



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/125-2021 | Contact: | Bevan Koelmeyer |
| Notice Date: | 15 October 2021 | Contact Number: | 07 4936 8099 |

APPLICANT DETAILS

| | | | |
|-----------------|----------------------------|--------|--|
| Name: | Albert Smith Signs Pty Ltd | | |
| Postal address: | | | |
| Phone no: | Mobile no: | Email: | |

I acknowledge receipt of the above application on 15 September 2021 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Operational Works for Advertising Devices (two [2] Wall Signs, a Fascia Sign and a Freestanding Sign)

PROPERTY DESCRIPTION

| | |
|----------------------------|----------------------------------------|
| Street address: | 6 Alexandra Street, Park Avenue |
| Real property description: | Lot 1 on RP612250, Parish of Murchison |

OWNER DETAILS

| | |
|------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|
| Name: | Tropical Properties Pty Ltd Tte |
| Postal address: | |
| Dear Albert Smith Signs Pty Ltd | |
| I advise that, on 12 October 2021 the above development application was: | |
| <input checked="" type="checkbox"/> 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| Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Operational work | <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 |
|-------------------------------------|--------------------------------------------|
| Building Works | |

4. REFERRAL AGENCIES

NIL

5. THE APPROVED PLANS

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

| Plan/Document Name | Prepared by | Date | Reference No. | Version/Issue |
|-------------------------------------------------------------------|-------------|---------------|---------------|---------------|
| Mitsubishi Rockhampton Signage (Site Plan) | Signspec | 7 August 2021 | MITSU00263-01 | B |
| Mitsubishi Rockhampton Signage (Front and Side Fascia Elevations) | Signspec | 7 August 2021 | MITSU00263-06 | B |
| Mitsubishi Rockhampton Signage (Pylon Elevations) | Signspec | 7 August 2021 | MITSU00263-07 | B |
| Mitsubishi Rockhampton Signage (Entrance Portal Elevations) | Signspec | 7 August 2021 | MITSU00263-08 | B |
| Mitsubishi Rockhampton Signage (Service Fascia Dimensions) | Signspec | 7 August 2021 | MITSU00263-10 | B |

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.

7. STATEMENT OF REASONS

| | |
|---------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Description of the development | Development Permit for Operational Works for Advertising Devices (Wall Signs, Fascia Sign and Freestanding Sign) |
| Reasons for Decision | <p>a) 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; and</p> <p>b) On balance, the application should be approved because the circumstances favour Council exercising its discretion to approve the application even though the development does not comply with an aspect of the assessment benchmarks.</p> |
| Assessment Benchmarks | The proposed development was assessed against the following assessment benchmarks: |

| | <ul style="list-style-type: none"> Advertising Devices Code. | | | | |
|----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|-----------------------------------------------------------------------|-------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Compliance with assessment benchmarks | The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exception listed below. | | | | |
| | <table border="1"> <thead> <tr> <th>Assessment Benchmark</th> <th>Reasons for the approval despite non-compliance with benchmark</th> </tr> </thead> <tbody> <tr> <td>Advertising Device Code (PO1)</td> <td> <p>The development will not achieve the recommendations of Acceptable Outcome 1.1, as the total sign-face area of all existing and proposed Advertising Devices on-site are not determined to achieve either the boundary length or building elevation calculation methods. Additionally, the proposed freestanding sign will not achieve all of the 'specific sign outcomes' included in the recommendations of Acceptable Outcome 1.2 which include:</p> <ul style="list-style-type: none"> - Six (6) existing freestanding signs on-site; - The proposed sign is located within 100 metres of an existing freestanding sign in the same direction of travel; - The sign-face will be more than five (5) metres in height; and - The proposed sign will not be setback half its height, being 3.5 metres, from the Moores Creek Road frontage property boundary. <p>However, the proposed freestanding sign will replace an existing freestanding sign and is to be erected in the same location, and at a reduced width compared to the existing sign.</p> <p>Despite the aforementioned non-compliances, the subject site is appropriately located for the proposed scale of advertising as it has significant exposure to the State-controlled Moores Creek Road. The proposed signage will only advertise purposes to support the existing motor vehicle dealerships operating on the site. Furthermore, similar to the subject site there are a number of other sites located along the State-controlled road network that advertise numerous on-site brands.</p> <p>Therefore, the proposed Advertising Devices are consistent with the existing streetscape and are not anticipated to result in visual dominance or proliferation of advertising signage along Moores Creek Road. Furthermore, all proposed signage will be static and where illuminated, devices will operate at appropriate brightness thresholds as per condition 4.1. The proposed Advertising Devices will also maintain the safety of vehicle and pedestrian movements by not impeding transport movements or resembling traffic or road signs.</p> </td> </tr> </tbody> </table> | Assessment Benchmark | Reasons for the approval despite non-compliance with benchmark | Advertising Device Code (PO1) | <p>The development will not achieve the recommendations of Acceptable Outcome 1.1, as the total sign-face area of all existing and proposed Advertising Devices on-site are not determined to achieve either the boundary length or building elevation calculation methods. Additionally, the proposed freestanding sign will not achieve all of the 'specific sign outcomes' included in the recommendations of Acceptable Outcome 1.2 which include:</p> <ul style="list-style-type: none"> - Six (6) existing freestanding signs on-site; - The proposed sign is located within 100 metres of an existing freestanding sign in the same direction of travel; - The sign-face will be more than five (5) metres in height; and - The proposed sign will not be setback half its height, being 3.5 metres, from the Moores Creek Road frontage property boundary. <p>However, the proposed freestanding sign will replace an existing freestanding sign and is to be erected in the same location, and at a reduced width compared to the existing sign.</p> <p>Despite the aforementioned non-compliances, the subject site is appropriately located for the proposed scale of advertising as it has significant exposure to the State-controlled Moores Creek Road. The proposed signage will only advertise purposes to support the existing motor vehicle dealerships operating on the site. Furthermore, similar to the subject site there are a number of other sites located along the State-controlled road network that advertise numerous on-site brands.</p> <p>Therefore, the proposed Advertising Devices are consistent with the existing streetscape and are not anticipated to result in visual dominance or proliferation of advertising signage along Moores Creek Road. Furthermore, all proposed signage will be static and where illuminated, devices will operate at appropriate brightness thresholds as per condition 4.1. The proposed Advertising Devices will also maintain the safety of vehicle and pedestrian movements by not impeding transport movements or resembling traffic or road signs.</p> |
| | Assessment Benchmark | Reasons for the approval despite non-compliance with benchmark | | | |
| Advertising Device Code (PO1) | <p>The development will not achieve the recommendations of Acceptable Outcome 1.1, as the total sign-face area of all existing and proposed Advertising Devices on-site are not determined to achieve either the boundary length or building elevation calculation methods. Additionally, the proposed freestanding sign will not achieve all of the 'specific sign outcomes' included in the recommendations of Acceptable Outcome 1.2 which include:</p> <ul style="list-style-type: none"> - Six (6) existing freestanding signs on-site; - The proposed sign is located within 100 metres of an existing freestanding sign in the same direction of travel; - The sign-face will be more than five (5) metres in height; and - The proposed sign will not be setback half its height, being 3.5 metres, from the Moores Creek Road frontage property boundary. <p>However, the proposed freestanding sign will replace an existing freestanding sign and is to be erected in the same location, and at a reduced width compared to the existing sign.</p> <p>Despite the aforementioned non-compliances, the subject site is appropriately located for the proposed scale of advertising as it has significant exposure to the State-controlled Moores Creek Road. The proposed signage will only advertise purposes to support the existing motor vehicle dealerships operating on the site. Furthermore, similar to the subject site there are a number of other sites located along the State-controlled road network that advertise numerous on-site brands.</p> <p>Therefore, the proposed Advertising Devices are consistent with the existing streetscape and are not anticipated to result in visual dominance or proliferation of advertising signage along Moores Creek Road. Furthermore, all proposed signage will be static and where illuminated, devices will operate at appropriate brightness thresholds as per condition 4.1. The proposed Advertising Devices will also maintain the safety of vehicle and pedestrian movements by not impeding transport movements or resembling traffic or road signs.</p> | | | | |
| Matters prescribed by regulation | <ul style="list-style-type: none"> The <i>Rockhampton Region Planning Scheme 2015</i> (version 2.2); and The common material, being the material submitted with the application. | | | | |

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: Tarnya Fitzgibbon COORDINATOR DEVELOPMENT ASSESSMENT | Signature: | Date: 15 October 2021 |
|---------------------------------------------------------------------------------------|------------|-----------------------|

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.]

Attachment 2—Extract on appeal rights



Attachment 1 – Part 1 Rockhampton Regional Council Conditions

Planning Act 2016

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.

| Plan/Document Name | Prepared by | Date | Reference No. | Version/ Issue |
|-------------------------------------------------------------------|--------------------|---------------|----------------------|---------------------------|
| Mitsubishi Rockhampton Signage (Site Plan) | Signspec | 7 August 2021 | MITSU00263-01 | B |
| Mitsubishi Rockhampton Signage (Front and Side Fascia Elevations) | Signspec | 7 August 2021 | MITSU00263-06 | B |
| Mitsubishi Rockhampton Signage (Pylon Elevations) | Signspec | 7 August 2021 | MITSU00263-07 | B |
| Mitsubishi Rockhampton Signage (Entrance Portal Elevations) | Signspec | 7 August 2021 | MITSU00263-08 | B |
| Mitsubishi Rockhampton Signage (Service Fascia Dimensions) | Signspec | 7 August 2021 | MITSU00263-10 | B |

- 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.
- 2.4 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for endorsement by Council prior to the submission of a Development Application for Building Works.

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 Devices:
 - 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 All advertising devices must not be capable of playing audio nor be synchronised with any outdoor sound system utilised for advertising purposes.
- 3.4 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 LUMINANCE

- 4.1 Luminance levels of the advertising devices must not exceed the levels listed in the table below:

| Lighting Condition | Maximum Luminance |
|--------------------------------------------|----------------------------------|
| Full Sun on Sign face | Maximum Output |
| Day Time Luminance | 6000-7000 candela/m ² |
| Morning/Evening/Twilight/inclement weather | 600 candela/m ² |
| Night Time | 300 candela/m ² |

5.0 ASSET MANAGEMENT

- 5.1 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:
 - 5.1.1 where damage causes a hazard to pedestrian/traffic safety or interrupts a community service, immediately; or
 - 5.1.2 as soon as reasonably possible as agreed with Council.

6.0 ADVERTISING DEVICE CONSTRUCTION AND MAINTENANCE

- 6.1 A Development Permit for Building Works must be obtained for the:
 - 6.1.1 removal and/or demolition of existing Advertising Devices; and

- 6.1.2 the construction of new Advertising Devices.
- 6.2 The 'dynamic slope' sign, must not project more than 200 millimetres from the adjacent fascia which contains 'Sign 2', (refer to condition 2.1).
- Advisory Note: For clarity purposes, the subject Advertising Device has been defined as a 'Wall Sign'.
- 6.3 All fascia signs (refer to condition 2.1), must not project outwards more than 100 millimetres from the associated fascia.
- 6.4 Council reserves the right for uninterrupted access to the site at all times during construction.
- 6.5 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.
- 6.6 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site.
- 6.7 All advertising devices 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.
- 6.8 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.
- 6.9 All electrical services and systems must comply with *Australian and New Zealand Standard AS/NZS 3000:2007* – "Electrical Installations".
- 6.10 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 Act 2003

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 Aboriginal and Torres Strait Islander Partnerships website: www.datsip.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.

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—
- matters that may be appealed to—
 - either a tribunal or the P&E Court; or
 - only a tribunal; or
 - only the P&E Court; and
 - the person—
 - who may appeal a matter (the **appellant**); and
 - who is a respondent in an appeal of the matter; and
 - who is a co-respondent in an appeal of the matter; and
 - 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—
- for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency or
 - for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - 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
 - for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - 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
 - 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—
- the adopted charge itself; or
 - for a decision about an offset or refund—
 - the establishment cost of trunk infrastructure identified in a LGIP; or
 - the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - is in the approved form; and
 - succinctly states the grounds of the appeal.
- The notice of appeal must be accompanied by the required fee.
- 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—

- the respondent for the appeal; and
 - each co-respondent for the appeal; and
 - for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
 - for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
 - 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
 - for an appeal to the P&E Court—the chief executive; and
 - for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The **service period** is—
- if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - 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

- 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.
- The Judicial Review Act 1991, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- 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.
- In this section— **decision** includes—
 - conduct engaged in for the purpose of making a decision; and
 - other conduct that relates to the making of a decision; and
 - the making of a decision or the failure to make a decision; and
 - a purported decision; and
 - a deemed refusal.

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

- is final and conclusive; and
- 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
- 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

- A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- 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.

| Table 1 | | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|---------------------------------------|----------------------------------------------------|
| Appeals to the P&E Court and, for certain matters, to a tribunal | | | |
| 1. Development applications An appeal may be made against— <ol style="list-style-type: none"> (a) the refusal of all or part of the development application; or (b) the deemed refusal of the development application; or (c) a provision of the development approval; or (d) if a development permit was applied for—the decision to give a preliminary approval. | | | |
| 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 |

| Table 1 | | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|-----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Appeals to the P&E Court and, for certain matters, to a tribunal | | | |
| | | 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 |
| 2. Change applications 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 |
| 3. Extension applications 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 |

| Table 1 | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|---------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Appeals to the P&E Court and, for certain matters, to a tribunal | | | |
| <p>4. Infrastructure charges notices</p> <p>An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds</p> <p>a) The notice involved an error relating to –</p> <p>(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"> • The incorrect application of gross floor area for a non-residential development • Applying an incorrect ‘use category’, under a regulation, to the development <ul style="list-style-type: none"> (i) The working out of extra demands, for section 120; or (ii) An offset or refund; or <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>5. Conversion applications</p> <p>An appeal may be made against—</p> <p>(a) the refusal of a conversion application; or</p> <p>(b) a deemed refusal of a conversion application.</p> | | | |
| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent (if any) | Column 4 Co-respondent by election (if any) |
| The applicant | The local government to which the conversion application was made | - | - |
| <p>6. Enforcement notices</p> <p>An appeal may be made against the decision to give an enforcement notice.</p> | | | |
| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent (if any) | Column 4 Co-respondent by election (if any) |
| The person given the enforcement notice | The enforcement authority | - | If the enforcement authority is not the local government for the premises in relation to which the offence is alleged to have happened—the local government |

| Table 2 | | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|---------------------------------------|---------------------------------------------------|
| Appeals to the P&E Court only | | | |
| <p>1. Appeals from tribunal</p> <p>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>2. Eligible submitter appeals 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>3. Eligible submitter and eligible advice agency appeals 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>4. Compensation claims 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>5. Registered premises</p> | | | |

| Table 2 Appeals to the P&E Court only | | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|---------------------------------------|----------------------------------------------------------------------------------|
| 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 | - | - |

| Table 3 Appeals to the tribunal only | | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 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) |

| Table 3 | | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|---------------------------------------|---------------------------------------------------|
| Appeals to the tribunal only | | | |
| 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 | - | - |