7 APLIN ROAD, THURSDAY ISLAND		
	ENERGY QUEENSLAND LIMITED		
FOR			
DWG	PROPOSED SITE PLAN		
DWG No.	1634 - SD - A-02	STAMP	TOWN PLANNING
			ISSUE TP2



5 GROUND FLOOR LEVEL
A-04 SCALE - 1 : 200

6 FIRST FLOOR LEVEL
A-04 SCALE - 1 : 200

TORRES SHIRE COUNCIL
DIGITALLY STAMPED
APPROVED PLAN

Development Application: Minor Change—Development Permit for Material Change of Use (Office)

RP Details: Lot 1 and Lot 2 on RP748738

Referred to in Council's Decision Notice

Approval Date: 23 April 2024
Application Number: IDAS 23/19

AMENDMENTS	DATE
TP1 TOWN PLANNING SUBMISSION	06/11/23
TP2 AMENDED TOWN PLANNING APPLICATION	15/03/24

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DRAWN	BDB	SCALE	1 : 200	SIZE	A3
APPROVED	MM	DATE	MAR 24		



PROJECT	THURSDAY ISLAND DEPOT REDEVELOPMENT		
	5-7 APLIN ROAD, THURSDAY ISLAND		
	ENERGY QUEENSLAND LIMITED		
FOR			
DWG	FLOOR PLANS		
DWG No.	1634 - SD - A-03	STAMP	TOWN PLANNING
ISSUE	TP2		

TORRES SHIRE COUNCIL
DIGITALLY STAMPED
APPROVED PLAN

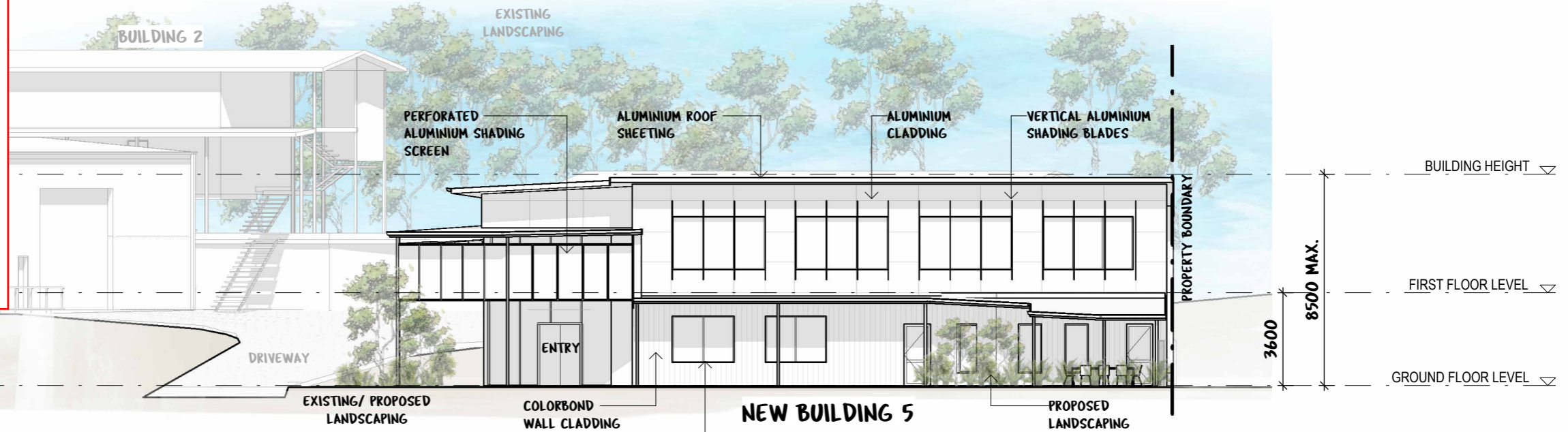
Development Application: Minor Change—Development Permit for Material Change of Use (Office)

RP Details: Lot 1 and Lot 2 on RP748738

Referred to in Council's Decision Notice

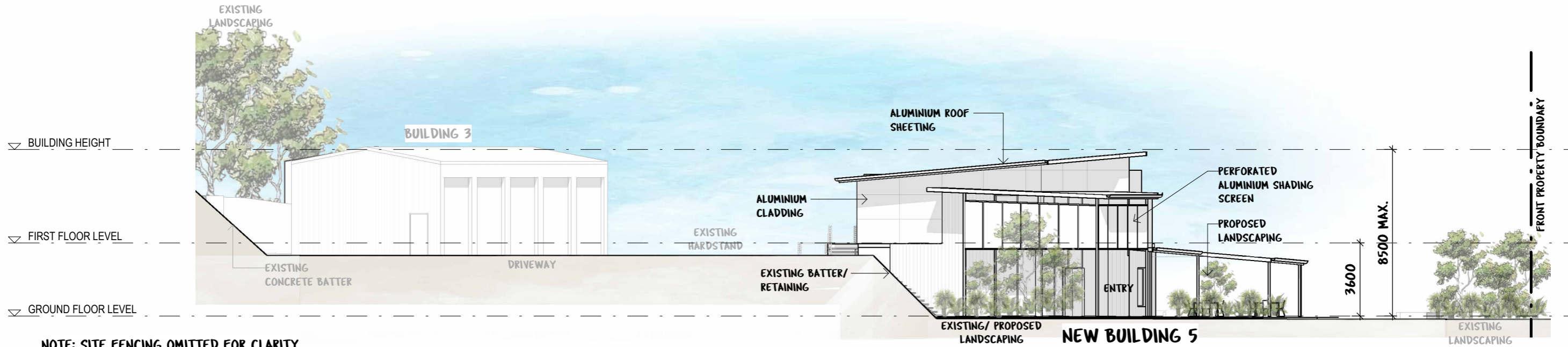
Approval Date: 23 April 2024

Application Number: IDAS 23/19



NOTE: SITE FENCING OMITTED FOR CLARITY

1 NORTH ELEVATION
 SCALE - 1 : 200



NOTE: SITE FENCING OMITTED FOR CLARITY

2 EAST ELEVATION
 SCALE - 1 : 200

AMENDMENTS	DATE
TP1 TOWN PLANNING SUBMISSION	06/11/23
TP2 AMENDED TOWN PLANNING APPLICATION	15/03/24

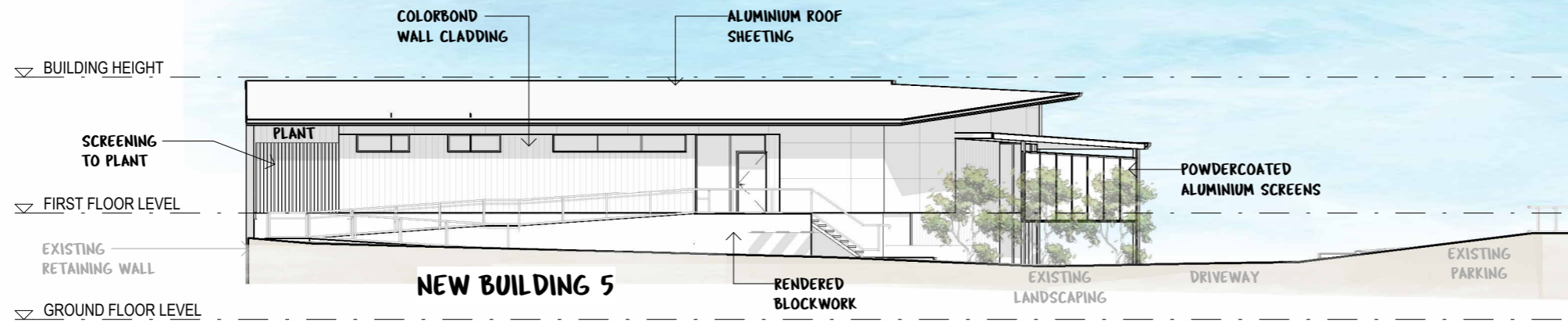
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DRAWN	BDB	SCALE	1 : 200	SIZE	A3
APPROVED	MM	DATE	MAR 24		

PROJECT	THURSDAY ISLAND DEPOT REDEVELOPMENT		
	5-7 APLIN ROAD, THURSDAY ISLAND		
	ENERGY QUEENSLAND LIMITED		
FOR			
DWG	ELEVATIONS		
DWG No.	1634 - SD - A-04	STAMP	TOWN PLANNING
ISSUE	TP2		



NOTE: SITE FENCING & REAR LANDSCAPING OMITTED FOR CLARITY

1 SOUTH ELEVATION
SCALE - 1 : 200

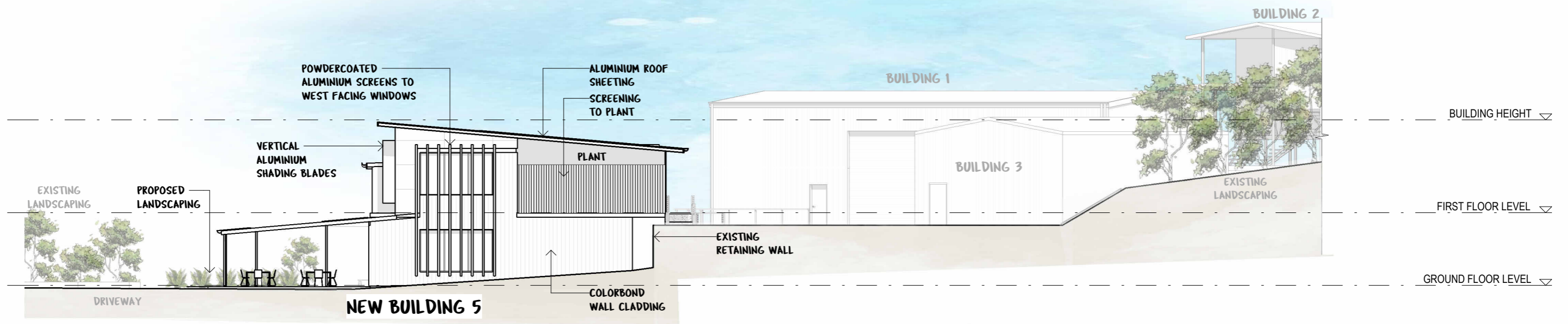
TORRES SHIRE COUNCIL
DIGITALLY STAMPED
APPROVED PLAN

Development Application: Minor Change—Development
Permit for Material Change of Use (Office)

RP Details: Lot 1 and Lot 2 on RP748738

Referred to in Council's Decision Notice

Approval Date: 23 April 2024
Application Number: IDAS 23/19



NOTE: SITE FENCING OMITTED FOR CLARITY

2 WEST ELEVATION
SCALE - 1 : 200

AMENDMENTS	DATE
TP1 TOWN PLANNING SUBMISSION	06/11/23
TP2 AMENDED TOWN PLANNING APPLICATION	15/03/24

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APPROVED	MM	DATE	MAR 24		

PROJECT	THURSDAY ISLAND DEPOT REDEVELOPMENT		
	5-7 APLIN ROAD, THURSDAY ISLAND		
	ENERGY QUEENSLAND LIMITED		
FOR			
DWG	ELEVATIONS		
DWG No.	1634 - SD - A-05	STAMP	TOWN PLANNING
ISSUE	TP2		

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:	IDAS23/19
Applicant:	Ergon Energy
Proposal:	Minor Change - Development Permit for Material Change of Use
Description of the Development:	Office
Street Address:	5 & 7 Aplin Road, Thursday Island
Real Property Description:	Lot 1 and Lot 2 on RP748738
Planning Scheme:	Torres Shire Council Planning Scheme 2022
Land Zoning:	Community Facilities zone, Operational and Utility Services Precinct
Assessment Type:	Code

DECISION DETAILS

Type of Decision:	Approval with Conditions
Type of Approval:	Minor Change - Development Permit for Material Change of Use -Office
Date of Decision:	23 April 2024

ASSESSMENT BENCHMARKS

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

Categorising Instrument (*Planning Regulation 2017*)

This application did not trigger any matters prescribed by the regulation

Categorising Instrument (*State Planning Policy - July 2017*)

- **Natural Hazards Risk and Resilience**
Flood Hazard Area – Local Government Flood Mapping Area

Bushfire Prone Area – Potential Impact Buffer

- **Strategic Airports and Aviation Facilities**
Building Restricted Area – Zone A/B and Area of Interest
Wildlife hazard buffer zone – 8km

Local Categorising Instrument (Torres Shire Council Planning Scheme 2022):

Standard Outcomes

- Community Facilities Zone
- Landscaping
- Parking, Access, and Transport
- Works, Services, and Infrastructure
- Airport Environs Overlay
- Bushfire Hazard Overlay
- Environmental Significance Overlay
- Flood Hazard Overlay
- Heritage Overlay
- Potential and Actual Acid Sulfate Soils Overlay
- Slope Stability Overlay

Merit Outcomes

- General
- Amenity and Privacy
- Built Form and Development Design
- Infrastructure and Services
- Land Constraints
- Land Use
- Landscaping
- Parking, Access and Transport

Local Categorising Instrument (Variation Approval)

- Not applicable.

Local Categorising Instrument (Temporary Local Planning Instrument)

- Not applicable.

PUBLIC NOTIFICATION

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

REASONS FOR THE DECISION

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

- (a) The proposed change is minor, does not trigger additional referrals and does not result in any additional areas of non-compliance with the relevant assessment benchmarks under the *Torres Shire Planning Scheme 2022*.

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, please refer to Council's webpage at <https://www.torres.qld.gov.au/development-applications-1>

APPEAL RIGHTS

(Planning Act 2016 & Planning Regulation 2017)

Attached under separate cover (this page has been intentionally left blank)

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.

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

-
- (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
 - (e) 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	<p>1 A concurrence agency that is not a co-respondent</p> <p>2 If a chosen assessment manager is the respondent—the prescribed assessment manager</p> <p>3 Any eligible advice agency for the application</p> <p>4 Any eligible submitter for the application</p>
<p>2. Change applications</p> <p>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>			

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 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)
1 The applicant 2 For a matter other than a deemed refusal of an extension application—a concurrence agency, other than the chief executive, for the application	The assessment manager	If a concurrence agency starts the appeal—the applicant	If a chosen assessment manager is the respondent—the prescribed assessment manager
<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</p> <p>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</p> <p>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 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
7. Enforcement notices under the <i>Plumbing and Drainage Act 2018</i> An appeal may be made against the decision to give an enforcement notice.			
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 local government that gave the enforcement notice	—	—

Table 2 Appeals to the P&E Court only			
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— (a) an error or mistake in law on the part of the tribunal; or (b) jurisdictional error.			
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	—	—
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— (a) any part of the development application or change application that required impact assessment; or (b) a variation request.			

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)
<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>	<p>Another eligible submitter for the application</p>
<p>3. Eligible submitter and eligible advice agency appeals</p> <p>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—</p> <p>(a) any part of the development application or change application that required impact assessment; or</p> <p>(b) a variation request.</p>			

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)
<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>3 An eligible advice agency for the development application or 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>	<p>Another eligible submitter for the application</p>
<p>4. Compensation claims</p> <p>An appeal may be made against—</p> <p>(a) a decision under section 32 about a compensation claim; or</p> <p>(b) a decision under section 265 about a claim for compensation; or</p> <p>(c) a deemed refusal of a claim under paragraph (a) or (b).</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>A person dissatisfied with the decision</p>	<p>The local government to which the claim was made</p>	<p>—</p>	<p>—</p>

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

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			
<p>1. Building advisory agency appeals</p> <p>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.</p>			
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	<p>1 A concurrence agency for the development application related to the approval</p> <p>2 A private certifier for the development application related to the approval</p>

Table 3 Appeals to a tribunal only			
<p>2. Inspection of building work</p> <p>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></p> <p>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. Failure to decide an application or other matter under the Building Act</p> <p>An appeal may be made against a failure to make a decision under the Building Act within the period required under that Act, other than a failure by the Queensland Building and Construction Commission to make a decision, if an information notice about the decision was required to be given 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 entity that failed to make the decision	—	—
<p>5. Failure to decide 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> within the period required under that Act, other than a failure by the Queensland Building and Construction Commission to make a decision, 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	—	—



Torres Shire Council


INFRASTRUCTURE CHARGES NOTICE

(section 52 and schedule 16 of Planning Act 2016)

APPLICANT:	Ergon Energy								
APPLICATION:	Development Permit for Material Change of Use (Office)								
FILE REFERENCE:	IDAS23/19								
DATE OF APPROVAL:	23 April 2024								
AMOUNT OF THE LEVIED CHARGE: (Details of how these charges were calculated are shown overleaf)	<table border="1"> <thead> <tr> <th>Development Type</th> <th>Adopted Infrastructure Charge</th> <th>Credits</th> <th>Total Charge</th> </tr> </thead> <tbody> <tr> <td>Commercial – Office (520m²)</td> <td>\$113,660.85</td> <td>\$43,535.65</td> <td>\$70,125.20</td> </tr> </tbody> </table>	Development Type	Adopted Infrastructure Charge	Credits	Total Charge	Commercial – Office (520m ²)	\$113,660.85	\$43,535.65	\$70,125.20
Development Type	Adopted Infrastructure Charge	Credits	Total Charge						
Commercial – Office (520m ²)	\$113,660.85	\$43,535.65	\$70,125.20						
AUTOMATIC INCREASE OF LEVIED CHARGE:	The amount of the levied charge is subject to an automatic increase. Refer to the General Information attached to this notice for more information on how the increase is worked out.								
LAND TO WHICH CHARGE APPLIES:	Lot 1 & 2 on RP748738								
SITE ADDRESS	5 & 7 Aplin Road, Thursday Island								
PAYABLE TO:	Torres Shire Council								
WHEN PAYABLE:	Material Change of Use – When the change of use occurs as stated in the Planning Act 2016								
OFFSETS OR REFUNDS	Nil								

This charge is made in accordance with *Council's Charges Resolution (No.1) 2022* and section 52 and *Schedule 16 of the Planning Regulation 2017*.

Name: Dalassa Yorkston

Signature: 

Date: 26 April 2024

DETAILS OF CALCULATION

ADOPTED CHARGES

Water Supply

Adopted Charges Development Description	Units of Measure	Charge Rate	Reference	Amount
Commercial – Office	(546m ²) (\$ per m ² GFA)	\$53.69	CR Table 2.2	\$29,314.74

Sewerage

Adopted Charges Development Description	Units of Measure	Charge Rate	Reference	Amount
Commercial – Office	(546m ²) (\$ per m ² GFA)	\$46.02	CR Table 2.2	\$25,126.92

Transport

Adopted Charges Development Description	Units of Measure	Charge Rate	Reference	Amount
Commercial – Office	(546m ²) (\$ per m ² GFA)	\$30.68	CR Table 2.2	\$16,751.28

Community Facilities and Parks

Adopted Charges Development Description	Units of Measure	Charge Rate	Reference	Amount
Commercial – Office	(546m ²) (\$ per m ² GFA)	\$23.01	CR Table 2.2	\$12,563.46

Stormwater

Adopted Charges Development Description	Units of Measure	Charge Rate	Reference	Amount
Commercial – Office	(2,731m ²) (\$ per m ² GFA)	\$10.95	CR Table 2.2	29,904.45

TOTAL ADOPTED CHARGE	\$113,660.85
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**Infrastructure charges are based on the new office only as there is no change to the GFA of existing buildings.*

CREDIT

Adopted Charges Development Description	Water Supply	Sewerage	Transport	Community Facilities & Parks	Stormwater	Total
Commercial – Office (94m ²) (\$ per m ² GFA)	\$5,046.86	\$4,325.88	\$2,883.92	\$2,162.94	\$29,116.05 (impervious area of 2,659m ²)	\$43,535.65
CREDIT						\$43,535.65

FINAL CHARGE	\$70,125.20
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(Note: The Total Infrastructure Charge = Total Charges – Total Credit for Existing Use)

INFORMATION NOTICE

Authority and Reasons for Charge This Infrastructure Charges Notice has been given in accordance with section 119-123 of the *Planning Act 2016* to support the Local government's long-term infrastructure planning and financial sustainability.

Appeals Pursuant to section Chapter 6 of the *Planning Act 2016* a person may appeal an Infrastructure Charges Notice. Attached is an extract from the *Planning Act 2016* that details your appeal rights.

Automatic Increase Provision of charge rate (\$) An infrastructure charge levied by Council is to be increased by the difference between the Producer Price Index (PPI) applicable at the time the infrastructure charge was levied, and PPI Index applicable at the time of payment of the levied charge, adjusted by reference to the 3-yearly PPI Index average¹. If the levied charge is increased using the method described above, the charge payable is the amount equal to the sum of the charge as levied and the amount of the increase.

However, the sum of the charge as levied and the amount of the increase is not to exceed the maximum adopted charge the Council could have levied for the development at the time the charge is paid.

GST The Federal Government has determined that contributions made by developers to Government for infrastructure and services under the *Planning Act 2016* are GST exempt.

To whom the charge must be paid Payment of the Charge must be made payable to TORRES SHIRE COUNCIL, PO.Box 171, Thursday Island, Qld 4875.

The Infrastructure Charge has been calculated in accordance with the charges stated in Council's Charges Resolution. This notice will be escalated to time of payment to the extent permitted under legislation in force at that time.

It is requested that you contact Council's Planning and Development Department to confirm that amount payable prior to making payment.

Payment This notice is due and payable by the due time shown. Cheques, money orders or postal notes should be made payable to TORRES SHIRE COUNCIL and crossed "Not Negotiable". Change cannot be given on cheque payments. Property owners will be liable for any dishonour fees.

¹ 3-yearly PPI average is defined in section 114 of the *Planning Act 2016* and means the PPI adjusted according to the 3-year moving average quarterly percentage change between financial quarters. PPI is the producer price index for construction 6427.0 (ABS PPI index number 3101 – Road and Bridge construction index for Queensland published by the Australian Bureau of Statistics.

Overseas Payees

Please forward your infrastructure charges payment by way of a bank draft for the required amount in Australian dollars.

Method of Payment**PAYMENT BY MAIL**

Confirm the current Infrastructure Charge applicable and obtain an updated payment notice from Council's Planning and Development Department.

Mail this updated payment notice immediately with your payment to: TORRES SHIRE COUNCIL, PO Box 171, Thursday Island, Qld 4875.

NOTE: Cheques must be made payable to TORRES SHIRE COUNCIL

PAYMENT AT COUNCIL OFFICES

Confirm the current Infrastructure Charge applicable.

Present written confirmation of charges with your payment to Torres Shire Council Chambers, 68 Douglas Street, Thursday Island.

NOTE: Cheques must be made payable to TORRES SHIRE COUNCIL

PAYMENT MADE BY CREDIT CARD

Credit Cards accepted: Mastercard or Visa

Enquiries

Enquiries regarding this Infrastructure Charges Notice should be directed to the TORRES SHIRE COUNCIL, Planning and Development Department, during office hours 9am to 4pm Monday to Friday by phoning (07) 4069 1336 or email at admin@torres.qld.gov.au

Subdivision 5 **Changing charges during relevant appeal period**

124 **Application of this subdivision**

This subdivision applies to the recipient of an infrastructure charges notice given by a local government.

125 **Representations about infrastructure charges notice**

- (1) During the appeal period for the infrastructure charges notice, the recipient may make representations to the local government about the infrastructure charges notice.
- (2) The local government must consider the representations.
- (3) If the local government—
 - (a) agrees with a representation; and
 - (b) decides to change the infrastructure charges notice;the local government must, within 10 business days after making the decision, give a new infrastructure charges notice (a *negotiated notice*) to the recipient.
- (4) The local government may give only 1 negotiated notice.
- (5) A negotiated notice—
 - (a) must be in the same form as the infrastructure charges notice; and
 - (b) must state the nature of the changes; and
 - (c) replaces the infrastructure charges notice.
- (6) If the local government does not agree with any of the representations, the local government must, within 10 business days after making the decision, give a decision notice about the decision to the recipient.
- (7) The appeal period for the infrastructure charges notice starts again when the local government gives the decision notice to the recipient.

126 Suspending relevant appeal period

- (1) If the recipient needs more time to make representations, the recipient may give a notice suspending the relevant appeal period to the local government.
- (2) The recipient may give only 1 notice.
- (3) If the representations are not made within 20 business days after the notice is given, the balance of the relevant appeal period restarts.
- (4) If representations are made within the 20 business days and the recipient gives the local government a notice withdrawing the notice of suspension, the balance of the relevant appeal period restarts the day after the local government receives the notice of withdrawal.

Division 3 Development approval conditions about trunk infrastructure

Subdivision 1 Conditions for necessary trunk infrastructure

127 Application and operation of subdivision

- (1) This subdivision applies if—
 - (a) trunk infrastructure—
 - (i) has not been provided; or
 - (ii) has been provided but is not adequate; and
 - (b) the trunk infrastructure is or will be located on—
 - (i) premises (the *subject premises*) that are the subject of a development application, whether or not the infrastructure is necessary to service the subject premises; or
 - (ii) other premises, but is necessary to service the subject premises.

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.

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- (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.

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- (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.