



# Decision Notice Approval (amended)

Planning Act Form 2 (version 1.1 effective 22 June 2018) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s81 (change application) Planning Act 2016

|                     |                  |                 |                 |
|---------------------|------------------|-----------------|-----------------|
| Application number: | <b>D/92-2018</b> | Contact:        | Brandon Diplock |
| Notice Date:        | 5 July 2019      | Contact Number: | 1300 22 55 77   |

## APPLICANT DETAILS

|                 |   |        |  |
|-----------------|---|--------|--|
| Name:           | <b>Reece Australia Pty Ltd C/- Town Planning Alliance</b> |        |  |
| Postal address: | <b>Jessica Robson / Vu Nguyen</b>                         |        |  |
| Phone no:       | Mobile no:  | Email: |  |

I acknowledge receipt of the above change application on 13 June 2019 and confirm the following:

## DEVELOPMENT APPROVAL

**Development Permit for a Material Change of Use for a Warehouse, Hardware and Trade Supplies**

## PROPERTY DESCRIPTION

|                            |  |
|----------------------------|--|
| Street address:            | 20-22 Chappell Street, Kawana          |
| Real property description: | Lot 92 on SP255015 Parish of Murchison |

## OWNER DETAILS

|  |               |
|--|---------------|
| Name:  | Reece Pty Ltd |
| Postal address:  |               |
| <b>Dear Reece Australia Pty Ltd</b>  |               |
| I advise that, on 3 July 2019 the above change application was:  |               |
| <input checked="" type="checkbox"/> approved in full with conditions* (refer to the conditions contained in <b>Attachment 1</b> )                    |               |
| *Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency. |               |

## CHANGES TO CONDITIONS

The conditions which have been changed or cancelled are as follows:

|    |               |         |             |
|----|---------------|---------|-------------|
| 1) | Item 6        | Changed | 3 July 2019 |
| 2) | Condition 2.1 | Changed | 3 July 2019 |
| 3) | Condition 3.3 | Changed | 3 July 2019 |
| 4) | Condition 7.1 | Deleted | 3 July 2019 |
| 5) | Condition 7.2 | Deleted | 3 July 2019 |

## 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<br>- Material change of use | <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                      |  |
| Plumbing and Drainage Works         |  |

4. SUBMISSIONS NIL

5. REFERRAL AGENCIES NIL

The following Referral Agencies were activated by this application.

## 6. 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>Plan/Document Reference</u> | <u>Dated</u> |
|------------------------------------|--------------------------------|--------------|
| Cover Page                         | DA-000, Rev B                  | 26 June 2019 |
| Proposed Site Plan                 | DA-010, Rev A                  | 22 May 2019  |
| Existing/Demo Site Plan            | DA-030, Rev A                  | 22 May 2019  |
| Existing/Demo Floor Plans          | DA-031, Rev A                  | 22 May 2019  |
| Existing/Demo Mezzanine Floor Plan | DA-032, Rev A                  | 22 May 2019  |
| Existing/Demo Elevations           | DA-034, Rev A                  | 22 May 2019  |
| Proposed Floor Plan Reece          | DA-100, Rev A                  | 22 May 2019  |
| Proposed Floor Plan Actrol         | DA-101, Rev A                  | 22 May 2019  |
| Proposed Roof Plan                 | DA-120, Rev A                  | 22 May 2019  |
| Proposed Elevations                | DA-300, Rev A                  | 22 May 2019  |
| Proposed Elevations                | DA-301, Rev A                  | 22 May 2019  |
| Sections                           | DA-400, Rev A                  | 22 May 2019  |

**7. CURRENCY PERIOD FOR THE APPROVAL (s.85 of the Planning Act) (change application)**

The standard relevant periods stated in section 85 of *Planning Act 20016* apply to each aspect of development in this approval, if not stated in the conditions of approval attached.

**8. STATEMENT OF REASONS**

|  |  |   |
|--|--|---|
| <b>Description of the development</b>        | The proposed development is for a Minor Change to Development Permit for Material Change of Use - Warehouse, Hardware and Trade Supplies   |   |
| <b>Reasons for Decision</b>                  | <p>a) The proposal is considered small scale in nature and is appropriately located within an area consisting of similar small scale industrial uses.</p> <p>b) The proposed use does not compromise the strategic framework in the <i>Rockhampton Region Planning Scheme 2015</i>;</p> <p>c) 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;</p> <p>d) The proposed development does not compromise the relevant State Planning Policy; and</p> <p>e) 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> |   |
| <b>Assessment Benchmarks</b>                 | <p>The proposed development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> <li>• Low Impact Industry Zone Code;</li> <li>• Access, Parking and Transport Code;</li> <li>• Landscape Code;</li> <li>• Stormwater Management Code;</li> <li>• Waste Management Code; and</li> <li>• Water and Sewer 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 exception(s) listed below.  |   |
|  | <b>Assessment Benchmark</b>  | <b>Reasons for the approval despite non-compliance with benchmark</b>   |
|  | Low Impact Industry Zone   | <p>The proposal has ensured that all new walls which interface with the carpark will be appropriately articulated through the inclusion of canopies, entry statements and windows ensuring a visually enriched façade and an overall reduced building bulk. A single construction material and monotone colour scheme has been proposed to ensure the proposed extensions remain visually consistent with the existing development on site. The design of the proposed works ensure that the development will contribute to an attractive streetscape.</p> <p>In addition, the marginal non-compliance in sales area space will have no adverse effects on the operation of the facility or the surrounding properties. It is noted that sales will be conducted indoors and will be for goods directly associated with the warehouse operations.</p> |

|   |  |
|---|--|
| <b>Matters prescribed by regulation</b> | <ul style="list-style-type: none"> <li>• The <i>State Planning Policy – Part E</i>;</li> <li>• The <i>Central Queensland Regional Plan</i>;</li> <li>• The <i>Rockhampton Region Planning Scheme 2015</i>;</li> <li>• Surrounding use of adjacent premises in terms of commensurate and consistent development form; and</li> <li>• The common material, being the material submitted with the application.</li> </ul> |
|---|--|

## 9. RIGHTS OF APPEAL

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*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

### 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 down the applicant's appeal rights and the appeal rights of a submitter.

## 10. 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.

## 11. ORIGINAL DECISION ASSESSMENT MANAGER

|   |                        |
|---|------------------------|
| Name: <b>Tarnya Fitzgibbon</b><br><b><u>COORDINATOR</u></b><br><b><u>DEVELOPMENT ASSESSMENT</u></b> | Date: 11 December 2018 |
|---|------------------------|

## 12. ASSESSMENT MANAGER

|   |            |                   |
|---|------------|-------------------|
| Name: <b>Tarnya Fitzgibbon</b><br><b><u>COORDINATOR</u></b><br><b><u>DEVELOPMENT ASSESSMENT</u></b> | Signature: | Date: 5 July 2019 |
|---|------------|-------------------|

### 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



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## Attachment 1 – Part 1 Rockhampton Regional Council Conditions

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Planning Act 2016

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### 1.0 ADMINISTRATION

- 1.1 The Developer and his 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 an Approval 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 Plumbing and Drainage Works; and
  - 1.5.2 Building Works
- 1.6 All Development Permits for 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.

### 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>Plan/Document Reference</u> | <u>Dated</u> |
|---------------------------|--------------------------------|--------------|
| Cover Page                | DA-000, Rev B                  | 26 June 2019 |
| Proposed Site Plan        | DA-010, Rev A                  | 22 May 2019  |
| Existing/Demo Site Plan   | DA-030, Rev A                  | 22 May 2019  |
| Existing/Demo Floor Plans | DA-031, Rev A                  | 22 May 2019  |

| <u>Plan/Document Name</u>          | <u>Plan/Document Reference</u> | <u>Dated</u> |
|------------------------------------|--------------------------------|--------------|
| Existing/Demo Mezzanine Floor Plan | DA-032, Rev A                  | 22 May 2019  |
| Existing/Demo Elevations           | DA-034, Rev A                  | 22 May 2019  |
| Proposed Floor Plan Reece          | DA-100, Rev A                  | 22 May 2019  |
| Proposed Floor Plan Actrol         | DA-101, Rev A                  | 22 May 2019  |
| Proposed Roof Plan                 | DA-120, Rev A                  | 22 May 2019  |
| Proposed Elevations                | DA-300, Rev A                  | 22 May 2019  |
| Proposed Elevations                | DA-301, Rev A                  | 22 May 2019  |
| Sections                           | DA-400, Rev A                  | 22 May 2019  |

2.2 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.

2.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for approval by Council prior to the submission of an application for a Development Permit for Building Works.

### 3.0 ACCESS AND PARKING WORKS

3.1 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).

3.2 All vehicles must ingress and egress the development in a forward gear.

3.3 A minimum of six (6) additional parking spaces must be provided on-site.

3.4 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"*.

3.5 Pavement markings must be installed in accordance with *Australian Standard AS1742.1 "Manual of uniform traffic control devices"*.

3.6 All vehicle operation areas must be illuminated in accordance with the requirements of *Australian Standard AS1158 "Lighting for roads and public spaces"*.

### 4.0 PLUMBING AND DRAINAGE WORKS

4.1 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 2002*, and Council's Plumbing and Drainage Policies.

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

4.3 The existing sewerage and water connection point(s) must be retained, and upgraded if necessary, to service the development.

4.4 Adequate fire fighting protection must be provided to the development, and must be certified by a hydraulic engineer or other suitably qualified person.

4.5 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.

## 5.0 ROOF AND ALLOTMENT DRAINAGE WORKS

- 5.1 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*, and sound engineering practice.
- 5.2 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.
- 5.3 All roof and allotment drainage from the development must be directed and connected to the existing underground detention tank.

## 6.0 SITE WORKS

- 6.1 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.
- 6.2 All site works must be undertaken to ensure that there is:
  - 6.2.1 no increase in upstream or downstream flood levels for all levels of immunity up to a one per cent (1%) Annual exceedance probability flood event;
  - 6.2.2 no increase in velocity profiles, for which no remedy exists to prevent erosion and/or scouring. In the event that modelling shows non-compliance with the above, works must be undertaken within the system to satisfy the above criteria for development; and
  - 6.2.3 a lawful point of discharge to which the approved works drain during construction phase.

Easements will be required over any other land to accommodate the flows.

## 7.0 BUILDING WORKS

- 7.1 Deleted.
- 7.2 Deleted.
- 7.3 All external elements, such as air conditioners, pool and spa pumps and associated equipment, must be adequately screened from public view, to Council's satisfaction.
- 7.4 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"*.
- 7.5 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 2008* and must be:
  - 7.5.1 designed and located so as not to cause a nuisance to neighbouring properties;
  - 7.5.2 screened to obstruct from view the contents of the waste storage area;
  - 7.5.3 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;
  - 7.5.4 setback a minimum of two (2) metres from any road frontage; and
  - 7.5.5 provided with a suitable hosecock and hoses at the refuse container area, and washdown must be drained to the sewer and fitted with an approved stormwater diversion valve arrangement in accordance with the Sewerage Trade Waste provisions and the *Plumbing and Drainage Act 2002*.

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.

## 8.0 LANDSCAPING WORKS

- 8.1 All landscaping must be established generally in accordance with the approved plans (refer to condition 2.1). The landscaping must be constructed and/or established prior to the commencement of the use and the landscape areas must predominantly contain plant species that are locally native to the Central Queensland region due to their low water dependency.
- 8.2 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.
- 8.3 Landscaping, or any part thereof, upon reaching full maturity, must not:
- (i) obstruct sight visibility zones as defined in the *Austroroads 'Guide to Traffic Engineering Practice'* series of publications;
  - (ii) adversely affect any road lighting or public space lighting; or
  - (iii) adversely affect any Council infrastructure, or public utility plant.

## 9.0 ASSET MANAGEMENT

- 9.1 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.
- 9.2 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.

## 10.0 ENVIRONMENTAL

- 10.1 An Erosion Control and Stormwater Control Management Plan 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.

## 11.0 ENVIRONMENTAL HEALTH

- 11.1 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"*.
- 11.2 Noise emitted from the activity must not cause an environmental nuisance.
- 11.3 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 or dust.

## 12.0 OPERATING PROCEDURES

- 12.1 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 Chappell Street.
- 12.2 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:
- 12.2.1 the area is kept in a clean and tidy condition;

- 12.2.2 fences and screens are maintained;
- 12.2.3 no waste material is stored external to the waste storage area/s;
- 12.2.4 all wash down of refuse containers takes place in the existing washdown facility;
- 12.2.5 the area is maintained in accordance with *Environmental Protection Regulation 2008*.

#### 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 Aboriginal and Torres Strait Islander and Partnerships website [www.datsip.qld.gov.au](http://www.datsip.qld.gov.au).

NOTE 2. 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 3. 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 4. Infrastructure Charges Notice

This application is subject to infrastructure charges in accordance with Council policies. The charges are presented on an Infrastructure Charges Notice.

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<br>An appeal may be made against—<br>(a) the refusal of all or part of the development application; or<br>(b) the deemed refusal of the development application; or<br>(c) a provision of the development approval; or<br>(d) if a development permit was applied for—the decision to give a preliminary approval. |                        |                                       |  |
| Column 1<br>Appellant  | Column 2<br>Respondent | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent by election<br>(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<br>3 Any eligible advice agency for the application<br>4 Any eligible submitter for the application  |
| <b>2. Change applications</b><br>An appeal may be made against—<br>(a) a responsible entity's decision for a change application, other than a decision made by the P&E court; or<br>(b) a deemed refusal of a change application.   |                        |   |   |
| Column 1<br>Appellant   | Column 2<br>Respondent | Column 3<br>Co-respondent<br>(if any)                     | Column 4<br>Co-respondent by election<br>(if any)   |
| 1 The applicant<br>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<br>2 If a chosen assessment manager is the respondent—the prescribed assessment manager<br>3 A private certifier for the development application<br>4 Any eligible advice agency for the change application<br>5 Any eligible submitter for the change application |
| <b>3. Extension applications</b><br>An appeal may be made against—<br>(a) the assessment manager's decision about an extension application; or<br>(b) a deemed refusal of an extension application.   |                        |   |   |
| Column 1<br>Appellant   | Column 2<br>Respondent | Column 3<br>Co-respondent<br>(if any)                     | Column 4<br>Co-respondent by election<br>(if any)   |
| 1 The applicant<br>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>4. Infrastructure charges notices</b><br>An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds<br>a) The notice involved an error relating to –<br>(i) The application of the relevant adopted charge; or<br>Examples of errors in applying an adopted charge – <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               <ul style="list-style-type: none"> <li>(i) The working out of extra demands, for section 120; or</li> <li>(ii) An offset or refund; or</li> </ul> </li> </ul> b) The was no decision about an offset or refund; or<br>c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or<br>d) The amount of the charge is so unreasonable that no reasonable relevant local government could have |                        |   |   |

| <b>Table 1</b><br><b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>  |   |                                       |   |
|--|---|---------------------------------------|---|
| imposed the amount.  |   |                                       |   |
| Column 1<br>Appellant  | Column 2<br>Respondent  | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent by election<br>(if any)   |
| The person given the Infrastructure charges notice   | The local government that gave the infrastructure charges notice  | -                                     | -   |
| 5. Conversion applications<br>An appeal may be made against—<br>(a) the refusal of a conversion application; or<br>(b) a deemed refusal of a conversion application. |   |                                       |   |
| Column 1<br>Appellant  | Column 2<br>Respondent  | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent by election<br>(if any)   |
| The applicant  | The local government to which the conversion application was made | -                                     | -   |
| 6. Enforcement notices<br>An appeal may be made against the decision to give an enforcement notice.  |   |                                       |   |
| Column 1<br>Appellant  | Column 2<br>Respondent  | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent by election<br>(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><br><b>Appeals to the P&amp;E Court only</b>   |   |                                       |   |
|--|---|---------------------------------------|---|
| 1. Appeals from tribunal<br>An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of—<br>(a) an error or mistake in law on the part of the tribunal; or<br>(b) jurisdictional error.  |   |                                       |   |
| Column 1<br>Appellant  | Column 2<br>Respondent                              | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent by election<br>(if any) |
| A party to the proceedings for the decision  | The other party to the proceedings for the decision | -                                     | -   |
| 2. Eligible submitter appeals<br>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—<br>(a) any part of the development application for the development approval that required impact assessment; or<br>(b) a variation request. |   |                                       |   |
| Column 1<br>Appellant  | Column 2<br>Respondent                              | Column 3<br>Co-respondent             | Column 4<br>Co-respondent by election             |

| <b>Table 2<br/>Appeals to the P&amp;E Court only</b>   |   |   |  |
|--|---|---|--|
|  |   | (if any)  | (if any)   |
| 1 For a development application—an eligible submitter for the development application<br>2 For a change application—an eligible submitter for the change application   | 1 For a development application—the assessment manager<br>2 For a change application—the responsible entity | 1 The applicant<br>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<br/>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—</p> <p>(a) any part of the development application or the change application, for the development approval, that required impact assessment; or</p> <p>(b) a variation request.</p> |   |   |  |
| Column 1<br>Appellant  | Column 2<br>Respondent  | Column 3<br>Co-respondent<br>(if any)   | Column 4<br>Co-respondent by election<br>(if any)                                |
| 1 For a development application—an eligible submitter for the development application<br>2 For a change application—an eligible submitter for the change application<br>3 An eligible advice agency for the development application or change application  | 1 For a development application—the assessment manager<br>2 For a change application—the responsible entity | 1 The applicant<br>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<br/>An appeal may be made against—</p> <p>(a) a decision under section 32 about a compensation claim; or</p> <p>(b) a decision under section 265 about a claim for compensation; or</p> <p>(c) a deemed refusal of a claim under paragraph (a) or (b).</p>   |   |   |  |
| Column 1<br>Appellant  | Column 2<br>Respondent  | Column 3<br>Co-respondent<br>(if any)   | Column 4<br>Co-respondent by election<br>(if any)                                |
| A person dissatisfied with the decision  | The local government to which the claim was made  | -   | -  |
| <p>5. Registered premises<br/>An appeal may be made against a decision of the Minister under chapter 7, part 4.</p>  |   |   |  |
| Column 1<br>Appellant  | Column 2<br>Respondent  | Column 3<br>Co-respondent<br>(if any)   | Column 4<br>Co-respondent by election<br>(if any)                                |
| 1 A person given a decision notice about the decision<br>2 If the decision is to register premises or  | The Minister  | -   | If an owner or occupier starts the appeal – the owner of the registered premises |

| <b>Table 2<br/>Appeals to the P&amp;E Court only</b>   |                        |                                       |   |
|--|------------------------|---------------------------------------|---|
| renew the registration of premises—an owner or occupier of premises in the affected area for the registered premises who is dissatisfied with the decision   |                        |                                       |   |
| <p>6. Local laws<br/>An appeal may be made against a decision of a local government, or conditions applied, under a local law about—</p> <p>(a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or</p> <p>(b) the erection of a building or other structure.</p> |                        |                                       |   |
| Column 1<br>Appellant  | Column 2<br>Respondent | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent by election<br>(if any) |
| A person who—<br>(a) applied for the decision; and<br>(b) is dissatisfied with the decision or conditions.   | The local government   | -                                     | -   |

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

| <b>Table 3</b>   |  |          |          |
|--|--|----------|----------|
| <b>Appeals to the tribunal only</b>                          |  |          |          |
|  |  | (if any) | (if any) |
| A person who was entitled to receive, notice of the decision | The local government to which the application was made | -        | -        |