

Officer: Renee Saunders
Direct Telephone: 5475 9925
Our Reference: RS037:MD011;MCU18/0190
Your Reference: 18038

12 September 2019

Pacific Diamond 88 Pty Ltd
C/- Project Urban Pty Ltd
PO Box 6380
MAROOCHYDORE QLD 4558

Dear Sir/Madam

NEGOTIATED DECISION NOTICE – MCU18/0190 – LOT 1 RP 201319, LOT 280, 281, 282, 310 & 311 B 92911 – 2 & 6 TALINGA STREET, 84 & 85 PACIFIC BOULEVARD AND 61 & 63 ILUKA AVENUE BUDDINA

I refer to the representations you made with respect to the original decision notice issued by council on 30 April 2019 for the following:

- Development Permit for Material Change of Use (Multiple Dwelling Units x 73 and Shop (Corner Store))

In relation to your representations, council decided on 10 September 2019 to:

- A. Change Conditions 2, 7, 12, 13, 16, 18, 31, 34, 43, 46, 54, 68, 69, 70, 71, 73 and 74
- B. Disagree to change Conditions 10 and 59
- C. Delete Advisory Note 9
- D. Include additional Advisory Note 29
- E. Change the requirements for amendments to the Approved Plans and Referenced Documents

A copy of the development approval including the above changes granted by this negotiated decision notice is attached and replaces the original development approval issued.

A copy of the relevant appeal provisions is also attached.

Please note, if the application required referral to a concurrence agency, you may still be required to make a separate application under the *Planning Act 2016* to request consequential changes to the referral agency conditions where applicable.

Should you have any further queries in relation to this decision, please do not hesitate to contact Renee Saunders on the above number.

Yours faithfully



DANIEL RUNDLE
TEAM LEADER – PLANNING ASSESSMENT

DECISION NOTICE HISTORY

MCU18/0190 - Original Decision Notice - 30 April 2019

MCU18/0190 - Negotiated Decision Notice - 10 September 2019

- Change Conditions 2, 7, 12, 13, 16, 18, 31, 34, 43, 46, 54, 68, 69, 70, 71, 73 and 74
- Disagree to change Conditions 10 and 59
- Delete Advisory Note 9
- Include additional Advisory Note 29
- Change the requirements for amendments to the Approved Plans and Referenced Documents

Enc: Development Approval as changed by this Negotiated Decision Notice
Approved Plans
Appeal Rights

Cc: Unitywater

Development Approval

APPLICATION DETAILS

Application No:	MCU18/0190
Street Address:	2 and 6 Talinga Street, 84 and 85 Pacific Boulevard and 61 and 63 Iluka Avenue, BUDDINA
Real Property Description:	Lot 1 RP 201319, Lot 280, 281, 282, 310 & 311 B 92911
Planning Scheme:	Sunshine Coast Planning Scheme (29 June 2018)

APPROVAL DETAILS

Nature of Approval:	Approval with conditions
Type of Approval:	Development Permit for Material Change of Use (Multiple Dwelling Units x 73 and Shop (Corner Store))

CURRENCY PERIOD OF APPROVAL

Unless lawfully extended, the currency period for this development approval is 6 years starting the day that this development approval first took effect (Refer to Section 85 "Lapsing of approval at end of currency period" of the *Planning Act 2016*).

INFRASTRUCTURE

Unless otherwise specified, all assessment manager conditions of this development approval relating to the provision of infrastructure are non-trunk infrastructure conditions for Chapter 4 of the *Planning Act 2016*.

ASSESSMENT MANAGER CONDITIONS

PLANNING AND URBAN DESIGN

When conditions must be complied with

1. Unless otherwise stated, all conditions of this development approval must be complied with prior to the use commencing, and then compliance maintained at all times while the use continues.

Approved Plans

2. Development authorised by this approval must be undertaken generally in accordance with the Approved Plans listed within this development approval.

Building Height

3. The maximum height of the development must not exceed 21m above natural ground level at any point.
4. Certification must be submitted to council from a cadastral surveyor which certifies that the building does not exceed the maximum height requirement of this development approval.

Corner store

5. The use of the corner store must at all times accord with the Administrative definition for that use in the *Sunshine Coast Planning Scheme 2014* (29 June 2018), being: *The use of premises being shop for the display and retail sale of convenience goods to members of the public where the gross leasable floor area of the use is not more than 100m².*
6. The corner store must not be used as a *Food and drink outlet*, as defined by the *Sunshine Coast Planning Scheme 2014*.
7. The corner store must not operate outside the hours of 7am to 7pm Monday to Sunday. The requirements of this condition must be included in the Community Management Statement for any body corporate for the subject site.

Final Architectural Building Detail

8. Prior to any building works commencing, building design drawings must be prepared and submitted to Council for review against the Approval Plans and endorsement. The building design drawings must show the final developed details of the facade treatment, the ground interface and the rooftop/building capping elements of the approved buildings, and must depict a higher level of documentation detail than that shown on the Approved Plans. The building design drawings must:
 - (a) nominate materials, external colours, glazing types and finishes as required by the conditions of this approval;
 - (b) include elevation and façade treatment drawings for all floor levels that demonstrate the final design outcome for all elevations of the built form including:
 - (i) detailed plans, sections and elevations and further detailed drawings including elements of the façade, structural elements and fixed and operable elements such as balustrades, sky lights, screens, sun screens, privacy screens, weather protection devices, doors, windows, projecting fins, landscape walls, entry structures, pergolas and planter beds/trellises;
 - (ii) detailed plans, sections and elevations, at 1:100 or 1:50 scale, of key façade elements, including sun screening and privacy screening to walls, windows and balconies in accordance with the requirements of this approval;
 - (iii) demonstrations that the building will meet the sun screening requirements of this approval in the form of:
 - 3D modelling to illustrate how the development will be capable of excluding sun penetration through window openings throughout Summer, from 5am to 7pm from September through to April of the following calendar year, or
 - 2D representation showing the shading proposed for sun exclusion on all elevations of the model at 5am, 7am, 10am, 2pm, 4pm & 6pm on the 1st of September, 22nd December and the 1st of April;
 - (iv) all servicing and infrastructure, including but not limited to, padmount transformers, pump rooms, fire hydrant boosters, bin storage enclosures etc;
 - (v) rooftop or building capping elements, including eaves, shades, awnings and soffits; and,
 - (vi) details of the ecological rooftop, renewable energy and energy efficiency initiatives to meet the requirements of this approval.

9. All building works must be undertaken generally in accordance with the endorsed architectural drawings referred to in this development approval.

Building Appearance

10. The approved building must be constructed such that its external appearance achieves a high quality design finish, including the degree of building form articulation, window coverage, clear glazing, openings, roof overhangs, feature cladding materials, finishes, varied building treatments and finishes, lightweight timber elements, glazed balustrades shown on the Approved Plans, with no inclusions or future alterations being made without approval in writing by council.
11. All outdoor clothes drying areas, air conditioning units or other mechanical equipment must be visually integrated into the design and finish of the building, or otherwise fully enclosed or screened such that they are not visible from the street frontages nor adjoining properties, and under the height limit (21m).
12. All deck and balcony areas above ground floor must not be enclosed by permanent fixtures such as shutters, louvres, glass panelling or the like, except where required to satisfy any privacy or sun-screening condition of this development approval.
13. Where terrace, colonnade and deck areas are proposed to public entry or plaza areas, they must not be enclosed by permanent fixtures such as shutters, louvres, glass panelling or the like, except where required to satisfy any acoustic or sun-screening condition of this development approval.
14. Ground floor shopfront glazing along the Talinga Street and Pacific Boulevard frontages of the corner store must be fully transparent to a minimum of 65% of the street frontage to allow passive surveillance and encourage social interaction, and must be provided at full height (floor to ceiling). The corner store must have accessible frontages using operable door and window systems.
15. Internal walls and shelving must not be erected within one (1) metre of the shopfront glazing where they would prevent views from the street into the retail space, unless otherwise agreed to in writing by council.
16. Building materials and hard surfaces used in landscape or streetscape works must not be 'dark' in colour nor highly reflective, or likely to create glare, slippery or otherwise hazardous conditions, or as otherwise approved by Council.

Fencing and Walls

17. Any street fencing and walls must be setback behind a 2m wide landscape strip and must have a maximum height of not more than:
 - (a) 1.8m, if 50% transparent; or
 - (b) 1.2m if solid .
18. A minimum 1.8m high solid screen fence must be provided and maintained along the full length of the southern boundary.

Clothes Drying Areas

19. Each dwelling unit must be provided with an outdoor non-mechanical (natural) clothes drying facility that is screened from public view by the use of fixed or operable screens incorporated into the building design. The requirement for screening of

outdoor clothes drying by occupants must be included in the Community Management Statement for any body corporate for the subject site.

Street Identification

20. The street address of the development must be clearly visible and discernible from the primary frontage of the site by the provision of a street number and, where appropriate, the building name. The building entrance or reception area must be clearly visible and identifiable from the street or otherwise provided with signage and lighting at strategic locations to direct people to the building entrance.

Protection of Privacy

21. To ensure privacy is protected between adjoining properties, the windows to dwelling units located on the first 3 levels of the southern elevation must either:
- (a) have a minimum window sill height or 1.5m above floor level
 - (b) be fitted with translucent glazing below 1.5m above floor level
 - (c) be fitted with a fixed or operable external screen
 - (d) if at ground level, be screened by fencing to a minimum of 1.8m
 - (e) be a double or single louvre window assembly that is either obscure glass or timber louvres, or
 - (f) be an alternative solution that is agreed by Council prior to Building Application.
22. Obscure glass balustrading or external operable or fixed screens must be installed and positioned in such a way to obscure direct views into the habitable room windows or private open space areas of the following:
- (a) internal walkways facing South (to protect internal northern facing balconies) on each level
 - (b) ground Floor and Level 01 Private Open Space Terraces
 - (c) Ground Level Private Open Space of the Southern neighbouring properties

Communal Recreation Areas

23. Communal recreation areas must be provided as shown on the approved Ground Floor and Level 01 plans.

Community Management Statement

24. Any proposed Community Management Statement required for the development pursuant to the *Body Corporate and Community Management Act 1997* must be submitted to Council for approval at the same time as submission of the building format plan (or similar) for approval.
25. All clauses and by-laws of the proposed Community Management Statement must accord with the requirements of this development approval.

Weather Protection

26. Where eaves or overhangs are less than 600mm deep and more than 200mm above openings, awnings must be provided to otherwise exposed operable windows and doors along the full length of all property frontages. The awnings must have a minimum width of 600mm from the building line, and must be designed to provide continuous weather protection and promote operability during rain.

Public Safety

27. All ground floor shopfront glazing to the corner store must be protected against unlawful entry by the use of a form of safety glass such as toughened or laminated glass. All other windows provided at the ground floor must include toughened or laminated glass, or security screens.
28. Signs must be provided and located to direct people to entries and exits and to parking spaces within the site. Visitor and public parking areas must be clearly designated as such and have clearly defined access points.
29. Visitor bicycle parking facilities must be located so that they are visible from the street.

Renewable Energy

30. Prior to commencement, the development must incorporate and implement, at a minimum, the use of solar power or other pollution reducing renewable energy sources to supply part or all of the development's energy needs. This must be:
 - (a) connected to an inverter,
 - (b) able to transfer energy to the grid or to a centrally located battery bank,
 - (c) an expandable system with ducting capable of being accessed and holding future cabling and that will enable further expansion by the body corporate, and
 - (d) provide an expandable system with ducting capable of being accessed and holding future cabling and connection to a battery storage area and the car-parking for future electric vehicle charging.

Energy Efficiency

31. All glazed windows and doors to the East, West and South must be fitted with sunscreens. Solar radiation through any external wall opening (including any sky lights or roof lights) must be controlled to exclude heat from direct sunlight in Summer and include it in Winter, by one or more of the following:
 - (a) a permanently fixed overhang or awning with a minimum overhang width of 600mm, with:
 - (i) a permanent external assembly containing adjustable or operable shading devices, or
 - (ii) (fixed sun screens with a maximum transparency of 25%; or
 - (b) a louvre window assembly that is not glass and minimises the transmission of heat, i.e. timber louvres; or
 - (c) an alternative solution that is agreed by Council prior to the issue of any development permit for building works.
32. Roof forms and wall colours must reduce direct solar heat gain and, where exposed to direct summer sunlight, roofs and walls must be "light" in colour.
33. External glazing must have a low solar heat gain co-efficient and a low level of reflectivity.
34. The development must be constructed in accordance with an energy performance statement for the development submitted to council with the final architectural building detail plans pursuant to Condition 8 prior to the issue of any development permit for operational works. The energy performance statement must demonstrate how energy efficiency techniques will be optimised in the design of the building.

35. Certification must be submitted to council which certifies that the energy efficiency requirements of this development approval have been met prior to commencement of the use.

ENGINEERING

Coastal Protection

36. The development must incorporate coastal protection works designed by an RPEQ experienced in coastal engineering to withstand wave and water level conditions corresponding to a 1% AEP coastal erosion event with the coastline at the eastern extent of the basement at the start of the event. The development must be designed to not suffer any major damage during the event such that the structural stability of the development is unaffected. Detailed engineering drawings demonstrating compliance with this condition must be submitted in conjunction with the first operational works development application.
37. All coastal protection works constructed to protect the development must be constructed within the site and must be maintained by the development for the life of the development.

External Works

38. Iluka Avenue, Talinga Street and Pacific Boulevard must be upgraded for the length of their frontage to the subject site. The works must be undertaken in accordance with an operational works approval and must include in particular:
 - (a) removal of the existing domestic property accesses and reinstatement of the kerb, footpath and verge area to match the balance of the site frontage, including the provision of topsoil and turf where the existing verge is grassed

Property Access and Driveways

39. A sealed access driveway must be provided from Iluka Avenue and Talinga Street to all parking and manoeuvring areas of the development. The works must be undertaken in accordance with an operational works approval and must include in particular:
 - (a) driveway crossovers in accordance with IPWEA RS-051 and the Approved Plans;
 - (b) truncation of existing paths in the verge for the driveway construction, including any additional extents of reconstruction to provide a smooth pathway transition;
 - (c) suitable safety measures, including warning signage, to improve driver awareness of pedestrians and enhance pedestrian safety. Warning signage must be provided near the exit ramp from the underground parking area to warn motorists of pedestrian movement along the frontage street.

On-site Parking

40. A minimum of 188 car parking spaces must be provided and marked on the site. The works must be undertaken in accordance with an operational works approval and must include in particular:
 - (a) a minimum of 1 space per residential unit;
 - (b) a minimum of 19 visitor parking spaces within the total, which are clearly marked for that purpose and accessible at all times for visitor use;

- (c) a minimum of 4 parking spaces for the *Corner store* within the total, which are clearly marked for that purpose;
 - (d) parking space provision for people with disabilities compliant with the current National Construction Code;
 - (e) dimensions, crossfalls and gradients in accordance with *AS 2890 - Parking facilities*.
41. A minimum of 7 motorcycle/scooter parking spaces must be provided and marked on the site. The works must be undertaken in accordance with an operational works approval and must include in particular dimensions, crossfalls and gradients in accordance with *AS 2890 - Parking facilities*.
42. All on-site parking areas and access driveways must be maintained exclusively for vehicle parking and manoeuvring and kept in a tidy and safe condition at all times.
43. Where access to the car park is proposed to be restricted by a security gate, provision must be made for queuing of vehicles clear of the roadway while waiting for the security gate to open. Queue lengths must be in accordance with the Approved Plans as a minimum.
44. Where access to visitor parking is proposed to be restricted by a security gate, provision must be made for intercom access or other approved entry methodology, which can be operated with vehicles queued clear of the roadway while waiting for the security gate to open. Provision must also be made for vehicles to exit the site in a forward direction if entry through the security gate is prohibited.
45. Where a secure car park services a commercial use on the site, the security gate must remain open at all times while commercial uses on the site are open for business. The requirements of this condition must be included in the Community Management Statement for any body corporate for the subject site.

Service Vehicles

46. Service vehicle parking, manoeuvring and standing spaces must be provided on the site. The works must be undertaken in accordance with an operational works approval and *AS 2890.2 - Off-street commercial vehicle facilities* and must include a shared Van / MRV space (Type A) and WCV space generally as per the Approved Plans.

Pedestrian and Bicycle Facilities

47. Pedestrian and bicycle facilities must be provided for the development. The works must be undertaken in accordance with an operational works approval and must include in particular:
- (a) adequate separation of all specific pedestrian routes from vehicle access and manoeuvring areas, and clear demarcation by pavement marking, signposts or changes in surface materials or levels
 - (b) a minimum of 73 residential bicycle parking spaces, in accordance with *AS 2890.3 – Bicycle parking*
 - (c) a minimum of 23 visitor bicycle parking spaces, in accordance with *AS 2890.3 – Bicycle parking*

Utility Services

48. An underground connection to reticulated water and sewerage must be available and/or where necessary provided to the development site in accordance with the standards and requirements of Northern SEQ Distributor–Retailer Authority (Unitywater).

Earthworks and Retaining Walls

49. All fill and associated batters must be undertaken in accordance with an operational works approval, and contained entirely within the subject site unless written permission from the respective landowner(s) is provided to council.
50. All retaining walls must be designed and constructed in accordance with the planning scheme and must be certified by a Registered Professional Engineer of Queensland (RPEQ) where exceeding 1m in height. All retaining walls that are publicly accessible and exceed 1m in height must be fitted with a commercial grade safety fence.

Stormwater Drainage

51. The site must be provided with a stormwater drainage system connecting to a lawful point of discharge. The works must be undertaken in accordance with an operational works approval and the Queensland Urban Drainage Manual, and must include in particular:
- (a) the works described in Section 3 of the Stormwater Management Report listed in this development approval.
 - (b) the use of gravity stormwater drainage and not surcharge pits.

Stormwater Quality Management

52. A stormwater quality treatment system must be provided for the development. The works must be undertaken in accordance with an operational works approval, and include stormwater quality treatment devices of a size and location generally in accordance with those shown in Section 4 of the of the Stormwater Management Report listed in this development approval

Flood Immunity

53. The floor levels of all buildings and the entrances to underground car parks, must be constructed to provide flood immunity. The works must be undertaken in accordance with an operational works approval and must include in particular surface levels that are consistent with the requirements of the *Flood hazard overlay code*.

LANDSCAPE

Landscaping Works

54. The development site must be landscaped. The works must be undertaken in accordance with an Operational Works approval and the Sunshine Coast Council landscape materials palette for the specific area and must include in particular:
- (a) Deleted
 - (b) Landscaping strips to road frontages generally in accordance with the Approved Plans, exclusive of the access driveway, generally uncompromised by infrastructure items;

- (c) provision of trees within the landscape frontage strips at an average of 6 metre centres;
 - (d) vegetated screening of retaining walls and courtyards addressing the road frontage designed such they that will be screened at maturity;
 - (e) provision of feature trees within the development site at the corners of Pacific Boulevard and Talinga Street and Talinga Street and Iluka Avenue;
 - (f) landscaping along side / rear boundary interface with Lot 309 B92911 and Lot 283 B92911 comprising of shrubs at 1 to 1.5m centres, and where space is available, columnar trees at 6m centres;
 - (g) vegetated screening to the side/s of any electrical transformers and in front of bin storage areas and the like from the road frontage;
 - (h) provision of one (1) street tree within the road reserve for every six (6)m of road frontage (Pacific Boulevard, Talinga Street, and Iluka Avenue);
 - (i) control of all weeds species listed in the following standards and legislation:
 - (i) declared plants under the Land Protection (Pest and Stock Route Management) Act 2002 and sub-ordinate Regulation 2003
 - (ii) Sunshine Coast Local Government Area Pest Management Plan 2012-2016.
55. All landscape works must be established and maintained in accordance with the approved design for the life of the development, and in a manner that ensures healthy, sustained and vigorous plant growth. All plant material must be allowed to grow to full form and be refurbished when its life expectancy is reached.

ENVIRONMENT

Waste Management

56. Refuse storage, removal and collection facilities must be provided in accordance with the Approved Plans and the following:
- (a) provision of a minimum bulk bin volume of 120L for general waste, and 120L recyclable waste for each dwelling unit and commercial tenancy
 - (b) collection by service vehicles from within the site only in a safe, efficient and unobstructed manner*
 - (c) provision of a functionally accessible service room for the service collection of all bulk bins
 - (d) maintain continued responsibility of the body corporate, or an equivalent site management entity, to present bulk bins at the temporary collection embayment on refuse collection day
 - (e) provision of a purpose built enclosure to the bin collection area, which is screened from the street and adjoining properties by landscaping
 - (f) provision of waste chutes connected to each floor of the buildings for the disposal of general waste only (not recyclable waste). The waste chutes must be:
 - (i) vertical and cylindrical with a minimum diameter of 450mm
 - (ii) constructed of non-corrosive, smooth, impervious and noise-dampening materials
 - (iii) contained within fire rated shafts
 - (iv) constructed to finish at least 25mm below the ceiling level of the collection room and not more than 300mm above the height of the waste containers
 - (v) ventilated without causing odour within the building
 - (vi) fly and vermin proof
 - (vii) fitted with maintenance access and cleaning appliances

- (viii) fitted with self-closing hoppers on each level located between 1m and 1.5m above the floor level, and with wall and floor surfaces around the hopper of an impervious easy to clean material, and co-located with readily accessible recycle waste bins at each floor level
- (g) provision of a waste room at the bottom of the waste chutes for the collection and permanent storage location of general waste only (not recyclable waste). The waste room must be:
 - (i) constructed of fire rated, impervious and smooth materials to all walls, floors, doors and junctions
 - (ii) constructed with access doors sized to permit unobstructed entry and exit of the bulk bins
 - (iii) fly and vermin proof
 - (iv) fitted with a lock capable of being opened from the inside without a key at any time
 - (v) refrigerated or otherwise ventilated to reduce odour
 - (vi) co-located with a hosecock and drain connected to the sewer.
- (h) provision of a readily accessible bulk bin storage room for recyclable waste, with a mechanical wheelie bin lifter to decant recyclable waste into bulk bins
- (i) provision of an on-site tow vehicle or other mechanical means to haul bulk bins from the basement refuse storage area to the service area located at street level.

57. Certification must be submitted to council from a qualified person* which certifies that all waste chutes and waste rooms have been constructed in accordance with the requirements of this development approval.

**(Refer to Advisory Note)*

Acoustic Amenity

58. Acoustic measures and treatments must be incorporated into the development in accordance with the Environmental Noise Assessment listed within this development approval.

**(Refer to Advisory Note)*

59. Any fixed plant and equipment* that causes noise (e.g. from basement car-park exhausts, air conditioning units, or pool filtration units, refrigeration units, pumps and generators, kitchen exhaust units), must be enclosed, shielded and/or positioned to ensure that the following sound pressure levels for a noise sensitive land use is achieved:

Location where criteria applies at a noise sensitive land use	Adjusted equivalent continuous sound pressure level ($L_{Aeq,adj,T}$) to be achieved during the day, evening and night time periods			Maximum sound pressure level (L_{Amax}) to be achieved during the night time period
	Day 7am-6pm $L_{Aeq,adj,11hr}$	Evening 6pm-10pm $L_{Aeq,adj,4hr}$	Night 10pm-7am $L_{Aeq,adj,9hr}$	Night 10pm-7am
Sleeping Areas	35 dB(A)	35 dB(A)	30 dB(A)	45 dB(A)
Other Habitable Rooms	35 dB(A)	35 dB(A)	35 dB(A)	N/A
Within the Designated Private open Space	50 dB(A)	50 dB(A)	N/A	N/A

*Note: Measurements must be in accordance with AS 1055.1 - Acoustics – Description and measurement of environmental noise – General procedures. Measurements must be adjusted for tonality and impulsiveness where required, where attenuation is applied for inside to outside calculations, a maximum of 5 dB(A) only is to be applied (i.e. assumed windows fully open) *(Refer to Advisory Note)"*

60. Any grills or metal plates subject to vehicular traffic on the site must be suitably acoustically dampened to prevent noise impacts on surrounding sensitive land uses.
61. Certification must be submitted to council from a qualified person* that the development has been constructed in accordance with the Environmental Noise Assessment and Acoustic Amenity conditions of this development approval.
*(Refer to Advisory Note)

Lighting Devices

62. Lighting associated with the use must be designed, sited, installed and tested to comply with Tables 3.2 & 3.3 for Zone A3 of AS 4282 - Control of the obtrusive effects of outdoor lighting".
63. Certification must be submitted to council from a qualified person* that all lighting devices comply with the requirements of this development approval.
*(Refer to Advisory Note)

Acid Sulfate Soils

64. All works must be carried out in accordance with an acid sulfate soil and groundwater dewatering management plan prepared by a qualified person* and endorsed through an operational works approval.
*(Refer to Advisory Note).
65. All waters, including stormwater runoff, groundwater seepage and leachate from acid sulfate soils must achieve the following quality prior to release from the site:
- a pH range of 6.5-8.5 pH units
 - 50mg/L maximum total suspended solids concentration
 - 0.3mg/L maximum total iron concentration
 - 0.2mg/L maximum total aluminium concentration
 - no visible plume at either the point of release from the site or within receiving waters.
66. The basement must be designed and constructed as a water excluding structure in accordance with AS 3735 - Concrete Structures for Retaining Liquids". It must be able to withstand hydrostatic pressure, be completely sealed (including control joints) to prevent groundwater infiltration, and contain no permanent or post-construction sub-surface drainage.
67. All treated material must undergo verification testing at the rate of one sample per 250m³ throughout the duration of the excavation phase of the development. The verification testing must be undertaken by a qualified person* using the SPOCAS or Chromium Reducible Sulphur testing suite, and the results for each sample must be submitted to council.
*(Refer to Advisory Note)

ECOLOGY

Turtle Lighting

68. To minimise the impact of the development on turtle nesting, and the sea-finding behaviour and ocean orientation of hatchlings, the following actions are required to be undertaken during construction of the development:
- construction works are to be restricted to daylight hours during the turtle nesting and hatching season (October – May) in addition to any further restriction imposed as part of the Operational Works approval.
 - flood lighting must not be used from October – May (turtle nesting and hatching season).
69. At all times, the development must demonstrate that they maintain the existing established sky glow values under identical conditions (i.e. clear sky). The developer is to engage a consultant to prepare a pre and post construction Artificial Light at Night Survey to determine changes to light emissions from the development to the adjacent turtle nesting beach generally in accordance with the methodology and equipment described in Sunshine Coast Council and Moreton Bay Council's Benchmark Artificial Light at Night Survey 2017.
- the pre-construction Light Survey is to be undertaken prior to any site works commencing on site.
 - the post-construction Light Survey is to be undertaken by the Developer on completion of the development

- (c) the Light Surveys are to be submitted to Council officers for their review and assessment. Should the post construction 'as built' audit identify that correctional actions are required, these are to be undertaken by the Developer.
 *(Refer to Advisory Note)

70. Internal and external lighting and signage must be positioned and operated to minimise disruption to adjacent turtle breeding grounds. All lighting must be managed to reduce sky glow and light spill onto the beach: reduced intensity, long wavelength lights; shielded, low to the ground, directed onto areas of interest, low reflectance building surfaces and paint, tinted windows. Details as follows:
- (a) all windows facing the beach must have 15% visible light transmittance window tinting.
 - (b) all windows facing the beach must be fitted with opaque blinds where not already screened by opaque external screens or opaque fixed louvres under Condition 31 of this development approval.
 - (c) indoor and outdoor paint/surfaces/fixtures must be matte and dark in colour and have a maximum reflectance value of 30%.
 - (d) all outdoor lights must have a maximum of 2700 K correlated colour temperature (CCT). All indoor lights must have a maximum of 3000 K CCT. All lighting (interior and exterior) must avoid the use of halogen, metal halide, or fluorescent lights.
 - (e) amber LED (590-610 nm) or low pressure sodium lighting must be used as a standard. Warm white is to be used only where colour rendition is required. LED lights must not contain short wavelength blue light and supplier should be asked to provide spectral power curve of requested LEDs to prove the absence of short wavelengths.
 - (f) the number and wattage of lights must be minimised.
 - (g) all lights must be recessed into structures and roof, and directed away from the turtle nesting habitat.
 - (h) no lighting is permitted on the roof of the building.
 - (i) all outdoor lights, including balcony lights, must be turned off when not in use between 8:00 pm and sunrise during turtle nesting and hatching season (October – May).
 - (j) external feature lighting to the building must be positioned below 10 metres in height and turned off between 8.00 pm and sunrise during turtle nesting and hatching season (October – May).
 - (k) no upward lights or vertical illumination of the building, vegetation or other structures using lighting that shines into the sky to be used during the nesting and hatching season (October – May).
 - (l) where lighting is required for safety purposes (including all corridors above ground level, stairwells, entry points etc.), the lighting of these areas must be activated by proximity sensors or motion detectors with an associated deactivation of the lighting after no more than 10 minutes during turtle nesting and hatching season (October – May). For lighting in other areas, timers, proximity or motion activated light sensors must be used wherever possible.
 - (m) smart lighting technology (including dimming control) must be incorporated in all storeys above the 1st storey in order to allow the body corporate and residents the ability to reduce light emissions during critical turtle breeding periods (October – May).
 - (n) no decorative outdoor lighting is to be fitted to the buildings, open space or recreation areas (e.g. Fairy/Christmas lights) during nesting and hatching season (October – May).
 - (o) pool lighting must be switched off after 8:00 pm during nesting and hatching season (October – May).

- (p) any external signage on the eastern (seaward) side of the development must not be illuminated during nesting and hatching season (October – May).
 - (q) any lighting in recreation areas within the development must be switched off and operate on proximity sensors after 8:00 pm during nesting and hatching season (October – May).
 - (r) all lighting within the development (interior and exterior) must be shielded by a minimum of 30 cm vertical shielding.
 - (s) visual screening through vegetation screens must be applied to all lighting towards the coastline and sky.
 - (t) reflective materials must be used to delineate pathways, and embedded lighting must be used wherever possible. If lights are used they are to be amber in colour, max. 2700 K CCT, as low as possible, intermittent flashing only, facing away from the beach and to be fitted with 30 cm vertical shades to contain light spill.
71. The applicant must prepare and submit to Council for endorsement a resident information package regarding turtles use of the adjacent Buddina Beach. The package must:
- (a) provide background information on the turtle species that nest on the beach at Buddina and the Sunshine Coast, the threats they face and their status as matters of national environmental significance
 - (b) highlight the conditions of this development approval regarding the design and operation of lighting (including within individual dwelling units and on balconies)
 - (c) outline measures to mitigate the impacts of lighting on turtle nesting and hatching sea finding behaviour, including the months of the year when external lighting should be minimised and suggested mitigation measures (e.g. turning off lights when not in use and closing blinds/curtains after dark during turtle nesting and hatching season (October – May)).
72. All clauses and by-laws of the proposed Community Management Statement must accord with the requirements of this development approval. In particular, the Community Management Statement must include a clause requiring:
- (a) the body corporate for the development retain a copy of the endorsed resident turtle information package that is prepared in accordance with the Turtle conditions of this notice
 - (b) that a copy of the endorsed resident turtle information package be provided to each unit owner (including to the new owner/s each time a unit is sold)
 - (c) that a copy of the endorsed resident turtle information package is prominently displayed in the communal area at all times and available for reading by residents and visitors.

Land Rehabilitation

73. The land area located east of the development (Buddina Foreshore Reserve) identified on the Referenced Revegetation Area Plan must be rehabilitated and revegetated in accordance with an Operational Works approval and must include the removal of all weeds species listed in the following standards and legislation:
- (a) invasive plants listed in the *Biosecurity Act 2014*
 - (b) *Sunshine Coast Local Government Area Pest Management Plan 2012-2016*.

Fencing to Protected Land

74. Permanent fences must be constructed along the entire length of the site that fronts the Buddina Foreshore Reserve, beach accesses, beach front, and adjacent to the

coastal footpath generally in accordance with the Referenced Revegetation Area Plan. The fences must be constructed in accordance with an Operational Works approval and must be in accordance with:

- (a) Figure 2: Coastal fences zones /Fence types/turtle movement and nesting zones of the Sunshine Coast Open Space Landscape Infrastructure Manual.

REFERRAL AGENCIES

Not applicable.

DEVELOPMENT PLANS

The following plans are Approved Plans for the development:

Approved Plans

Plan No.	Rev.	Plan Name	Date
DA 1.09	P15	<i>Site Plan</i> , prepared by OGE Group	6/9/19
DA 2.2	P15	<i>Basement</i> , prepared by OGE Group	6/9/19
DA 2.3	P15	<i>Level 01</i> , prepared by OGE Group	6/9/19
DA 2.4	P15	<i>Level 02</i> , prepared by OGE Group	6/9/19
DA 2.5	P15	<i>Level 03</i> , prepared by OGE Group	6/9/19
DA 2.6	P15	<i>Level 04-06</i> , prepared by OGE Group	6/9/19
DA 2.7	P15	<i>Level 07 (Penthouse)</i> , prepared by OGE Group	6/9/19
DA 2.8	P15	<i>Level 08 (Mezzanine)</i> , prepared by OGE Group	6/9/19
DA 2.9	P15	<i>Roof</i> , prepared by OGE Group	6/9/19
DA 3.2	P15	<i>Unit Type Plans A1 – 3 Bed</i> , prepared by OGE Group	6/9/19
DA 3.3	P15	<i>Unit Type Plans A2 – 3 Bed</i> , prepared by OGE Group	6/9/19
DA 3.4	P15	<i>Unit Type Plans B – 3 Bed</i> , prepared by OGE Group	6/9/19
DA 3.5	P15	<i>Unit Type Plans C1 – 3 Bed</i> , prepared by OGE Group	6/9/19
DA 3.6	P15	<i>Unit Type Plans C2 – 3 Bed</i> , prepared by OGE Group	6/9/19
DA 3.7	P15	<i>Unit Type Plans C4 – 3 Bed</i> , prepared by OGE Group	6/9/19
DA 3.8	P15	<i>Unit Type Plans D – 3 Bed</i> , prepared by OGE Group	6/9/19
DA 3.9	P15	<i>Unit Type Plans E – 3 Bed</i> , prepared by OGE Group	6/9/19
DA 3.10	P15	<i>Unit Type Plans F1 – 3 Bed</i> , prepared by OGE Group	6/9/19
DA 3.11	P15	<i>Unit Type Plans F2 – 3 Bed</i> , prepared by OGE Group	6/9/19
DA 4.02	P15	<i>North Elevation</i> , prepared by OGE Group	6/9/19
DA 4.03	P15	<i>East Elevations</i> , prepared by OGE Group	6/9/19
DA 4.04	P15	<i>South Elevation</i> , prepared by OGE Group	6/9/19
DA 4.05	P15	<i>West Elevation</i> , prepared by OGE Group	6/9/19
DA 5.02	P15	<i>Section A</i> , prepared by OGE Group	6/9/19
DA 5.03	P15	<i>Section B</i> , prepared by OGE Group	6/9/19
DA 5.04	P15	<i>Section C</i> , prepared by OGE Group	6/9/19
DA 5.05	P15	<i>Section D</i> , prepared by OGE Group	6/9/19

REFERENCED DOCUMENTS

The following documents are referenced in the assessment manager conditions:

Referenced Documents

Document No.	Rev.	Document Name	Date
J000790-001-R	0	<i>Geotechnical & Acid Sulfate Soils Investigation Report</i> , prepared by Core Consultants	December 2018
Stormwater Management Report	C	<i>Stormwater Management Report</i> , prepared by Westera Partners	6.12.18
1180R1	0	<i>Environmental Noise Assessment</i> , Multi Residential Development, prepared by RoadPro Acoustics	30 November 2018
19117269-001	0	<i>Buddina Beach Turtle Impact Assessment</i> , prepared by Golder	March 2019
19117269-002	0	<i>Buddina Beach Significant Species Management Plan</i> , prepared by Golder	26/03/19
N/A	V2	<i>Lighting Concept</i> , prepared by Rubidium Light	March 2019
		<i>Revegetation Area Plan</i> , prepared by Sunshine Coast Council	6/9/2019

ADVISORY NOTES

The following notes are included for guidance and information purposes only and do not form part of the assessment manager conditions:

PLANNING

Equitable Access and Facilities

- The plans for the proposed building work have NOT been assessed for compliance with the requirements of the *National Construction Code - Building Code of Australia (Volume 1)* as they relate to people with disabilities. Your attention is also directed to the fact that in addition to the requirements of the National Construction Code as they relate to people with disabilities, one or more of the following may impact on the proposed building work:
 - the Disability Discrimination Act 1992 (Commonwealth)*
 - the Anti-Discrimination Act 1991 (Queensland)*
 - the Disability (Access to Premises – Buildings) Standards.*

Aboriginal Cultural Heritage Act 2003

- There may be a requirement to establish a Cultural Heritage Management Plan and/or obtain approvals pursuant to the *Aboriginal Cultural Heritage Act 2003*.

The *ACH Act* establishes a cultural heritage duty of care which provides that: “A person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage.” It is an offence to fail to comply with the duty of care. Substantial monetary penalties may apply to individuals or corporations breaching this duty of care. Injunctions may also be issued by the Land Court, and the Minister administering the Act can also issue stop orders for an activity that is harming or is likely to harm Aboriginal cultural

heritage or the cultural heritage value of Aboriginal cultural heritage.

You should contact the Cultural Heritage Unit on 1300 378 401 to discuss any obligations under the *ACH Act*.

Easements and Future Works over External Land

3. Should the conditions of this development approval require easements or works to be undertaken over land external to the site, council recommends that easement and works requirements are negotiated with the relevant land owner/s prior to advancing to detailed design stages of the development to avoid unexpected costs or delays. To discuss easement or works requirements over council owned or controlled land, please liaise directly with council's Property Management Unit and note that compensation may be payable.

Other Laws and Requirements

4. This approval relates to development requiring approval under the *Planning Act 2016* only. It is the applicant's responsibility to obtain any other necessary approvals, licences or permits required under State and Commonwealth legislation or council local law, prior to carrying out the development. Information with respect to other council approvals, licences or permits may be found on the Sunshine Coast Council website (www.sunshinecoast.qld.gov.au). For information about State and Commonwealth requirements please consult with these agencies directly.

Restriction on Building Approval until all other Permits are Effective

5. Pursuant to the statutory provisions of the Building Act, a private building certifier must not grant any building development approval related to this development until all necessary development permits for the development (including, for example, operational works approvals) have taken effect under the *Planning Act 2016*. This legislative requirement is critical to ensure that a private certifier's approval about a component of the development is consistent with the assessment managers' decisions on other aspects of the overall development.

Infrastructure Charges

6. Infrastructure charges, determined in accordance with council's Infrastructure Charges Resolution, apply to this development approval. The Infrastructure Charges Notice, for council's proportion of the infrastructure charge, has been issued. Unitywater may issue an infrastructure charges notice for their proportion of the infrastructure charge.

Development Compliance Inspection

7. Prior to the commencement of the use, please contact council's Development Audit & Response unit to arrange a development compliance inspection.

Nature and Extent of Approved Development

8. The assessment of this development was based on the proposed Corner Store having a gross floor area of 81.6m², as depicted on the Approved Plans. Any change in use of this space, or increase in floor area above 100m² will trigger the need for further Council approval.

Resubmission of Amended Plans Required

9. Deleted.

Building Format Plan

10. In accordance with the *Planning Act 2016*, any proposal to stage the titling arrangements of the development such that a building format plan is registered with a balance lot for future development will first require a development permit for Reconfiguring a Lot be obtained from council.

Use of Premises for Short-Term Accommodation

11. Use of the premises for the purpose of short-term holiday letting and visitor accommodation may require a development permit to be obtained from council in accordance with the applicable planning scheme and Queensland planning legislation in effect at the time of conducting the activity. Under the current Sunshine Coast Planning Scheme 2014, visitor holiday letting is defined as *short-term* accommodation and requires a development permit to be obtained from council. Information with respect to the development applications may be found on the Sunshine Coast Council website (www.sunshinecoast.qld.gov.au).

ENGINEERING

Qualified Person

12. For the purpose of certifying flood levels for the development, a qualified person is considered to be a Registered Professional Engineer of Queensland (RPEQ) experienced in hydraulics and hydrology.

Pre-Design Meeting Services

13. Council offers a free pre-design meeting service specifically for operational works applications. Applicants are encouraged to utilise this service prior to the submission of their operational works application to ensure that their application is not held up by avoidable design issues. It is anticipated that the pre-design meeting will ultimately assist in fast tracking the assessment of an operational works application once it is lodged with council as a result of design and application issues being resolved or substantially resolved prior to the application being submitted. For more information on this service or to book a pre-design meeting please visit council's website or contact (07) 5475 PLAN.

Building and Construction Industry (Portable Long Service Leave) Levy ("QLeave")

14. The QLeave levy must be paid prior to the issue of a Development Permit for Operational Works where required. Council will not be able to issue a development approval for operational works without receipt of details that the Levy has been paid. QLeave contact: 1800 803 491 (free call) or (07) 3212 6844.

Co-ordination of Operational Works

15. Additional application fees apply to operational work applications where the different aspects of the works are lodged separately. Significant savings in application fees will result if all works are lodged in a single application.

Unitywater - Water and Sewerage Services

16. Where water and sewerage infrastructure is proposed to be constructed within an existing road reserve controlled by council, a further consent approval for the alignment and extent of works will be required under Section 75 of the *Local Government Act 2009*. This consent must be obtained prior to any water and sewerage related works occurring within the road reserve. The consent request must be submitted in the approved form to Council's Infrastructure Services Department.
17. Where water and sewerage infrastructure is proposed to be constructed within an existing park or reserve controlled or owned by council, consent approval from council, as owner of the land, is required for the alignment and extent of works. This consent must be obtained prior to any water and sewerage related works occurring within the park or reserve. The consent request must be submitted in the approved form to council's Land Management Unit.

Preparation of a Preliminary Construction Management Plan

18. A preliminary construction management plan must be submitted with the Operational Works application and must address the following:
 - (a) traffic management during all aspects of the construction phase including:
 - (i) a traffic management control plan in accordance with the *Manual of Uniform Traffic Control Devices (MUTCD)* detailing all temporary signage and traffic control measures prior to construction
 - (ii) maintenance of safe pedestrian access for the areas affected by the works during and after daily construction has ceased
 - (iii) proposed fencing to the site during the construction phase of the development
 - (iv) provision for worker car parking
 - (b) maintenance and protection of water quality and existing drainage lines through the construction site, through the implementation of appropriate erosion and sediment control measures
 - (c) works programme identifying key components of the works and their respective durations
 - (d) establishment of a communication protocol with the general public, adjoining owners, emergency services and local businesses to advise of agreed construction times, impacts on traffic, services and other relevant issues
 - (e) identification of complaint management procedures including:
 - (i) contact details for the on-site manager
 - (ii) dispute resolution procedures
 - (f) details on the location of external spoil sites, the haulage route, type of vehicle to be utilised during earthworks operations and frequency of usage. NOTE: any damage to the existing road system as a result of haulage operations shall be fully repaired at the applicant's expense

It is acknowledged that the preliminary construction management plan will be a draft document requiring finalisation upon appointment of the principal contractor employed to construct the works and a final document will be required to be submitted at the pre-start meeting for the project.

LANDSCAPE

Qualified Person

19. For the purpose of preparing a landscape plan, a qualified person is considered to be a landscape architect, landscape designer and/or horticulturist with a minimum of three (3) years current experience in the field of landscape design.
20. For the purpose of preparing an arborist report, a qualified person is considered to be a person with either:
 - (a) ISA certification; or
 - (b) a Diploma of Arboriculture in addition to a minimum of three (3) years current experience in the field of arboriculture.

ENVIRONMENT

Qualified Person

21. For the purpose of certifying waste chute construction for the development, a qualified person is considered to be a Registered Professional Engineer of Queensland (RPEQ).
22. For the purpose of certifying acoustic matters or treatments for the development, a qualified person is considered to be either:
 - (a) a Registered Professional Engineer of Queensland (RPEQ);
 - (b) an environmental consultant with a minimum of three (3) years current experience in the field of acoustics.
23. For the purpose of certifying lighting devices for the development, a qualified person is considered to be either:
 - (a) a Registered Professional Engineer of Queensland (RPEQ);
 - (b) an environmental or electrical design consultant with a minimum of three (3) years current experience in the field of outdoor lighting.
24. For the purpose of preparing an acid sulfate soil and groundwater management plan, a qualified person is considered to be either:
 - (a) a Registered Professional Engineer of Queensland (RPEQ) or;
 - (b) a soil scientist with a minimum of five (5) years current experience in the field of acid sulfate soils.

Fixed Plant and Equipment

25. For the building design and construction of the approved use, the direction of a qualified acoustic consultant will ensure the installation of fixed plant and equipment (eg air-conditioning condenser units, refrigeration plant and mechanical exhaust discharge) is suitably located and/or shielded to avoid nuisance being caused by any noise from the plant and equipment.

Waste Management On Property Servicing of Bulk Bins

26. The conditions of this approval contain detailed requirements regarding waste management storage and collection areas. Council is seeking to minimise existing long term problems associated with servicing of waste containers, specifically issues associated with bulk bins standing on road reserves, traffic issues, and Workplace Health & Safety considerations for the cleansing contractor. The purpose of the bin storage embayment at the site frontage within the property boundary is to reflect:

- (a) the minimum requirements that must be achieved so as to conduct safe, efficient and unobstructed On-Property collection of bulk bins in accordance with the *Waste management code*, and
- (b) the minimisation of Workplace Health & Safety issues associated with manual handling of bulk bins by the cleansing contractor.

Trade Waste

27. Trade waste generated on-site is subject to Unitywater's Trade Waste Policy. The applicant is advised to contact Unitywater's Trade Waste Officer to determine trade waste requirements.

ECOLOGY

Light surveys

28. The only instruments that can be used in a field setting to measure sky glow on the nesting beach are, a hand held Sky Quality Meter (SQM, Unihedron) or digital cameras based technology. While both measure sky glow at low detection limits the digital camera approach provides the more detailed and reliable data, using CCD technology with a fish eye lens to capture whole-of-sky, biologically meaningful light emissions. This technology quantifies light in magnitudes/arcsec², a unit of measurement that is emerging as a global standard (Bara 2017; Jerchow et al. 2017; Zotti 2007; Aube 2016; Falchi et al. 2016; Pendoley et al. 2015; Kyba et al. 2011; Falchi 2011; Rabaza et al. 2010; Kollath 2010). It is noted that Council has engaged Pendoley Environmental to undertake assessment of existing sky glow values for the area and the results of this study should be referred to for further light measurements.
29. For the purpose of certifying energy performance matters or energy efficiency appliances, techniques or devices for the development, a qualified person is considered to be either:
- (a) a Registered Professional Engineer of Queensland (RPEQ) with full ABSA Accreditation Certificate IV's in NatHERS Assessments and a minimum of three (3) years current experience in the field of Energy Efficiency Assessment and Certification; or
 - (b) a Registered Professional Energy Efficiency consultant with full ABSA Accreditation Certificate IV's in NatHERS Assessments and a minimum of three (3) years current experience in the field of Energy Efficiency Assessment and Certification.

PROPERTY NOTES

Not applicable.

VARIATION APPROVAL

Not applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

Not applicable.

SUBMISSIONS

Not applicable.

INCONSISTENCY WITH EARLIER APPROVAL

Not applicable.

ENVIRONMENTAL AUTHORITY

Not applicable.

RIGHTS OF APPEAL

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

OTHER DETAILS

If you wish to obtain more information about council's decision, please refer to the approval package for the application on Council's Development.i webpage at www.sunshinecoast.qld.gov.au, using the application number referenced herein.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 of the *Planning Act 2016* 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.

(Refer to Schedule 1 of the *Planning Act 2016*)

- (2) An appellant may start an appeal within the appeal period.
- (3) The **appeal period** is –
 - (a) for an appeal by a building advisory agency – 10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal – at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises – 20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice – 20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given – 30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for any other appeal – 20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note –

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

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt. It is declared that an appeal against an infrastructure charges notice must not be about-
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund-
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that-
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to –
 - (a) the respondent for the appeal ; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, table 1, item 1 – each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2 – each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
 - (f) for an appeal to the P&E Court – the chief executive; and
 - (g) for an appeal to a tribunal under another Act – any other person who the registrar considers appropriate.
- (4) The **service period** is –

- (a) if a submitter or advice agency started the appeal in the P&E Court – 2 business days after the appeal has started; or
 - (b) otherwise – 10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section –
 - decision* includes-
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or 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, a tribunal or another entity; and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a 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 the rules of the P&E Court.