



Decision Notice Approval (negotiated)

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 s76 Planning Act 2016

Application number:	D/127-2019	Contact:	Thomas Gardiner
Notice Date:	1 June 2020	Contact Number:	1300 22 55 77

APPLICANT DETAILS

Name:	Joseph and Jennifer Bakonyi		
Postal address:	C/- Reel Planning CQ PO BOX 437 ROCKHAMPTON QLD 4700		
Phone no:	Mobile no:	Email:	

I acknowledge receipt of the above application on 24 December 2019 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Building Works Assessable against Planning Scheme for a Shed and Shipping Container and Operational Works for Earthworks
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PROPERTY DESCRIPTION

Street address:	Lot 3 Six Mile Road, Pink Lily
Real property description:	Lot 3 on RP601798, Parish of Karkol

OWNER DETAILS

Name:	J Bakonyi and J R Bakonyi
Postal address:	
Dear Joseph and Jennifer Bakonyi	
I advise that, on 26 May 2020 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.	

CHANGES TO CONDITIONS

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

1)	Item 5	Changed	26 May 2020
2)	Condition 10.1	Changed	26 May 2020
3)	Condition 11.1	Changed	26 May 2020
4)	Condition 14.0 (inclusive)	Deleted	26 May 2020
5)	Condition 15.3	Deleted	26 May 2020

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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Building work assessable under the planning scheme - 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

NIL

4. REFERRAL AGENCIES

The following Referral Agencies were activated by this application.

For an application involving	Name of agency	Role of Agency	Contact Details
WETLAND PROTECTION AREA			
<i>Schedule 10, Part 20, Division 4, Table 1 - Assessable development under s34</i>			
Development application for operational work that is assessable development under section 34, unless the chief executive is the prescribed assessment manager for the application	The chief executive of the department in which the <i>Planning Act 2016</i> is administered: Department of State Development, Manufacturing, Infrastructure and Planning	Concurrence	<u>In person:</u> Level 2, 209 Bolsover Street, Rockhampton City <u>Online lodgement using MyDAS2:</u> https://prod2.dev-assess.qld.gov.au/suite/ <u>Email:</u> RockhamptonSARA@dsdmip.qld.gov.au <u>Postal:</u> PO Box 113 Rockhampton Qld 4700

5. THE APPROVED PLANS

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

Drawing/report title	Prepared by	Date	Reference number	Rev
Shed Drawing Slab	-	June 2018	-	-
Shed Drawing Steelwork	-	June 2018	-	-
Site Layout and Typical Detail	McMurtrie Consulting Engineers	19 December 2019	0431920-0001	A
218 Six Mile Road, Pink Lily - Flood Statement	McMurtrie Consulting Engineers	19 December 2019	043-19-20	-

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

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.

7. STATEMENT OF REASONS

Description of the development	The proposed development is for Building Works Assessable against the Planning Scheme (Shed and Shipping Container) and Operational Works (Earthworks)	
Reasons for Decision	<p>a) The proposed development does not compromise the strategic framework in the <i>Rockhampton Region Planning Scheme 2015</i>;</p> <p>b) Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity;</p> <p>c) The proposed development does not compromise the relevant State Planning Policy; and</p> <p>d) 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	<p>The proposed development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> Flood Hazard Overlay 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 exceptions listed below.	
	Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
	Flood Hazard Overlay Code	<p>The proposal will result in the intensification of development on the site as it involves the construction of two (2) new structures in a high and extreme flood hazard area. Compacted fill with an average depth of approximately one (1) metre has also been used to facilitate the construction of the aforementioned structures.</p> <p>A flood statement outlines that the displaced water volume resulting from the proposal will have an insignificant impact across the floodplain and to surrounding properties and infrastructure. There is also an insignificant increase in the impervious area will have minimal impacts on peak discharge and stormwater – creating no actionable nuisance to surrounding properties.</p> <p>The proposal will involve filling which exceeds a height of 100 millimetres. The unlawful fill on the site has an average depth of approximately one (1) metre, covering an area of approximately 2,300 square metres.</p> <p>The volume of flood water storage displacement</p>

		<p>due to this fill would be approximately 2,300 cubic metres, with the displaced water volume adding approximately 20mm to the inundation height. Applying this across the entire floodplain is considered insignificant and is not anticipated to worsen flood flows external to the site.</p>
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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*. 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.

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: 1 June 2020
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C/C Department of State Development, Manufacturing, Infrastructure and Planning - RockhamptonSARA@dsmip.qld.gov.au

Attachment 1 – Conditions of the approval

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

Part 2 – Conditions required by the referral agency response

Attachment 2—Extract on appeal rights

BUILDING WORK CONDITIONS

1.0 ADMINISTRATION

- 1.1 The Developer and their employee, agent, contractor or invitee is responsible for ensuring compliance with the conditions of this development approval.
- 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions, works, or requirements of this development approval relating to the existing non-compliant shed and shipping container must be undertaken and completed by obtaining the Development Permits:
- 1.3.1 to Council’s satisfaction;
 - 1.3.2 at no cost to Council; and
 - 1.3.3 by lodging the applications within three (3) months of the date of this development approval, and completion of the works within six (6) months from date of the approval of those works,

unless otherwise stated.

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:

Drawing/report title	Prepared by	Date	Reference number	Rev
Shed Drawing Slab	-	June 2018	-	-
Shed Drawing Steelwork	-	June 2018	-	-
Site Layout and Typical Detail	McMurtrie Consulting Engineers	19 December 2019	0431920-0001	A
218 Six Mile Road, Pink Lily - Flood Statement	McMurtrie Consulting Engineers	19 December 2019	043-19-20	-

- 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.

3.0 STORMWATER WORKS

- 3.1 All stormwater must drain to a demonstrated lawful point of discharge and must not adversely affect surrounding land or infrastructure in comparison to the pre-development conditions, including but not limited to blocking, altering or diverting existing stormwater runoff patterns or having the potential to cause damage to other infrastructure.

4.0 ROOF AND ALLOTMENT DRAINAGE WORKS

4.1 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.

5.0 SITE WORKS

5.1 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.

6.0 BUILDING WORKS

6.1 A Development Permit for Building Works must be obtained for the proposed structures on the development site.

7.0 ENVIRONMENTAL HEALTH

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

7.2 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.

8.0 ELECTRICITY

8.1 Electricity services must be provided to the development in accordance with the standards and requirements of the relevant service provider.

9.0 ASSET MANAGEMENT

9.1 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.

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.

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.

OPERATIONAL WORKS CONDITIONS

10.0 ADMINISTRATION

10.1 The approved use and development must be completed and maintained generally in accordance with the approved drawings and documents, except where amended by the conditions of this Decision Notice.

Drawing/report title	Prepared by	Date	Reference number	Rev
Shed Drawing Slab	-	June 2018	-	-
Shed Drawing Steelwork	-	June 2018	-	-
Site Layout and Typical Detail	McMurtrie Consulting Engineers	19 December 2019	0431920-0001	A
218 Six Mile Road, Pink Lily - Flood Statement	McMurtrie Consulting Engineers	19 December 2019	043-19-20	-

- 10.2 A set of the above approved plans are returned to you as the Applicant. The Applicant is to supply one (1) approved set to the contractor to be retained on site at all times during construction.
- 10.3 Where there is any conflict between the conditions of the Decision Notice and the details shown on the approved plans and documents, the conditions of this Decision Notice must prevail.
- 10.4 If after the issue of this Decision Notice, any errors, omissions or insufficient details are noted on the approved plans, such deficiencies must be corrected prior to construction, or if noted during construction, approval obtained from Council's Engineer to correct any error or omission, Council reserves the right to withhold approval of construction until such remedies are complete.
- 10.5 Council reserves the right for uninterrupted access to the site at all times, starting with the Pre-Start Meeting to the completion of the work or issuance of the Compliance Letter.
- 10.6 All Construction works 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* and *Environmental Protection Regulations* must be observed at all times.
- 10.7 The developer/contractor must be present for the final inspection at the completion of works.
- 10.8 Any proposed changes to the approved stamped plans during the works will be generally considered minor amendments and require Council's approval. The stamped amended plans and a covering letter will be forwarded to the applicant (*CMDG – CP1.11*).

11.0 INSPECTION REQUIREMENTS

- 11.1 Joint inspections with any of the Site Superintendent / Consulting Engineer / Contractor and Rockhampton Regional Council Works Inspector / Engineer are required. A minimum of twenty four (24) hours' notice is required. Council's minimum inspection programme is as follows, however this does not preclude the requirement for further inspections if deemed appropriate by Council Engineers.

Site Works

earthworks C213/visual pre-start/completion

Defects / Maintenance Liability

on / off defects visual completion of works

12.0 EROSION AND SEDIMENTATION CONTROL

- 12.1 The developer/contractor will ensure that erosion and sedimentation controls are implemented, monitored, and maintained at all times in accordance with the *CMDG*, and the approved plan/s until all approved construction on the site has been completed. If the

development is staged all erosion sediment controls are to be monitored and maintained until the completion of the development.

- 12.2 All stormwater runoff from the site during and after the site works is completed, is to comply with the *SPP, Appendix 2, Table A and B*, to avoid or minimise adverse impacts on stormwater quality.
- 12.3 If required, the erosion and sedimentation controls measures are to be amended/upgraded by the developer/contractor as directed by the Council's Engineer, within an agreed timeframe.

13.0 SITWORKS

- 13.1 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 adjoining properties or infrastructure.
- 13.2 All earthworks must be undertaken in accordance with *AS3798 "Guidelines on Earthworks for Commercial and Residential Developments"*.
- 13.3 All earthworks quality control and testing will be in accordance with *AS1289.5.1.1*.
- 13.4 A water truck is required onsite at all times to suppress dust while earthworks are being undertaken.

14.0 AS CONSTRUCTED REQUIREMENTS

- 14.1 Digital As Constructed plans in the prescribed digital formats must be submitted to Council and approved prior to the works being accepted for the On Defects/Liability Period. The As Constructed data will only be approved after the final site inspection has been passed by Council. Refer to Council's website <http://www.rockhamptonregion.qld.gov.au/PlanningBuilding/Development-Applications/Lodging-a-Development-Application/As-Constructed-Submissions> as to how to submit the data and then email to enquiries@rrc.qld.gov.au with a cover note detailing the Development Application No., legal description of the land, address, estate/subdivision name and stage, consultants name and contact details.
- 14.2 Any works that involve the alteration of ground surface levels (cut/fill) require spot heights and any digital elevation models and/or line work in digital AutoCAD format over the affected lots/site (refer As Constructed Data Guidelines – 5.6).

Compliance/Certifications (CMDG – CP1.21)

- 14.3 By submitting the As Constructed information to Council, the Consultant grants Council a royalty-free, perpetual, non-exclusive, non-cancellable, non-transferable licence to:
- 14.3.1 use, reproduce, adapt, modify, commercially exploit and communicate the Intellectual Property (including by development and distribution of a Derivative Product); and
- 14.3.2 sublicense Council's right to use, reproduce, adapt, modify, commercially exploit and communicate the Intellectual Property, subject to the terms of this Licence.

Note: Interpretation of the above intellectual property condition will be subject to the following definitions:

"Intellectual Property" in relation to the As Constructed information, includes all copyright, and all right in relation to registered and unregistered trademarks (including service marks), registered designs and confidential information (including trade secrets and know-how), and all other right resulting from intellectual activity in the industrial, scientific, literary or artistic fields; and

"Derivative Product" means a distinct product in which the Intellectual Property is altered, abridged or supplemented, and/or which incorporates additional functionality.

15.0 DOCUMENTATION

15.1 All engineering drawings for operational works must be signed and certified by a Registered Professional Engineer Queensland as being in accordance with all relevant Australian Standards, statutory requirements and sound engineering principles. The works must be supervised on the Applicant's behalf by a suitably qualified Registered Professional Engineer of Queensland. All designs, specifications and management plans must be certified, by a suitably qualified professional identifying the certifier's full name and accreditation/registration number, as complying with all relevant Codes and Standards.

For the purpose of this statement, a 'suitably qualified professional' is a person with a tertiary qualification and professional affiliation in the field of engineering or science relevant to the design, specifications and/or management plan and who has at least two years' experience in management in that field. Where the design, specifications and/or management plans involve different fields, a certification is required from a suitably qualified professional for each separate field.

15.2 An Engineer's Certificate of Construction and As Constructed Certification must be signed and submitted by a Registered Professional Engineer of Queensland verifying that all works have been carried out in accordance with Council approved drawings, approval conditions and specifications.

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 Multicultural Affairs website www.datsima.qld.gov.au

NOTE 2. Environmental Protection Act 1994

General Environmental Duty – Sec.319

A person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm (the *general environmental duty*).

In deciding the measures required to be taken, regard must be had to, for example—

- (a) the nature of the harm or potential harm; and
- (b) the sensitivity of the receiving environment; and
- (c) the current state of technical knowledge for the activity; and
- (d) the likelihood of successful application of the different measures that might be taken; and
- (e) the financial implications of the different measures as they would relate to the type of activity.

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. Water

In accordance with the *Water Supply (Safety and Reliability) Act 2008*, it is an offence to interfere with a service provider and Fitzroy River Water is the department responsible for water and sewerage services. Fitzroy River Water can provide cost estimates for any water and sewerage works if required.

- NOTE 5. The *CMDG Construction Specifications* must be used for the construction works.
- NOTE 6. This Development must comply with *Queensland Plumbing and Wastewater Code and Rockhampton Regional Council Sub-Metering Policy*.
- NOTE 7. Please contact Rockhampton Regional Council's Plumbing Compliance section to organise a Plumbing and Drainage permit for any alterations to the private plumbing pipework.



Attachment 1 – Part 2
Referral Agency Conditions - Department of
State Development, Manufacturing,
Infrastructure and Planning

Planning Act 2016

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.

Table 1
Appeals to the P&E Court and, for certain matters, to a tribunal

1. Development applications An appeal may be made against— (a) the refusal of all or part of the development application; or (b) the deemed refusal of the development application; or (c) a provision of the development approval; or (d) if a development permit was applied for—the decision to give a preliminary approval.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	1 A concurrence agency that is not a co-respondent 2 If a chosen Assessment manager is the respondent—the prescribed assessment

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
			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
4. Infrastructure charges notices An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds a) The notice involved an error relating to – (i) The application of the relevant adopted charge; or Examples of errors in applying an adopted charge – <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 b) The was no decision about an offset or refund; or c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or d) The amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
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	-	-
<p>2. Eligible submitter appeals</p> <p>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—</p> <p>(a) any part of the development application for the development approval that required impact assessment; or</p> <p>(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	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

Table 2 Appeals to the P&E Court only			
the change 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 An appeal may be made against a decision of the Minister under chapter 7, part 4.</p>			
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

Table 2 Appeals to the P&E Court only			
<p>6. Local laws 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 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			
<p>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.</p>			
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
<p>3. Certain decisions under the Building Act and the Plumbing and Drainage Act 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 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (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 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	-	-