

30 November 2017

Enquiries: Jenny Elphinstone  
Phone: (07) 4099 9482  
Reference: MCUC 5403/2013 (D#835383)

Administration Office  
64 - 66 Front St Mossman  
P 07 4099 9444  
F 07 4098 2902

Ms Samantha Carey-Sage  
PO BOX 1156  
**MOSSMAN QLD 4873**

Dear Madam

**REQUEST TO EXTEND CURRENCY PERIOD MATERIAL CHANGE OF USE FOR A HOUSE  
AT 62R OLD FOREST CREEK ROAD FOREST CREEK  
LAND DESCRIBED AS LOT 1 ON SP161489**

Thank you for your request to extend the reconfiguring of a lot component of the above approval lodged with Council as a properly made application on 24 November 2017.

Please find attached the Decision Notice for the above-mentioned development application.

Please quote Council's application number MCUC 5403/2013 in all subsequent correspondence relating to this development application. Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9482.

Yours faithfully

**PAUL HOYE**  
**Manager Sustainable Communities**

encl.

- Decision Notice

**DOUGLAS SHIRE COUNCIL  
DECISION NOTICE — APPROVAL  
(GIVEN UNDER SECTION 87 OF *THE PLANNING ACT 2016*)**

Thank you for your development application detailed below which was properly made on 24 November 2017. Please be aware that Douglas Shire Council has assessed your application and decided it as follows:

**1. Applicant's details**

---

Name: Samantha Carey-Sage

Postal Address: PO BOX 1158  
MOSSMAN QLD 4873

**2. Location details**

---

Street Address: 62R Old Forest Creek Road, Forest Creek

Real Property Description: Lot 1 on SP161489

Local Government Area: Douglas Shire Council

**3. Details of proposed development**

---

Request to extend the currency period for four years for the Material Change of Use for a House.

**4. Decision**

---

Date of decision: 29 November 2017

Decision details: Council approves the currency period for a further four (4) years up to and including the 20 December 2021.

**5. Approval**

---

A copy of the approval for which the extensions relates to is included in schedule 1.

**6. Rights of appeal**

---

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions 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*).

A copy of the relevant appeal provisions are included in Schedule 2.

## SCHEDULE 1 – APPROVAL

ENQUIRIES: Michelle Henderson  
PHONE: (07) 4099 9457  
FAX: (07) 4044 3836  
YOUR REF:  
OUR REF: 8/7/2856 (4226978)

20 December 2013

S J Carey-Sage  
PO Box 1156  
MOSSMAN QLD 4873

Dear Sir/Madam

**DECISION NOTICE UNDER S335 SUSTAINABLE PLANNING ACT 2009:  
DEVELOPMENT APPLICATION FOR 62R OLD FOREST CREEK ROAD FOREST  
CREEK**

With reference to the abovementioned Development Application which was determined under Instrument of Delegation on 20 December 2013, please find attached the relevant Decision Notice.

The notice includes extracts from the Act with respect to making representations about conditions, negotiated decisions, suspension of the appeal period, and lodging an Appeal.

Should you have any enquires in relation to this Decision Notice, please contact Michelle Henderson of Council's Development Services Team on telephone number (07) 4099 9457.

Yours faithfully



Graham Boyd  
Manager Development & Regulatory Services

**Att.**

43-2013.5403  
1/15

**APPLICANT DETAILS**

S J Carey-Sage  
PO Box 1156  
MOSSMAN QLD 4873

**ADDRESS**

62R Old Forest Creek Road Forest Creek

**REAL PROPERTY DESCRIPTION**

Lot 1 on RP161489

**PROPOSAL**

House (Rural Settlement)

**DECISION**

Approved subject to conditions (refer to approval package below).

**DECISION DATE**

20 December 2013

**TYPE**

Material Change of Use (Development Permit)

**REFERRAL AGENCIES**

None Applicable

**SUBMISSIONS**

There were no submissions for this application.

**FURTHER DEVELOPMENT PERMITS REQUIRED**

Development Permit for Building Works  
Development Permit for Plumbing Works

**CODES TO COMPLY WITH FOR SELF-ASSESSABLE DEVELOPMENT**

None

43.2013.5403  
2/15

**DOES THE ASSESSMENT MANAGER CONSIDER THE APPLICATION TO BE IN CONFLICT WITH APPLICABLE CODES, PLANNING SCHEME, STATE PLANNING POLICIES OR PRIORITY INFRASTRUCTURE PLAN (IF YES, INCLUDE STATEMENT OF REASONS)**

Not in conflict

**APPROVED DRAWING(S) AND/OR DOCUMENT(S)**

The term 'approved drawing(s) and/or document(s)' or other similar expression means:

Drawing or Document	Reference	Date
Site Layout on Survey Plan	Plan prepared by Samantha Carey-Sage (Council ref no 4191660)	Received 19 Nov 2013
Site Plan	Plan reference 1767 W14 of 14 prepared by PD Designs P/L (Council ref no 4165381)	Aug 2010
Ground Floor Plan	Plan reference 1767 W1 of 1 prepared by PD Designs P/L (Council ref no 4165381)	Aug 2010
Ground Floor Dimension Plan	Plan reference 1767 W2 of 14 prepared by PD Designs P/L (Council ref no 4165381)	Aug 2010
First Floor Plan	Plan reference 1767 W3 of 14 prepared by PD Designs P/L (Council ref no 4165381)	Aug 2010
Elevations 1 & 2	Plan reference 1767 W11 of 14 prepared by PD Designs P/L (Council ref no 4165381)	Aug 2010
Elevations 3 & 4	Plan reference 1767 W12 of 14 prepared by PD Designs P/L (Council ref no 4165381)	Aug 2010

**ASSESSMENT MANAGER CONDITIONS**

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
  - a. The specifications, facts and circumstances as set out in the application submitted to Council, including recommendations and findings confirmed within technical reports; and
  - b. The following conditions of approval and the requirements of Council's Planning Scheme and the *FNQROC Development Manual*.

Except where modified by these conditions of approval.

**Timing of Effect**

2. The conditions of the Development Permit must be satisfied prior to Commencement of Use, except where specified otherwise in these conditions of approval.

**Lawful Point of Discharge**

3. The flow of all external stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development.

**Water Supply**

4. Water storage tank(s) with a minimum capacity not less than 30 000 litres must be installed prior to occupation of the premises. Details of the water tank(s) must be shown on plans submitted with the Building Application. Such water tank(s) must be provided with:
  - a. Mosquito-proof screens of brass, copper, aluminium or stainless steel gauze not coarser than one (1) mm aperture mesh of substantial construction and installed in such manner as not to cause or accelerate corrosion; or
  - b. Flap valve at every opening of the tank or other receptacle; or
  - c. Other approved means for preventing the ingress or egress of mosquitoes; and
  - d. Where a tank or other receptacle is provided with a manhole, the manhole must have a diameter of no more than 40 cm; and
  - e. A 50 mm ball valve with a camlock fitting.

**On-site Effluent Disposal**

5. The method of on-site effluent disposal must be in accordance with the *Plumbing and Drainage Act 2002*. Details of the wastewater treatment system to be installed must be approved by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

### **Vegetation Clearing**

6. Existing vegetation on the land must be retained in all areas except those affected by the construction of access driveways and/or the installation of services as detailed on the approved plans. Any further clearing requires a Permit for Operational Works.

### **Landscaping**

7. Landscaping onsite must consist of 75 per cent of native and endemic species which must be planted in an irregular and random fashion to blend with existing vegetation. The use of palm trees must be limited and only used as an accent feature.

### **Building Colours**

8. The exterior finishes and colours of Buildings are non-reflective and blend with the natural colours of the surrounding environment. Roofs and structures (including water tanks) must be of moderately dark to darker shades of green, grey, blue and brown.

The following proposed building colours are approved for use:

Exterior Walls –	Stained timber and natural paint colours which blend with the surrounding environment
Windows and Doors –	Stained timber and natural paint colours which blend with the surrounding environment
Water Tank –	Colorbond Pale Eucalypt
Roof –	Colorbond Paperbark and Colorbond Eucalypt

The applicant must provide colour samples prior to the issue of the Development Permit for Building Works.

The above requirements must be made known in writing to all prospective purchasers.

### **Generators/Noise**

9. Noise from; generators, service equipment or other mechanical equipment, must not emanate from the subject land to a degree that would, in the opinion of the Chief Executive Officer, create an environmental nuisance having regard to the provisions of Chapter 8 Part 3B of the Environmental Protection Act 1994.

**Fuel Storage**

10. All fuels must be stored in an undercover and secure location at all times.

**Sediment and Erosion Control**

11. Soil and water management measures must be installed/implemented prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the *Environmental Protection Act 1994*, and the *FNQROC Development Manual*).

**House**

12. The lot must not contain more than one (1) House and the approved Caretakers Residence provided under MCU 3B 023/06.

**Geotechnical Report**

13. All earthwork batters steeper than 1 in 2 and/or higher than 1.8 metres must be certified by a qualified Geotechnical Engineer prior to the Commencement of Use.

**Driveway Grades**

14. In sections where the driveway grade exceeds 20% the driveway must be improved through either concrete or bitumen seal or similar approved methods to provide appropriate traction all to the satisfaction of the Chief Executive Officer.

**ADVICE**

1. This approval, granted under the provisions of the *Sustainable Planning Act 2009*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of section 339 and section 341 of the *Sustainable Planning Act 2009*.
2. The applicant/owner is advised that this approval does not approve the construction of the building work. A Development Permit for Building Work must be obtained in order for construction to commence.
3. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.

43.2013.5403  
6/15



4. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
5. For information relating to the *Sustainable Planning Act 2009* log on to [www.dsdip.qld.gov.au](http://www.dsdip.qld.gov.au) . To access the *FNQROC Development Manual*, Local Laws and other applicable Policies log on to [www.douglas.qld.gov.au](http://www.douglas.qld.gov.au) .

#### **LAND USE DEFINITIONS\***

In accordance with *Douglas Shire Planning Scheme 2008* the approved land use of House is defined as:

- “... the use of premises comprising one Dwelling Unit, located on one lot for the exclusive residential use of one Household. The use includes:
- Outbuildings/structures incidental to and necessarily associated with the residential use;
  - The care of children in accordance with the *Child Care (Family Day Care) Regulation 1991*;
  - Accommodation for a member or members of the extended family of the Household occupying the House and for personal staff; and
  - A display house which displays to the general public the type of construction or design offered by a builder/developer, for a maximum period of twelve (12) months and which then converts to a House for the exclusive use of one Household.”

\*This definition is provided for convenience only. This Development Permit is limited to the specifications, facts and circumstances as set out in the application submitted to Council and is subject to the abovementioned conditions of approval and the requirements of Council's Planning Scheme and the *FNQROC Development Manual*.

#### **RIGHTS OF APPEAL**

Attached

---

### **End of Decision Notice**

43.2013.5403  
7/15

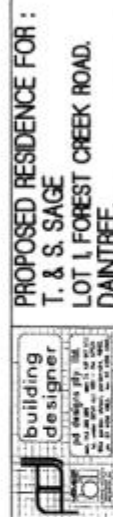
**APPENDIX 1: Approved Drawing(s) & Document(s)**

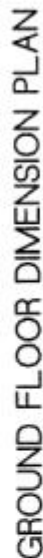


(this Page is blank)

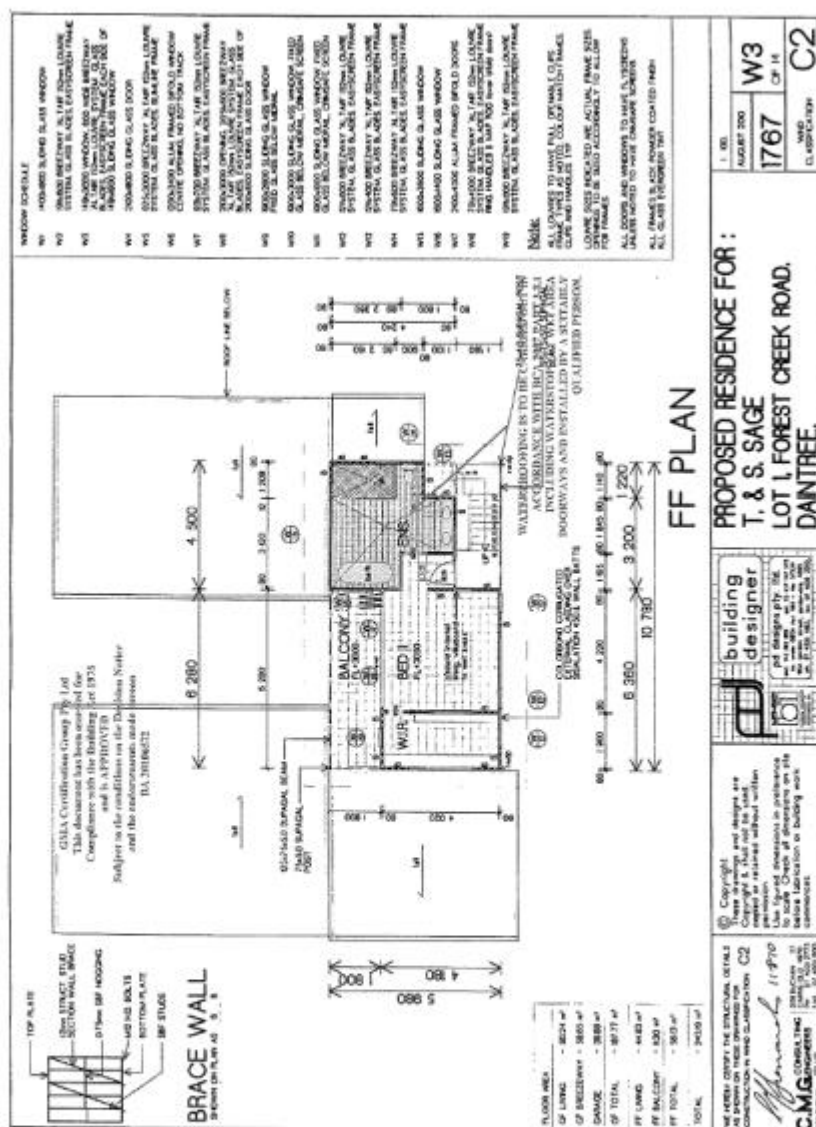
43.2013.5403  
9/15

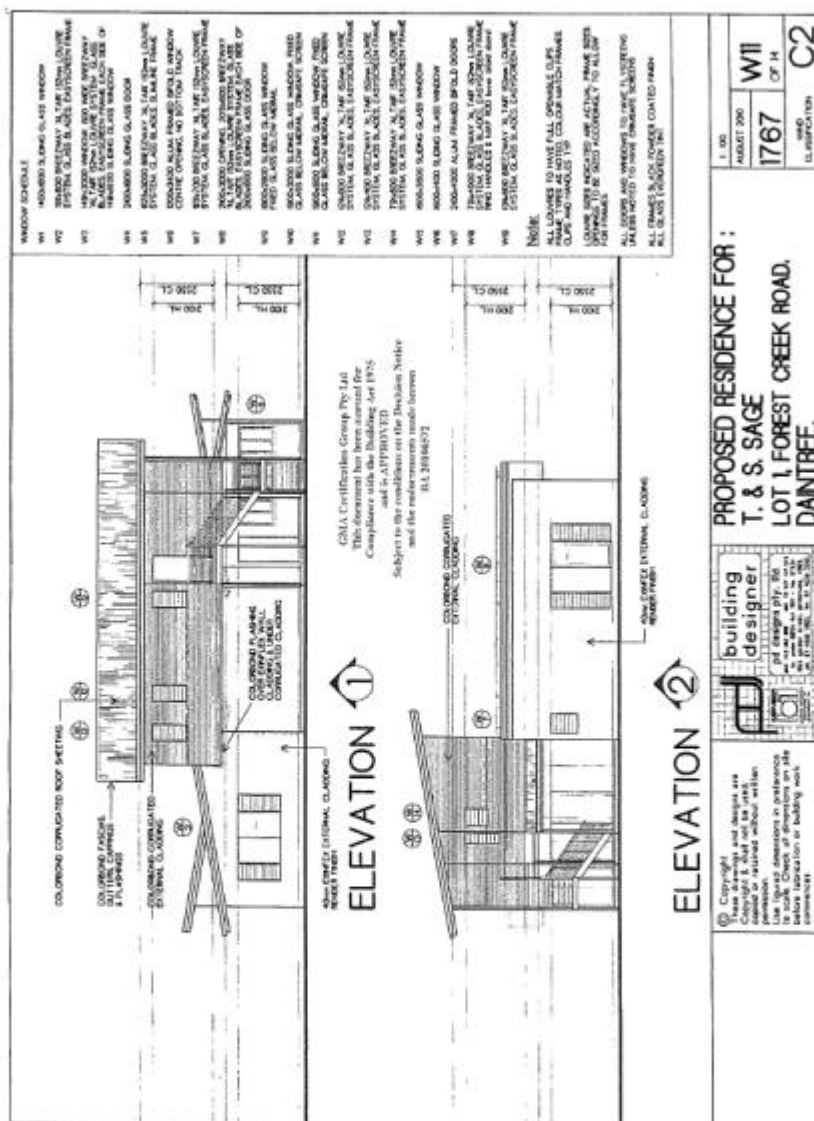




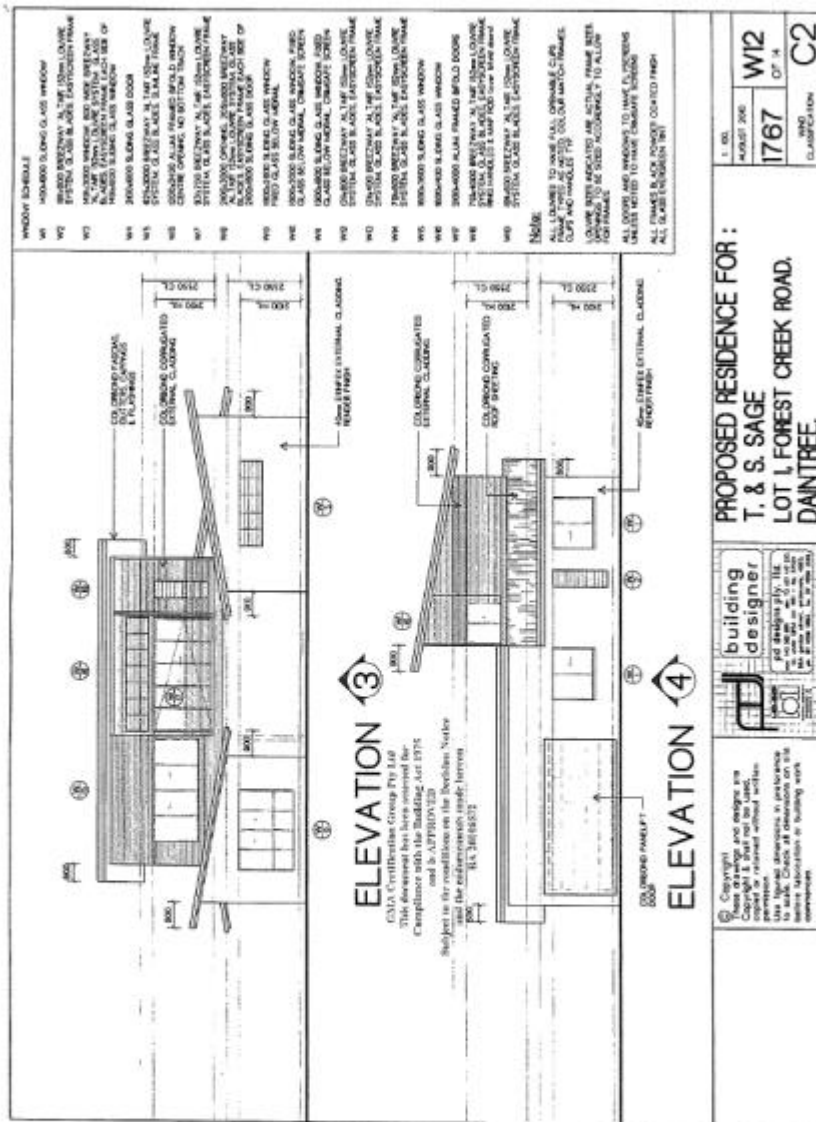












- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.
- (3) In this section—
  - conduct* means an act or omission.
  - representative* means—
    - (a) of a corporation—an executive officer, employee or agent of the corporation; or
    - (b) of an individual—an employee or agent of the individual.
  - state of mind*, of a person, includes the person's—
    - (a) knowledge, intention, opinion, belief or purpose; and
    - (b) reasons for the intention, opinion, belief or purpose.

## Chapter 6 Dispute resolution

### Part 1 Appeal rights

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

- (1) Schedule 1 states—
  - (a) matters that may be appealed to—
    - (i) either a tribunal or the P&E Court; or
    - (ii) only a tribunal; or
    - (iii) only the P&E Court; and
  - (b) the person—
    - (i) who may appeal a matter (the *appellant*); and
    - (ii) who is a respondent in an appeal of the matter; and

- (iii) who is a co-respondent in an appeal of the matter; and
  - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
  - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
  - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
  - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
  - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
  - (f) for 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).
- (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.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

## 231 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—