



# Decision Notice Approval

Planning Act Form 1 (version 1.2 effective 7 February 2020) made under section 282 of the Planning Act 2016 for a decision notice (approval) under section 63(2) of the Planning Act 2016

Application number:	D/21-2022	Contact:	Aidan Murray
Notice Date:	14 December 2022	Contact Number:	07 4936 8099

## APPLICANT DETAILS

Name:	<b>Puget Sound Pty Ltd</b>		
Postal address:	<b>C/- Adams + Sparkes Town Planning PO Box 1000 BUDDINA QLD 4575</b>		
Phone no:	07 5231 3200	Mobile no:	N/A
Email:	<a href="mailto:admin@astpd.com.au">admin@astpd.com.au</a>		

I acknowledge receipt of the above application on 2 March 2022 and confirm the following:

## DEVELOPMENT APPROVAL

**Development Permit for a Material Change of Use for two (2) Food and Drink Outlets and Operational Works for Advertising Devices (3 x Freestanding Pylon Signs and 4 x Wall Signs)**

## PROPERTY DESCRIPTION

Street address:	87 and 93 Fitzroy Street, Rockhampton City
Real property description:	Lot 34 on SP107136, Lot 2 on RP603146, Lot 2 on RP848798 and Lots 1 and 2 on RP604178, Parish of Rockhampton

Dear Puget Sound Pty Ltd

I advise that, on 9 December 2022, the above development application was:

approved in full with conditions\* (refer to the conditions contained in **Attachment 1**)

\*Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.

## 1. DETAILS OF THE APPROVAL

The following approvals are given:

	Development Permit	Preliminary Approval
Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use - Operational works	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## 2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

## 3. FURTHER DEVELOPMENT PERMITS REQUIRED

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

Type of development permit required	Subject of the required development permit
Operational Works	<i>Road Works;</i> <i>Access and Parking Works;</i> <i>Sewerage Works; and</i> <i>Roof and Allotment Drainage Works.</i>
Building Works	<i>Demolition Works; and</i> <i>Building Works</i>
Plumbing and Drainage Works	

#### 4. REFERRAL AGENCIES

The following Referral Agencies were activated by this application.

For an application involving	Name of agency	Role of Agency	Contact Details
<b>STATE TRANSPORT INFRASTRUCTURE (State Transport Corridors and Future State Transport Corridors)</b>			
<i>Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 – Material change of use of premises near a State transport corridor or that is a future State transport corridor</i>			
Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorising instrument, if all or part of the premises— (a) are within 25m of a State transport corridor; or (b) are a future State transport corridor; or (c) are— (i) adjacent to a road that intersects with a State-controlled road; and (ii) within 100m of the intersection	The chief executive of the department in which the <i>Planning Act 2016</i> is administered:  State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department)	Concurrence	<u>In person:</u> Level 2, 209 Bolsover Street, Rockhampton City <u>Online lodgement using MyDAS2:</u> <a href="https://prod2.dev-assess.qld.gov.au/suite/">https://prod2.dev-assess.qld.gov.au/suite/</a> <u>Email:</u> <a href="mailto:RockhamptonSARA@dsdi.lgp.qd.gov.au">RockhamptonSARA@dsdi.lgp.qd.gov.au</a> <u>Postal:</u> PO Box 113 Rockhampton Qld 4700

#### 5. THE APPROVED PLANS

The approved development must be completed and maintained generally in accordance with the approved drawings and documents:

<u>Plan / Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version/ Issue</u>
Cover Page	Verve Building Design Co	5 October 2022	21185 DA00	Rev C
Existing Site Plan	Verve Building Design Co.	17 May 2022	21185 DA01	Rev B

Proposed Site Plan	Verve Building Design Co.	5 October 2022	21185 DA02	Rev G
Building Elevations & Perspectives	Verve Building Design Co.	5 October 2022	21185 DA03	Rev C
Building Elevations & Perspectives	Verve Building Design Co.	5 October 2022	21185 DA04	Rev C
Building Elevations & Perspectives	Verve Building Design Co.	5 October 2022	21185 DA05	Rev C
Building Perspectives	Verve Building Design Co.	5 October 2022	21185 DA06	Rev C
Tenancy 1 – Seating Area Plan	Verve Building Design Co.	1 March 2022	21185 DA07	Rev A
Tenancy 2 – Seating Area Plan	Verve Building Design Co.	1 March 2022	21185 DA08	Rev A
Site-based Stormwater Management Plan	Premise	1 June 2022	21185 MIS-1019/R02	Rev C
Vehicle Swept Path Analysis	TTM Consulting Pty Ltd	15 October 2022	21BRT0461-10 (Sheets 1 to 5)	Rev. B
Preliminary Signage & Pavement Marking Plan	TTM Consulting Pty Ltd	3 August 2022	21BRT0461-11	Rev A
Proposed Upgrade Concept Plan	TTM Consulting Pty Ltd	3 August 2022	21BRT0461-12	Rev B
Landscape Concept Plan	Andrew Gold Landscape Architecture	18 October 2022	22.107 (Sheet 1)	Issue B
Proposed Planting Schedule	Andrew Gold Landscape Architecture	18 October 2022	22.107 (Sheets 2 and 3)	Issue B
Signage Plan	Verve Building Design Co.	13 October 2022	21185 Z010	C
External Signage Details – T1	Verve Building Design Co.	18 May 2022	21185 Z011	B
External Signage Details – T1	Verve Building Design Co.	18 May 2022	21185 Z012	B
External Signage Details – T2	Verve Building Design Co.	17 May 2022	21185 Z013	A
External Signage Details – T2	Verve Building Design Co.	17 May 2022	21185 Z014	A

**6. CURRENCY PERIOD FOR THE APPROVAL (s.85 of the *Planning Act*)**

The standard currency periods stated in section 85 of *Planning Act 2016* apply to each aspect of development in this approval, if not stated in the conditions of approval attached.

The development approval lapses at the end of the following periods:

- (a) For any part of the development approval relating to a material change of use – if the change of use does not happen within six (6) years after the approval starts to have effect; and
- (b) For any other part of the development approval – if the development does not substantially start within six (6) years after the approval starts to have effect.

## 7. STATEMENT OF REASONS

<b>Description of the development</b>	Material Change of Use for Two (2) Food and Drink Outlets and Operational Works for Advertising Devices (3x Freestanding Pylon Signs and 4x Wall Signs)	
<b>Reasons for Decision</b>	Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity.	
<b>Assessment Benchmarks</b>	The development was assessed against the following assessment benchmarks: <ul style="list-style-type: none"> <li>• Specialised Centre Zone Code;</li> <li>• Access, Parking and Transport Code;</li> <li>• Landscape Code;</li> <li>• Stormwater Management Code;</li> <li>• Waste Management Code;</li> <li>• Water and Sewer Code; and</li> <li>• Airport Environs Overlay Code.</li> </ul>	
<b>Compliance with assessment benchmarks</b>	The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exceptions listed below.	
	<b>Assessment Benchmark</b>	<b>Reasons for the approval despite non-compliance with benchmark</b>
	Specialised Centre Zone Code PO4	The development does not comply with Acceptable Outcome (AO) 4.1 as the building setbacks to George Street are 14.85 metres, which is greater than six (6) metres or twenty (20) percent of the setback of the adjoining accommodation building. The increased setback allows for suitable landscaping to be established along the road frontages without compromising internal vehicle manoeuvring areas. This contributes to an attractive streetscape, improving the existing situation and achieving the Performance Outcome (PO) 4, and is supported by reasonable and relevant landscaping conditions.
	Specialised Centre Zone Code PO5	The development does not comply with Acceptable Outcome (AO) 5.1 as the landscape strip along the frontage with Fitzroy Street (state-controlled road) is 0.8 metres rather than the 1.5 metres prescribed. The site area immediately adjoining the landscaping along Fitzroy Street is proposed to be used for drive-thru vehicle traffic. The drive-thru area is screened by a trellis structure which allows for vertical

	planting. These measures will mitigate and soften the visual impacts of the highway traffic and proposed commercial uses. Therefore, the development is considered to comply Performance Outcome (PO) 5.
Specialised Centre Zone Code PO14	The development does not comply with Acceptable Outcome (AO) 14.2 which states that buildings on corner sites should provide active frontages with the main entrance addressing the principal street or street corner. Both Fitzroy Street and George Street are state-controlled roads, with George Street being the higher order road (highway). Despite the building entrances not directly addressing the street frontages, there are design elements that assist in accentuating their location. The primary vehicle and pedestrian accesses are via George Street with the internal directional and advertising signage directing customers toward the building entrance for each tenancy. The frontage of Tenancy 1 to Fitzroy Street is enhanced with vertical trellis planting and variation in the building cladding to improve visual amenity. The development is considered to generally achieve the intent of Performance (PO) 14.
Access, Parking and Transport Code PO2	The development may not comply with Acceptable Outcome (AO) 2.1 as the proposed access driveway is located close to existing infrastructure which may require relocation or modification as a result of the development. Detailed proposal plans for works to be undertaken will be required at Operational Works stage of the development. Should any relocation or modification of existing infrastructure be required, this can be addressed as part of the Operational Works application to ensure no disruption to infrastructure occurs, thereby complying with Performance Outcome PO2.
Access, Parking and Transport Code PO14	<p>The development does not comply with Acceptable Outcome AO14.2 which prescribes that “No direct property access is gained to a highway, main road, urban arterial or sub arterial road as defined in SC6.15 — Road infrastructure and hierarchy planning scheme policy other than via a service road or a joint access arrangement with other sites.” The proposal is for access via a highway but does not involve a service road. The development involves co-location of two (2) food and drink outlet tenancies which share joint access arrangements. George Street is a state-controlled road and has been assessed by the asset owner (Department of Transport and Main Roads) as part of a concurrence referral. Reasonable and relevant conditions have been applied within the Referral Agency Response attached to this Decision Notice.</p> <p>It is acknowledged the development introduces greater than 100 vehicle movements per day to Campbell Lane (Urban Access Place), which conflicts with Acceptable Outcome (AO) 14.3. Council officers have assessed the application based on the Traffic Impact Assessment (TIA), other statements and plans provided by a traffic engineer. Council</p>

		officers have determined that an upgrade to Campbell Lane is required as a result of the development, in accordance with <i>Capricorn Municipal Development Guidelines</i> . Reasonable and relevant conditions have been applied to the development to ensure there are no resulting negative impacts on the safety, operation and function of the laneway and Council's road network, thereby complying with Performance Outcome (PO) 14.
	Stormwater Management Code PO3	<p>The development conflicts with Acceptable Outcome (AO) 3.2 as the proposed stormwater does not strictly comply with the <i>State Planning Policy – Guideline – Water</i>. A lack of existing underground infrastructure in the vicinity of the development and the relative flatness of the site and surrounds makes it difficult to incorporate any additional detention provisions other than the extra capacity afforded by the proposed roof water tanks and swales.</p> <p>The submitted Stormwater Management Plan concludes that despite the lack of underground infrastructure and given the minor increases in runoff, and capacity of the roadway to convey the increased runoff, it is not expected that the development will cause an actionable nuisance to adjacent or downstream properties. Whilst the proposed development will result in additional runoff from the site, Council is satisfied that the Developer has made all reasonable attempts to mitigate the increased runoff. The proposal minimises risk to people and property and provides for safe access and maintenance, as much as practicable for the site. The development therefore complies with the Performance Outcome (PO) 3.</p>
	Stormwater Management Code PO15 PO16	The development does not comply with Acceptable Outcomes (AO) 15.1 and 16.1 as the proposed stormwater quality measures do not meet the reduction targets outlined in the <i>State Planning Policy – Guideline – Water Quality</i> . The flat terrain and lack of stormwater infrastructure in the vicinity does not support incorporating any proprietary quality products as the outlets cannot be directed effectively. The Applicant has proposed rainwater tanks and some vegetated swales along the boundaries of the site which will provide some pollutant reduction. Given the site constraints, Council is satisfied that the Developer has made all reasonable attempts to achieve effective stormwater design objectives and minimise the entry and transport of contaminants into stormwater. The development is therefore considered to be compliant with the Performance Outcomes (PO) 15 and 16.
	Advertising Devices Code PO1	<p>Some of the proposed signage (advertising devices) associated with the development conflicts with some aspects of Acceptable Outcome (AO) 1.2 and the Sign Specific Outcomes prescribed by Table 9.3.2.3.2. These conflicts are:</p> <ul style="list-style-type: none"> <li>• The proposal includes three (3) freestanding signs (pylon signs) when outcome specifies only one (1)</li> </ul>

		<p>freestanding sign at any one (1) premises.</p> <ul style="list-style-type: none"> <li>• The proposed freestanding signs (pylon signs) are located within 100 metres of other freestanding signs on other premises along the southbound and westbound directions of travel.</li> <li>• Two (2) of the proposed freestanding signs (first on George Street and second on corner of George Street and Fitzroy Street) are twelve (12) metres tall and therefore exceed the prescribed maximum height of ten (10) metres.</li> <li>• The three (3) proposed freestanding signs (pylon signs) are not setback the required minimum distance i.e. three (3) metres or half the height of the sign, whichever is greater.</li> <li>• One wall sign for Tenancy 1 and three (3) wall signs for Tenancy 2 project above the parapet of their respective walls.</li> </ul> <p>Despite these conflicts, the proposed advertising devices are considered to generally be consistent with and achieve Performance Outcome (PO) 1, in that:</p> <ul style="list-style-type: none"> <li>• The proposed signage seeks to capitalise on the high potential exposure to highway traffic. The signs are generally of a size and scale that is consistent with the visual amenity and character of other commercial signage within the immediate vicinity and local area.</li> <li>• The advertising devices will not visually dominate or adversely impact on the amenity of the premises or streetscape.</li> <li>• The three (3) freestanding signs (pylon signs) are located within landscaping areas so as to not impede vehicle or pedestrian movements, interfere with sight lines or reduce safety levels.</li> <li>• The advertising devices are designed with durable and weather resistant materials to integrate with other design elements of the development.</li> <li>• The proposed signage caters for both tenancies and do not result in proliferation of unnecessary advertising.</li> </ul>
<p><b>Matters prescribed by regulation</b></p>	<ul style="list-style-type: none"> <li>• The <i>Rockhampton Region Planning Scheme 2015</i> (version 2.2); and</li> <li>• The common material, being the material submitted with the application.</li> </ul>	

## 8. APPEAL RIGHTS

The rights of an applicant to appeal to a tribunal or the Planning and Environment Court against a decision about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. There may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

### Appeal by an applicant

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal of all or part of the development application
- a provision of the development approval
- the decision to give a preliminary approval when a development permit was applied for
- a deemed refusal of the development application.

An applicant may also have a right to appeal to the Development tribunal. For more information, see schedule 1 of the *Planning Act 2016*.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 229 of the *Planning Act 2016*.

**Attachment 2** is an extract from the *Planning Act 2016* that sets out the applicant's appeal rights and the appeal rights of a submitter.

**9. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT**

This development approval takes effect:

- From the time the decision notice is given – if there is no submitter and the applicant does not appeal the decision to the court.


Or

- When the submitter's appeal period ends – if there is a submitter and the applicant does not appeal the decision to the court.

Or

- Subject to the decision of the court, when the appeal is finally decided – if an appeal is made to the court.

**10. ASSESSMENT MANAGER**

Name: <b>Amanda O'Mara</b> <b>COORDINATOR</b> <b>DEVELOPMENT ASSESSMENT</b>	Signature: 	Date: 14 December 2022
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C/C State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department) - [RockhamptonSARA@dsgilgp.qld.gov.au](mailto:RockhamptonSARA@dsgilgp.qld.gov.au)

**Attachment 1 – Conditions of the approval**

**Part 1 – Conditions imposed by the assessment manager** [Note: where a condition is imposed about infrastructure under Chapter 4 of the *Planning Act 2016*, the relevant provision of the Act under which this condition was imposed must be specified.]

**Part 2 – Conditions required by the referral agency response**

**Attachment 2—Extract on appeal rights**



- 1.0 ADMINISTRATION
- 1.1 The Developer and their employee, agent, contractor or invitee is responsible for ensuring compliance with the conditions of this development approval.
- 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions, works, or requirements of this development approval must be undertaken, completed, and be accompanied by a Compliance Certificate for any operational works required by this development approval:
- 1.3.1 to Council’s satisfaction;
  - 1.3.2 at no cost to Council; and
  - 1.3.3 prior to the commencement of the use,
- unless otherwise stated.
- 1.4 Infrastructure requirements of this development approval must be contributed to the relevant authorities, where applicable, at no cost to Council, prior to the commencement of the use, unless otherwise stated.
- 1.5 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
- 1.5.1 Operational Works:
    - (i) Road Works;
    - (ii) Access and Parking Works;
    - (iii) Sewerage Works; and
    - (iv) Roof and Allotment Drainage Works.
  - 1.5.2 Plumbing and Drainage Works; and
  - 1.5.3 Building Works:
    - (i) Demolition Works; and
    - (ii) Building Works.
- 1.6 All Development Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
- 1.7 All works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.
- 1.8 All engineering drawings/specifications, design and construction works must be in accordance with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.

1.9 Lot 34 on SP107136, Lot 2 on RP603146, Lot 2 on RP848798 and Lots 1 and 2 on RP604178 must be amalgamated and registered as one lot prior to the commencement of the use.

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 any condition of this development approval:

<u>Plan / Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version/ Issue</u>
Cover Page	Verve Building Design Co	5 October 2022	21185 DA00	Rev C
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Building Elevations & Perspectives	Verve Building Design Co.	5 October 2022	21185 DA04	Rev C
Building Elevations & Perspectives	Verve Building Design Co.	5 October 2022	21185 DA05	Rev C
Building Perspectives	Verve Building Design Co.	5 October 2022	21185 DA06	Rev C
Tenancy 1 – Seating Area Plan	Verve Building Design Co.	1 March 2022	21185 DA07	Rev A
Tenancy 2 – Seating Area Plan	Verve Building Design Co.	1 March 2022	21185 DA08	Rev A
Site-based Stormwater Management Plan	Premise	1 June 2022	21185 MIS-1019/R02	Rev C
Vehicle Swept Path Analysis	TTM Consulting Pty Ltd	15 October 2022	21BRT0461-10 (Sheets 1 to 5)	Rev. B
Preliminary Signage & Pavement Marking Plan	TTM Consulting Pty Ltd	3 August 2022	21BRT0461-11	Rev A
Proposed Upgrade Concept Plan	TTM Consulting Pty Ltd	3 August 2022	21BRT0461-12	Rev B

Landscape Concept Plan	Andrew Gold Landscape Architecture	18 October 2022	22.107 (Sheet 1)	Issue B
Proposed Planting Schedule	Andrew Gold Landscape Architecture	18 October 2022	22.107 (Sheets 2 and 3)	Issue B

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

### 3.0 ROAD WORKS

- 3.1 A Development Permit for Operational Works (road works) must be obtained prior to the commencement of any road works required by this development approval.
- 3.2 All road works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, relevant *Australian Standards* and *Austroroads Guidelines* and the provisions of a Development Permit for Operational Works (road works).
- 3.3 The Developer must upgrade Campbell Lane for the full frontage of the subject site. The upgrades must include new surfacing and associated underlying pavement material, as well as reinstating the central concrete invert.

**Note:** As an alternative to carrying out the upgrade works detailed in condition 3.3, the Developer may enter into an Infrastructure Agreement with Council.

- 3.4 The proposed pavement marking at the intersection of Campbell Lane and Denham Street must be configured such that the hold line is aligned with the kerb and channel in Denham Street with a continuity line aligning with the edge of the traffic lane. Consideration must be given to the safe passage of pedestrians within Denham Street crossing Campbell Lane (e.g. provision of a mirror). Details of these works must be submitted at the Operational Works stage.
- 3.5 All pathways and access ramps must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*.
- 3.6 Traffic signs and pavement markings must be provided in accordance with the *Manual of Uniform Traffic Control Devices – Queensland*. Where necessary, existing traffic signs and pavement markings must be modified in accordance with the *Manual of Uniform Traffic Control Devices – Queensland*.

### 4.0 ACCESS AND PARKING WORKS

- 4.1 A Development Permit for Operational Works (access and parking works) must be obtained prior to the commencement of any access and parking works on the development site.
- 4.2 All access and parking works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, *Australian Standard AS2890 "Parking facilities"* and the provisions of a Development Permit for Operational Works (access and parking works).
- 4.3 All car parking and access areas must be paved or sealed to Council's satisfaction. Design and construction must be in accordance with the provisions of a Development Permit for Operational Works (access and parking works).

- 4.4 Service and delivery vehicles, including refuse collection vehicles must be via George Street only.
- 4.5 Direct vehicle access to the development from Campbell Lane is prohibited. Egress only onto Campbell Lane is permitted.
- 4.6 Any redundant vehicular crossovers must be replaced by Council standard kerb and channel.
- 4.7 All vehicles must ingress and egress the development in a forward gear.
- 4.8 A minimum of twenty-three (23) parking spaces must be provided on-site.
- 4.9 Universal access parking spaces must be provided on-site in accordance with *Australian Standard AS2890.6 "Parking facilities - Off-street parking for people with disabilities"*.
- 4.10 Parking spaces must be line-marked in accordance with the approved Site Plan (refer to condition 2.1) and in accordance with the *Australian Standard AS2890 "Parking facilities"* and the provisions of a Development Permit for Operational Works (access and parking works).
- 4.11 All vehicle operations associated with the development must be directed by suitable directional, informative, regulatory or warning signs in accordance with *Australian Standard AS1742.1 "Manual of uniform traffic control devices"* and *Australian Standard AS2890.1 "Parking facilities – Off-street car parking"*.
- 4.12 Road signage and pavement markings must be installed in accordance with *Australian Standard AS1742.1 "Manual of uniform traffic control devices"*.
- 4.13 All vehicle operation areas must be illuminated in accordance with the requirements of *Australian Standard AS1158 "Lighting for roads and public spaces"*.
- 4.14 All internal pedestrian pathways must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*.
- 4.15 Bicycle parking facilities must be provided in accordance with SC6.4 — *Bicycle network planning scheme policy*. The bicycle parking facilities must be located so as encourage casual surveillance and user safety.
- 5.0 SEWERAGE WORKS
- 5.1 A Development Permit for Operational Works (sewerage works) must be obtained prior to the commencement of any sewerage works on the development site.
- 5.2 All sewerage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act 2008, Plumbing and Drainage Act 2018* and the provisions of a Development Permit for Operational Works (sewerage works).
- 5.3 The existing sewerage infrastructure within the site must be decommissioned and removed. A new access chamber located adjacent to the southern boundary of the development site is to be provided over the existing main. A new point of connection for the development site will be provided from this access chamber. All other works internal to the site will be privately owned and maintained.
- 5.4 The finished sewerage access chamber surface must be at a sufficient level to avoid ponding of stormwater above the top of the chamber. A heavy duty trafficable lid must be provided where the access chamber is located within the trafficable area.

5.5 Easements must be provided over all sewerage infrastructure located within private property. The easement location(s) and width(s) must be in accordance with the requirements of the *Capricorn Municipal Development Guidelines*.

#### 6.0 PLUMBING AND DRAINAGE WORKS

6.1 A Development Permit for Plumbing and Drainage Works must be obtained for the removal and/or demolition of any existing structure on the development site.

6.2 All internal plumbing and drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, *Water Supply (Safety and Reliability) Act 2008*, *Plumbing and Drainage Act 2018*, Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.

6.3 The development must be connected to Council's reticulated sewerage and water networks.

6.4 Adequate domestic and firefighting protection must be provided to the development and must be certified by a hydraulic engineer or other suitably qualified person.

6.5 The proposed development must be provided with a master meter at the development site boundary and sub-meters for each sole occupancy building in accordance with the *Queensland Plumbing and Drainage Code* and Council's Sub-metering Policy.

6.6 All internal plumbing and sanitary drainage works must be completely independent for each tenancy.

6.7 Alteration, disconnection or relocation of internal plumbing and sanitary drainage works associated with the existing building must be in accordance with regulated work under the *Plumbing and Drainage Act 2018* and Council's Plumbing and Drainage Policies.

#### 7.0 ROOF AND ALLOTMENT DRAINAGE WORKS

7.1 A Development Permit for Operational Works (roof and allotment drainage works) must be obtained prior to the commencement of any drainage works on the development site.

7.2 All roof and allotment drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Queensland Urban Drainage Manual*, *Capricorn Municipal Development Guidelines*, sound engineering practice and the provisions of a Development Permit for Operational Works (roof and allotment drainage works).

7.3 All roof and allotment runoff from the development must be directed to a lawful point of discharge and must not restrict, impair or change the natural flow of runoff water or cause a nuisance to surrounding land or infrastructure.

#### 8.0 SITE WORKS

8.1 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 surrounding land or infrastructure.

#### 9.0 BUILDING WORKS

9.1 A Development Permit for Building Works assessable under the Building Assessment Provisions must be obtained prior to the commencement of any building works on the site.

- 9.2 The existing buildings on the subject land must be demolished and a Development Permit for Building Works (demolition) must be obtained prior to the commencement of demolition works on the development site.
- 9.3 All external elements, such as air conditioners must be adequately screened, to Council's satisfaction, from public view and so as not to cause a noise nuisance to the adjoining short term accommodation (motel) units.
- 9.4 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the development site and shielded so as not to cause glare or other nuisance to nearby residents and motorists. Night lighting must be designed, constructed and operated in accordance with *Australian Standard AS4282 "Control of the obtrusive effects of outdoor lighting"*.
- 9.5 Impervious paved waste storage area/s must be provided in accordance with the approved plans (refer to condition 2.1) and the *Environmental Protection Regulation 2019* and must be:
- 9.5.1 designed and located so as not to cause a nuisance to neighbouring properties;
  - 9.5.2 surrounded by at least a 1.8 metre high screen fence that obstructs from view the contents of the waste storage area by any member of the public from any public place;
  - 9.5.3 of a sufficient size to accommodate commercial type bins that will be serviced by a commercial contractor plus clearances around the bins for manoeuvring and cleaning;
  - 9.5.4 setback a minimum of two (2) metres from any road frontage; and
  - 9.5.5 provided with a suitable hosecock and hoses at the refuse container area, and washdown must be drained to the sewer in accordance with the Sewerage Trade Waste provisions and the *Plumbing and Drainage Act 2018*.
- As an alternative to a washdown facility, a fully contained commercial bin cleaning service is acceptable provided no wastewater is discharged from the site to the sewer.
- 9.6 A minimum 1.8 metre high screen fence must be erected between the subject development site and adjacent short term accommodation (motel) land use on adjoining land to the south of the development.
- 10.0 LANDSCAPING WORKS
- 10.1 Landscaping must be constructed and/or established prior to the commencement of the use in all areas shown on the approved plans (refer to condition 2.1).
- 10.2 Landscaping must be designed in accordance with the requirements of *Australian Standard AS 1428 — Design for access and mobility*.
- 10.3 Street tree planting must be carried out in accordance with the requirements of *Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy*.
- Note:** Street trees and landscaping within a state-controlled road reserve must only be established with the consent of the Department of Transport and Main Roads and subject to any required approvals.

- 10.4 Street trees must be located such that when mature, they do not impact on street lighting, future driveway locations or other infrastructure in accordance with the *Capricorn Municipal Development Guidelines*.
- 10.5 Street trees and landscaping must not impact on vehicle sight distances in accordance with *Australian Standard AS2890 – Parking Facilities*, or unduly restrict visibility to pedestrians in verge areas.
- 10.6 Shade trees must comply with the following requirements:
  - 10.6.1 Be planted clear of services and utilities;
  - 10.6.2 Be planted clear of park furniture and embellishments;
  - 10.6.3 Not obstruct pedestrian or bicycle traffic; and
  - 10.6.4 Comply with crime prevention through environmental design principles.
- 10.7 Shade trees within car parking areas are to be provided and planted within a deep natural ground/structured soil garden bed/island/bay and are protected by wheel stops or bollards as required.
- 10.8 Root control barriers must be installed where invasive roots may cause damage to car parking areas, pedestrian paths and road carriageways.
- 10.9 Large trees must not be planted within one (1) metre of the centreline of any sewerage and/or water infrastructure; small shrubs and groundcover are acceptable.
- 10.10 Landscaping, or any part thereof, upon reaching full maturity, must not:
  - 10.10.1 obstruct sight visibility zones as defined in the Austroads 'Guide to Traffic Engineering Practice' series of publications;
  - 10.10.2 adversely affect any road lighting or public space lighting; or
  - 10.10.3 adversely affect any Council infrastructure, or public utility plant.
- 10.11 The landscaped areas must be subject to:
  - 10.11.1 a watering and maintenance plan during the establishment moment; and
  - 10.11.2 an ongoing maintenance and replanting programme.
- 11.0 STREET LIGHTING
- 11.1 The developer is responsible for all costs associated with the supply and installation of any road lighting or public space lighting in accordance with *Australian Standard AS1158 'Lighting for roads and public spaces'*.
- 12.0 ELECTRICITY
- 12.1 Underground electricity services must be provided in accordance with approved Operational Works Plans and the standards and requirements of the relevant service provider.
- 13.0 TELECOMMUNICATIONS
- 13.1 Telecommunications services must be provided to the development in accordance with the standards and requirements of the relevant service provider. Unless otherwise stipulated by telecommunications legislation at the time of installation. This includes all necessary pits and pipes, and conduits that provide a connection to the telecommunications network.

**Note:** The Telecommunications Act 1997 (Commonwealth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required.

#### 14.0 ASSET MANAGEMENT

14.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be undertaken and completed at no cost to Council.

14.2 Any damage to existing stormwater, water supply and sewerage infrastructure, kerb and channel, pathway or roadway (including removal of concrete slurry from public land and Council infrastructure), that occurs while any works are being carried out in association with this development approval must be repaired at full cost to the developer. This includes the reinstatement of any existing traffic signs or pavement markings that may have been removed or damaged.

14.3 'As Constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the commencement of the use. This information must be provided in accordance with the *Asset Design and As Constructed Manual (ADAC)*.

#### 15.0 ENVIRONMENTAL

15.1 Any application for a Development Permit for Operational Works must be accompanied by an Erosion and Sediment Control Plan that addresses, but is not limited to, the following:

- (i) objectives;
- (ii) site location and topography;
- (iii) vegetation;
- (iv) site drainage;
- (v) soils;
- (vi) erosion susceptibility;
- (vii) erosion risk;
- (viii) concept;
- (ix) design; and
- (x) implementation,

for the construction and post-construction phases of work.

15.2 The Erosion Control and Stormwater Control Management Plan prepared by a Registered Professional Engineer of Queensland in accordance with the *Capricorn Municipal Design Guidelines*, must be implemented, monitored and maintained for the duration of the development works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped). The plan must be available on-site for inspection by Council Officers whilst all works are being carried out.

#### 16.0 ENVIRONMENTAL HEALTH

16.1 Noise emitted from the activity must not cause an environmental nuisance.

16.2 When requested by Council, noise monitoring must be undertaken and recorded within three (3) months, to investigate any genuine complaint of nuisance caused by noise. The monitoring data, an analysis of the data and a report, including noise mitigation measures,



must be provided to Council within fourteen (14) days of the completion of the investigation. Council may require any noise mitigation measures identified in the assessment to be implemented within appropriate timeframes. Noise measurements must be compared with the acoustic quality objectives specified in the most recent edition of the Environmental Protection (Noise) Policy.

16.3 Operations on the site must have no significant impact on the amenity of adjoining premises or the surrounding area due to the emission of light, noise, odour or dust.

17.0 OPERATING PROCEDURES

17.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the development site. Storage of materials or parking of construction machinery or contractors' vehicles must not occur within Campbell Lane, George Street or Fitzroy Street.

17.2 The hours of operations for Tenancy 1 must be limited to:

(i) 0500 hours to 2200 hours (5am to 10pm)

17.3 The hours of operations for Tenancy 2 must be limited to:

(ii) 0400 hours to 2000 hours (4am to 8pm)

17.4 All waste must be stored within a waste storage area (for example, general waste, recyclable waste, pallets, empty drums etcetera) in accordance with the approved plans (refer to condition 2.1). The owner of the land must ensure that:

17.4.1 the area is kept in a clean and tidy condition;

17.4.2 fences and screens are maintained;

17.4.3 no waste material is stored external to the waste storage area/s; and

17.4.4 the area is maintained in accordance with *Environmental Protection Regulation 2019*.

**ADVISORY NOTES**

NOTE 1. Aboriginal Cultural Heritage

It is advised that under section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal cultural heritage legislation. The information on Aboriginal cultural heritage is available on the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships website [www.dsdsatsip.qld.gov.au](http://www.dsdsatsip.qld.gov.au)

NOTE 2. Asbestos Removal

Any demolition and/or removal works involving asbestos materials must be undertaken in accordance with the requirements of the *Work Health and Safety Act 2011* and *Public Health Act 2005*.

NOTE 3. General Environmental Duty

General environmental duty under the *Environmental Protection Act 1994* prohibits unlawful environmental nuisance caused by noise, aerosols, particles, dust, ash, fumes, light, odour or smoke beyond the boundaries of the development site during all stages of the development including earthworks, construction and operation.

**NOTE 4. Licensable Activities**

Should an activity licensable by Rockhampton Regional Council be proposed for the development site, Council's Environment and Public Health Unit must be consulted to determine whether any approvals are required. Such activities may include food preparation, storage of dangerous goods or environmentally relevant activities. Approval for such activities is required before 'fit out' and operation.

**NOTE 5. General Safety Of Public During Construction**

The *Work Health and Safety Act 2011* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to ensure safe traffic control and safe public access in respect of works being constructed on a road.

**NOTE 6. Infrastructure Charges Notice**

Council has resolved not to issue an Infrastructure Charges Notice for this development because the new infrastructure charges arising from the development are less than or equal to the credits applicable for the new development.

**NOTE 7. Rating Category**

Please note, a Material Change of Use approval may result in an adjustment to a property's rating category, particularly in residential and rural zones. Please contact Council's Rates Department should you require further information.

**NOTE 8. Universal Access Facilities**

Access to and use of the land the subject of this application must comply with the provisions of the *Disability Discrimination Act 1992* and/or the *Anti-Discrimination Act 1991*. If either of those statutes require the provision of access or facilities in a way that is inconsistent with this development approval, those facilities must be provided.

**OPERATIONAL WORK (ADVERTISING DEVICES)**

**Table 1: Abbreviations/terms used in the Conditions**

<b><u>Abbreviation / Term</u></b>	<b><u>Meaning</u></b>
Ambient light sensor	Measures the surrounding ambient light
Animation	A simulation of movement created by displaying a series of pictures or frames either digitally or otherwise.
AS/NZS	Australian and New Zealand Standard
Cd	Candela – a unit of luminous intensity
Dwell time	The length of time an image displays on the screen.
Luminance	Brightness (intensity of light) leaving the display, which is measured in Candela per square metre.
OMA	Outdoor Media Authority Digital Guideline
RPEQ	Registered Professional Engineer of Queensland
Video	A recording or the streaming of moving visual images

captured by or using a video camera or similar device.

## 1.0 ADMINISTRATION

- 1.1 The Developer is responsible for ensuring compliance with the Conditions of the approval by an employee, agent, contractor or invitee of the Developer.
- 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.
- 1.4 The following further development permit is required prior to the commencement of any works on the site:
- 1.4.1 Building Works.
- 1.5 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.

## 2.0 APPROVED PLANS AND DOCUMENTS

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

<u>Plan / Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version / Issue</u>
Signage Plan	Verve Building Design Co.	13 October 2022	21185 Z010	C
External Signage Details – T1	Verve Building Design Co.	18 May 2022	21185 Z011	B
External Signage Details – T1	Verve Building Design Co.	18 May 2022	21185 Z012	B
External Signage Details – T2	Verve Building Design Co.	17 May 2022	21185 Z013	A
External Signage Details – T2	Verve Building Design Co.	17 May 2022	21185 Z014	A

- 2.2 A set of the above approved plans are returned to you as the Consultant. The Consultant is to supply one (1) Approved set to the contractor to be retained on site at all times during construction.
- 2.3 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.

## 3.0 OPERATING PROCEDURE

- 3.1 All advertising devices must only display or advertise a matter associated with the primary purpose for which the premises are used, or the purpose stated in this approval.

- 3.2 All text and images displayed on the approved advertising device:
- 3.2.1 must be static;
  - 3.2.2 must not imitate a traffic control device, move contrary to any traffic control device or include traffic instructions (for example 'stop'); and
  - 3.2.3 must not involve moving parts or flashing lights.
- 3.3 Any lighting devices associated with the advertising device, such as sensory lighting, must be positioned on the site and shielded so as not to cause glare or other nuisance to nearby residents or motorists. Night lighting must be designed, constructed and operated in accordance with '*Australian Standard AS4282 – Control of the obtrusive effects of outdoor lighting*' and '*Civil Aviation Safety Authority (CASA) Guidelines: Lighting in the vicinity of aerodromes: Advice to lighting designers*'.

#### 4.0 DIGITAL SCREEN DISPLAY FEATURES

- 4.1 The digital display screen must incorporate an automatic error detection system which will turn off the screen display or display a blank screen should the screen malfunction.
- 4.2 The display screen must incorporate a minimum of two (2) automated ambient light sensors capable of supporting a minimum of five (5) levels of stepped dimming to ensure display screen luminance can adjust automatically in response to surrounding ambient light conditions from dark of night to fully sunlit conditions.
- 4.3 The display screen must provide for on-site control, operation, configuration and diagnosis of the screen display.
- 4.4 Messages must remain static for a minimum dwell time of eight (8) seconds and are not to scroll across the screen or incorporate flashing, blinking, revolving, pulsating, high contrast or rotating effects animation.
- 4.5 Each change of advertisement is to be completed instantaneously (i.e. within 0.5 of a second).

#### 5.0 DIGITAL SCREEN ADVERTISEMENTS AND MOVEMENT

- 5.1 The display screen must not be split to display multiple advertisements on the one (1) display screen.
- 5.2 Advertisements must not display text, photographs or symbols depicting, mimicking or that could be reasonably interpreted as a traffic control device.
- 5.3 Advertisements must not invite traffic to move contrary to any traffic control device or turn where there is fast moving traffic.
- 5.4 Advertisements must only promote a single, self-contained advertising message that is clear, succinct, and legible. The use of text components in a sequential manner, whereby text refers to or is reliant on previous or successive screen displays in order to convey an advertising message is not permitted.

Note: An advertising message refers to the main point the advertisement is attempting to convey to its target audience. This condition seeks to ensure that vehicle drivers in particular are not required to spend an excessive amount of time reading and interpreting advertisements.

- 5.5 Changeover animation effects such as 'fade', 'zoom', or 'fly-in' between advertisements must not be used.

- 5.6 A blank black, white, or any coloured screen must not be displayed between advertisements.
- 5.7 Advertisements that incorporate moving visual images, such as videos or animations must not be displayed.

Note: Please refer to Table 1 for description of Video and Animation.

- 5.8 Advertising devices must not be capable of playing audio nor be synchronised with any outdoor sound system utilised for advertising purposes.

## 6.0 LUMINANCE

- 6.1 Luminance levels of the advertising device must not exceed the applicable levels listed in Table 2 below.

**Table 2: Luminance levels for Advertising Devices**

**(Source: OMA)**

Lighting Condition	Zone 1	Zone 2	Zone 3
Full Sun on Sign face	Maximum Output	Maximum Output	Maximum Output
Day Time Luminance	6000-7000 cd/m <sup>2</sup>	6000-7000 cd/m <sup>2</sup>	6000-7000 cd/m <sup>2</sup>
Morning/Evening/Twilight/inclement weather	1000 cd/m <sup>2</sup>	700 cd/m <sup>2</sup>	600 cd/m <sup>2</sup>
Night Time	500 cd/m <sup>2</sup>	350 cd/m <sup>2</sup>	300 cd/m <sup>2</sup>

Note:

Zone 1 very high ambient off street lighting i.e. central city locations

Zone 2 high to medium off street ambient lighting

Zone 3 low levels of off street ambient lighting, i.e. most residential areas, rural areas.

## 7.0 BUILDING WORKS

- 7.1 A Development Permit for Building Works assessable under the Building Assessment Provisions must be obtained prior to the commencement of any building works on the site.

## 8.0 ASSET MANAGEMENT

- 8.1 Any damage to, or alterations necessary, to electricity, telephone, water mains, sewerage mains, stormwater drains, and/or public utility installations resulting from the development or in connection with the development, must be undertaken immediately, at no cost to Council, and completed within the following timeframes:

8.1.1 where damage causes a hazard to pedestrian/traffic safety or interrupts a community service, immediately; or

8.1.2 as soon as reasonably possible as agreed with Council.

## 9.0 ADVERTISING DEVICE CONSTRUCTION AND MAINTENANCE

- 9.1 Council reserves the right for uninterrupted access to the site at all times during construction.

- 9.2 All Construction work and other associated activities are permitted only between 0630 hours and 1800 hours Monday to Saturday. No work is permitted on Sundays or public holidays. All requirements of the *Environmental Protection Act 1994* and the *Environmental Protection Regulation 2019* must be observed at all times, unless otherwise approved by Council in writing.
- 9.3 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site.
- 9.4 Any proposed works within the vicinity (or zone of influence) of existing Council infrastructure will not adversely affect the integrity of the infrastructure. Any restoration works required on existing Council infrastructure as a result of proposed works will be at the developer's expense.
- 9.5 The signs must be designed and certified by a Registered Professional Engineer of Queensland and constructed in accordance with the requirements of the Queensland Development Code and the Building Code of Australia.
- 9.6 All conduits, wiring, switches or other control apparatus installed on an Advertising Device must be concealed from general view, with control apparatus secured in a manner to prevent unauthorised entry and display setting tampering.
- 9.7 All electrical services and systems must comply with *Australian and New Zealand Standard AS/NZS 3000:2007* – "Electrical Installations".
- 9.8 All advertising devices must be maintained at all times on the premises by the owner of the premises to the same standard as it was when it was installed, and be maintained in a safe, clean, condition that does not adversely impact the visual amenity of the site.

#### ADVISORY NOTES

##### NOTE 1. Aboriginal Cultural Heritage

It is advised that under section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal cultural heritage legislation. The information on Aboriginal cultural heritage is available on the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships website [www.dsdsatsip.qld.gov.au](http://www.dsdsatsip.qld.gov.au)

##### NOTE 2. Asbestos Removal

Any demolition and/or removal works involving asbestos materials must be undertaken in accordance with the requirements of the *Work Health and Safety Act 2011* and the *Public Health Act 2005*.

##### NOTE 3. General Environmental Duty

General environmental duty under the *Environmental Protection Act 1994* prohibits unlawful environmental nuisance caused by noise, aerosols, particles, dust, ash, fumes, light, odour or smoke beyond the boundaries of the development site during all stages of the development including earthworks, construction and operation.

##### NOTE 4. General Safety Of Public During Construction

The *Work Health and Safety Act 2011* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to ensure safe traffic control and safe public access in respect of works being constructed on a road.



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**Attachment 1 – Part 2**  
**Referral Agency Conditions – State**  
**Development, Infrastructure, Local**  
**Government and Planning (State**  
**Assessment and Referral Agency**  
**Department)** *Planning Act 2016*

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The following is an extract from the *Planning Act 2016* (Chapter 6)

### Appeal rights

#### 229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
- (a) matters that may be appealed to—
    - (i) either a tribunal or the P&E Court; or
    - (ii) only a tribunal; or
    - (iii) only the P&E Court; and
  - (b) the person—
    - (i) who may appeal a matter (the **appellant**); and
    - (ii) who is a respondent in an appeal of the matter; and
    - (iii) who is a co-respondent in an appeal of the matter; and
    - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The **appeal period** is—
- (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency or
  - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
  - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
  - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
  - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.
- Note—  
See the P&E Court Act for the court's power to extend the appeal period.
- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
- (a) the adopted charge itself; or
  - (b) for a decision about an offset or refund—
    - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
    - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

#### 230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to—

- (a) the respondent for the appeal; and
  - (b) each co-respondent for the appeal; and
  - (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
  - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
  - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
  - (f) for an appeal to the P&E Court—the chief executive; and
  - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The **service period** is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
  - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection
- (6) 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 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, 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 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—
    - (i) the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
    - (ii) the Plumbing and Drainage Act, part 4 or 5; or
  - (h) a decision to give an enforcement notice in relation to a matter under paragraphs (a) to (g); or
  - (i) a decision to give an infrastructure charges notice; or
  - (j) the refusal, or deemed refusal, of a conversion application; or
  - (k) a matter that, under another Act, may be appealed to the tribunal; 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.

<b>Table 1</b>			
<b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
1. Development applications An appeal may be made against— (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.			
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	1 A concurrence agency that is not a co-respondent

<b>Table 1</b>			
<b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
		agency's referral response—the concurrence agency	2 If a chosen Assessment manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application
<b>2. Change applications</b> An appeal may be made against— (a) a responsible entity's decision for a change application, other than a decision made by the P&E court; or (b) a deemed refusal of a change application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 The applicant 2 If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice	The responsible entity	If an affected entity starts the appeal—the applicant	1 A concurrence agency for the development application 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 A private certifier for the development application 4 Any eligible advice agency for the change application 5 Any eligible submitter for the change application
<b>3. Extension applications</b> An appeal may be made against— (a) the assessment manager's decision about an extension application; or (b) a deemed refusal of an extension application.			
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

<b>Table 1</b>			
<b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
<p><b>4. Infrastructure charges notices</b>            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>(i) The application of the relevant adopted charge; or</p> <p>Examples of errors in applying an adopted charge –</p> <ul style="list-style-type: none"> <li>• The incorrect application of gross floor area for a non-residential development</li> <li>• Applying an incorrect ‘use category’, under a regulation, to the development</li> </ul> <p>(i) The working out of extra demands, for section 120; or</p> <p>(ii) 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) The amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</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 Infrastructure charges notice	The local government that gave the infrastructure charges notice	-	-
<p><b>5. Conversion applications</b>            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><b>6. Enforcement notices</b>            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

<b>Table 2</b>			
<b>Appeals to the P&amp;E Court only</b>			
<p><b>1. Appeals from tribunal</b>            An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of—</p> <p>(a) an error or mistake in law on the part of the tribunal; or</p> <p>(b) jurisdictional error.</p>			
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	-	-

**Table 2  
Appeals to the P&E Court only**

<p><b>2. Eligible submitter appeals</b>                  An appeal may be made against the decision to give a development approval, or an approval for a change application, to the extent that the decision relates to—                  (a) any part of the development application for the development approval that required impact assessment; or                  (b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 For a development application—an eligible submitter for the development application 2 For a change application—an eligible submitter for the change application	1 For a development application—the assessment manager 2 For a change application—the responsible entity	1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application
<p><b>3. Eligible submitter and eligible advice agency appeals</b>                  An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to—                  (a) any part of the development application or the change application, for the development approval, that required impact assessment; or                  (b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 For a development application—an eligible submitter for the development application 2 For a change application—an eligible submitter for the change application 3 An eligible advice agency for the development application or change application	1 For a development application—the assessment manager 2 For a change application—the responsible entity	1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application
<p><b>4. Compensation claims</b>                  An appeal may be made against—                  (a) a decision under section 32 about a compensation claim; or                  (b) a decision under section 265 about a claim for compensation; or                  (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)
A person dissatisfied with the decision	The local government to which the claim was made	-	-
<p><b>5. Registered premises</b></p>			

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

<b>Table 3</b>			
<b>Appeals to the tribunal only</b>			
1. Building advisory agency appeals 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.			
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	1 A concurrence agency for the development application related to the approval 2 A private certifier for the development application related to the approval
3. Certain decisions under the Building Act and the Plumbing and Drainage Act An appeal may be made against a decision under— (a) the Building Act, other than a decision made by the Queensland Building and Construction Commission; or (b) the Plumbing and Drainage Act, part 4 or 5.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)

<b>Table 3</b>			
<b>Appeals to the tribunal only</b>			
A person who received, or was entitled to receive, notice of the decision	The person who made the decision	-	-
<p>4. Local government failure to decide application under the Building Act            An appeal may be made against a local government's failure to decide an application under the Building Act within the period required 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, notice of the decision	The local government to which the application was made	-	-