



Decision Notice Approval (amended)

Planning Act Form 5 (version 1.1 effective 22 June 2018) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s83 (change application) Planning Act 2016, and Section 3.5.15 of the Integrated Planning Act 1997

Application number:	D/1641-2009	Contact:	Sophie Muggerridge
Notice Date:	10 June 2022	Contact Number:	(07) 4932 9000

APPLICANT DETAILS

Name:	Philip James and Anne Elizabeth Denovan		
Postal address:			
Mobile no:		Email:	

I acknowledge receipt of the above change application on 14 April 2022 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for a Material Change of Use for a Warehouse
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PROPERTY DESCRIPTION

Street address:	7 Waurm Street, Kawana
Real property description:	Lot 14 on RP900394 Parish of Murchison

OWNER DETAILS

Name:	P J Denovan and A E Denovan
Postal address:	
Dear Philip James and Anne Elizabeth Denovan	
I advise that, on 2 June 2022 the above change 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)	Condition 1.6.1	Deleted	2 June 2022
2)	Condition 1.7	Amended	2 June 2022
3)	Condition 1.9	Deleted	2 June 2022
4)	Condition 1.10	Deleted	2 June 2022
5)	Condition 1.11	Deleted	2 June 2022
6)	Condition 1.12	Deleted	2 June 2022
7)	Condition 2.1	Deleted	2 June 2022
8)	Condition 2.2	Deleted	2 June 2022

9)	Condition 2.3	Deleted	2 June 2022
10)	Condition 2.4	Deleted	2 June 2022
11)	Condition 2.5	Deleted	2 June 2022
12)	Condition 2.6	Deleted	2 June 2022
13)	Condition 2.7	Deleted	2 June 2022
14)	Condition 2.8	Deleted	2 June 2022
15)	Condition 2.9	Deleted	2 June 2022
16)	Condition 2.10	Deleted	2 June 2022
17)	Condition 2.11	Deleted	2 June 2022
18)	Condition 3.1	Amended	2 June 2022
19)	Condition 3.2	Amended	2 June 2022
20)	Condition 3.3	Deleted	2 June 2022
21)	Condition 3.4	Deleted	2 June 2022
22)	Condition 3.5	Amended	2 June 2022
23)	Condition 3.7	Deleted	2 June 2022
24)	Condition 3.8	Deleted	2 June 2022
25)	Condition 4.1	Deleted	2 June 2022
26)	Condition 4.2	Deleted	2 June 2022
27)	Condition 4.3	Deleted	2 June 2022
28)	Condition 4.4	Deleted	2 June 2022
29)	Condition 4.5	Deleted	2 June 2022
30)	Condition 5.1	Deleted	2 June 2022
31)	Condition 5.2	Deleted	2 June 2022
32)	Condition 5.3	Deleted	2 June 2022
33)	Condition 5.4	Deleted	2 June 2022
34)	Condition 5.5	Deleted	2 June 2022
35)	Condition 5.6	Deleted	2 June 2022
36)	Condition 6.1	Amended	2 June 2022
37)	Condition 6.2	Amended	2 June 2022
38)	Condition 6.3	New	2 June 2022
39)	Condition 7.1	Deleted	2 June 2022
40)	Condition 7.2	Deleted	2 June 2022
41)	Condition 7.3	Deleted	2 June 2022
42)	Condition 7.4	Deleted	2 June 2022
43)	Condition 7.5	Deleted	2 June 2022
44)	Condition 7.6	Deleted	2 June 2022

45)	Condition 7.7	Deleted	2 June 2022
46)	Condition 7.8	Deleted	2 June 2022
47)	Condition 7.9	Deleted	2 June 2022
48)	Condition 8.1	Amended	2 June 2022
49)	Condition 8.2	Amended	2 June 2022
50)	Condition 8.3	New	2 June 2022
51)	Condition 9.1	Amended	2 June 2022
52)	Condition 9.2	Amended	2 June 2022
53)	Condition 9.3	Amended	2 June 2022
54)	Condition 9.4	Deleted	2 June 2022
55)	Condition 11.1	Deleted	2 June 2022
56)	Condition 11.2	Deleted	2 June 2022
57)	Condition 11.2.1	Deleted	2 June 2022
58)	Condition 11.2.2	Deleted	2 June 2022
59)	Condition 12.1	Amended	2 June 2022
60)	Condition 12.2	Deleted	2 June 2022
61)	Condition 12.3	Deleted	2 June 2022
62)	Condition 12.4	Deleted	2 June 2022

1. DETAILS OF THE APPROVAL

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

2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

3. THE APPROVED PLANS

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

Plan/Document Name	Plan Number	Dated
Floor plan for storage and office/display area	Unnumbered	Undated
Mezanine floor plan	Unnumbered	Undated
Front Elevation & End Elevation	Unnumbered	Undated
Site Plan	0509-167 Rev 1 Sheet 2 of 3	13 May 2009
Q100 & Stormwater Retention	0509-167 Rev 1 Sheet 3 of 3	13 May 2009

Plan/Document Name	Plan Number	Dated
System		
Waste disposal	Unnumbered	Undated
Turning Paths Plan	Unnumbered	Undated
Turning Paths Plan 2	Unnumbered	Undated
Turning Paths Plan 3	Unnumbered	Undated
Landscaping Plan	Unnumbered	Undated

4. CURRENCY PERIOD FOR THE APPROVAL

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

5. 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.

6. 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.

7. ORIGINAL DECISION ASSESSMENT MANAGER

Name: HENRY BEZUIDENHOUT MANAGER – PLANNING ASSESSMENT OPERATIONS	Date: 23 November 2009
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8. ASSESSMENT MANAGER

Name: **Amanda O'Mara**
ACTING COORDINATOR
DEVELOPMENT ASSESSMENT

Signature:

Date: 10 June 2022

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

1.0 ADMINISTRATION

- 1.1 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 permit:

<u>Plan/Document Name</u>	<u>Plan Number</u>	<u>Dated</u>
Floor plan for storage and office/display area	Unnumbered	Undated
Mezzanine floor plan	Unnumbered	Undated
Front Elevation & End Elevation	Unnumbered	Undated
Site Plan	0509-167 Rev 1 Sheet 2 of 3	13 May 2009
Q100 & Stormwater Retention System	0509-167 Rev 1 Sheet 3 of 3	13 May 2009
Waste disposal	Unnumbered	Undated
Turning Paths Plan	Unnumbered	Undated
Turning Paths Plan 2	Unnumbered	Undated
Turning Paths Plan 3	Unnumbered	Undated
Landscaping Plan	Unnumbered	Undated

- 1.2 Where there is any conflict between conditions of this decision notice and details shown on the approved plans, the conditions of approval must prevail.
- 1.3 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.4 The Developer is responsible for ensuring compliance with this Approval and the Conditions of the Approval by an employee, agent, contractor or invitee of the Developer.
- 1.5 All conditions, works, or requirements of this approval must be undertaken and completed to the satisfaction of Council.
- 1.6 The following further development permits are required prior to the commencement of any works on the site:
- 1.6.1 Deleted
 - 1.6.2 Plumbing and Drainage Works; and
 - 1.6.3 Building Works.

- 1.7 All Development Permits for Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
- 1.8 Any outstanding rates, charges or expenses levied by the Council over the subject land must be paid prior to the issue of a Development Permit for Building Works.
- 1.9 Deleted
- 1.10 Deleted
- 1.11 Deleted
- 1.12 Deleted
- 1.13 Any reference in these conditions to 'Capricorn Municipal Development Guidelines' means the *Capricorn Municipal Development Guidelines*.
- 1.14 Any reference in these conditions to publications must be considered as the publication current as at the date of this approval, unless noted otherwise.
- 1.15 The developer is responsible for ensuring compliance with this Approval and the conditions of the Approval by any employee, agent, contractor or invitee of the developer.
- 1.16 For the purpose of this decision notice any use on the site must be in accordance with Warehouse Use definition under the Rockhampton City Plan.

"Warehouse means the use of any premises for the purposes of:

Any premise used for the storage of goods, items, merchandise or materials in large quantities pending their:

- (i) distribution; or*
- (ii) sale to persons at the site who in most instances (minimum of 90% of persons) purchase for the purposes of resale only.*

The term includes any office ancillary to the warehouse as well as a display area ancillary to the warehouse of up to 75 square metres in Gross Floor Area."

2.0 ROADWORKS

- 2.1 Deleted
- 2.2 Deleted
- 2.3 Deleted
- 2.4 Deleted
- 2.5 Deleted
- 2.6 Deleted
- 2.7 Deleted
- 2.8 Deleted
- 2.9 Deleted
- 2.10 Deleted
- 2.11 Deleted

3.0 ACCESS AND PARKING

- 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* and *Australian Standard AS2890 "Parking facilities"*.
- 3.2 All parking spaces, access driveway(s), and vehicular manoeuvring areas associated with the proposed development must be concrete paved.

- 3.3 Deleted.
- 3.4 Deleted
- 3.5 A minimum of seven (7) parking spaces must be provided on-site in accordance with the approved plans (refer to condition 1.1).
- 3.6 All parking and loading areas must be clearly line-marked and kept clear of obstructions at all times.
- 3.7 Deleted
- 3.8 Deleted
- 3.9 All stormwater from the access and parking areas must be drained to the kerb and channel or an alternative lawful point of discharge, in accordance with Council's requirements.
- 4.0 SEWERAGE WORKS
- 4.1 Deleted
- 4.2 Deleted
- 4.3 Deleted
- 4.4 Deleted
- 4.5 Deleted
- 5.0 WATER WORKS
- 5.1 Deleted
- 5.2 Deleted
- 5.3 Deleted
- 5.4 Deleted
- 5.5 Deleted
- 5.6 Deleted
- 6.0 PLUMBING AND DRAINAGE WORKS
- 6.1 All internal plumbing and drainage works must be designed and constructed in accordance with the approved plans (refer to condition 1.1), *Capricorn Municipal Development guidelines*, *Water Supply (Safety and Reliability) Act*, *Plumbing and Drainage Act*, Councils Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.
- 6.2 The development must be connected to Council's reticulated sewerage and water networks.
- 6.3 Sewerage trade waste permits must be obtained for the discharge of a non-domestic waste into Council's sewerage reticulation network. Arrestor traps must be provided where commercial or non-domestic waste is proposed to be discharged into the sewer system.
- 7.0 STORMWATER WORKS
- 7.1 Deleted
- 7.2 Deleted
- 7.3 Deleted
 - 7.3.1 Deleted
 - 7.3.2 Deleted
 - 7.3.3 Deleted

7.4 Deleted

7.5 Deleted

7.6 Deleted

7.6.1 Deleted

7.6.2 Deleted

7.7 Deleted

7.8 Deleted

7.9 Deleted

8.0 ROOF AND ALLOTMENT DRAINAGE

8.1 All roof and allotment drainage works must be designed and constructed in accordance with the approved plans (refer to condition 1.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act, Plumbing and Drainage Act*, Council's Plumbing and Drainage policies and the provisions of a Development Permit for Plumbing and Drainage Works.

8.2 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 or worsening to surrounding land or infrastructure.

8.3 The development must not increase peak stormwater runoff for a selected range of storm events up to and including a one percent (1%) Annual Exceedance Probability defined storm event, for the post development condition.

9.0 SITE WORKS

9.1 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to surrounding land or infrastructure.

9.2 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"*.

9.3 Any filing or changes to the site proposed as part of the development must not adversely impact on surrounding land or any council infrastructure.

9.4 Deleted

10.0 BUILDING

10.1 Noise from any external elements, such as air conditioners, must not exceed 5dB(A) above the background ambient noise level, measured at the boundaries of the subject site

10.2 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the 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*'.

10.3 The owner of the land must ensure that the waste bin compound is:

10.3.1 Surrounded by at least a 1.8 metre high fence that obstructs from view the contents of the bin compound by any member of the public from any public place;

10.3.2 Of a minimum size to accommodate two commercial type bins of three cubic metre each ;

10.3.4 Kept in a clean, tidy condition; and

10.3.5 Located in accordance with the endorsed plans (refer condition 1.1).

10.4 The owner of the land must ensure that the waste containers are:

10.4.1 Stored within the waste bin compound;

10.4.2 Securely covered at all times;

10.4.3 Maintained in a clean condition and in good repair.

11.0 LANDSCAPING

11.1 Deleted

11.2 Deleted

11.2.1 Deleted

11.2.2 Deleted

11.3 The landscaped areas must be subject to an ongoing maintenance and replanting programme.

12.0 ENVIRONMENTAL

12.1 The Erosion Control and Stormwater Control Management Plan prepared by a Registered Professional Engineer of Queensland in accordance with the *Capricorn Municipal Design Guidelines*, must be:

i) Implemented, monitored and maintained for the duration of the works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped); and

ii) Available on-site for inspection by Council Officers whilst all works are being carried out.

12.2 Deleted

12.3 Deleted

12.4 Deleted

13.0 ELECTRICITY AND TELECOMMUNICATIONS

13.1 Provide underground electricity and telecommunication connections to the proposed development to the requirements of the relevant authority.

13.2 The use must not commence unless and until the tenancy has been provided with live electricity and telecommunication connections in accordance with the requirements of the relevant authority.

14.0 CONTRIBUTIONS/COSTS

14.1 Contributions must be paid to Council prior to the issue of a Development Permit for Building Works.

The contributions must be paid in accordance with the Council Policy rates at the date of payment. The following table sets out the contributions required to be paid:

Description	Rate per additional Pedestal (\$)	Amount (\$) *
Glenmore Water Treatment Plant Upgrade	954.00	954.00
Hadgraft Street Sewage Pump Station Upgrade	352.00	352.00

Parkhurst Industrial Sewer	883.00	883.00
Sewerage Treatment Plant Upgrade	1,122.00	1,122.00
TOTAL	3,311.00	3,311.00

* The sums of money quoted will remain firm for a period of twelve (12) months, after which time, Council reserves the right to review same in accordance with the policies and rates and charges current at the time of payment.

- 14.2 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 at full cost to the developer.
- 14.3 As constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the commence of the use.
- 15.0 OPERATING PROCEDURES
- 15.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in Waurm Street.
- 15.2 Noise from the activity must not cause an environmental nuisance.
- 15.3 All waste must be stored in the waste bin compound area indicated on the endorsed plans (refer condition 1.1).
- 15.4 The hours of operation for the use of the premises must occur in accordance with the following requirements:
- 15.4.1 Monday to Friday 0800 to 1700 hours; and
- 15.4.2 No operation on Public Holidays.

NOTES

NOTE 1. Aboriginal Cultural Heritage Act, 2003

It is advised that under Section 23 of the Aboriginal Cultural Heritage Act 2003, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal Cultural Heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal Cultural Heritage legislation. The information on Aboriginal Cultural Heritage is available on the Department of Natural Resources, Mines and Water's website www.nrm.qld.gov.au/cultural_heritage/index.html.

NOTE 2. Asbestos Removal

Any demolition and/or removal works involving asbestos materials must be undertaken in accordance with the requirements of the Workplace Health and Safety legislation.

NOTE 3. Dust Control

It is the developer's responsibility to ensure compliance with Part 2A - Environmental Nuisance of the Environmental Protection Regulation 1998 which prohibits unlawful environmental nuisance caused by dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks and construction.

NOTE 4. Sedimentation Control

It is the developer's responsibility to ensure compliance with Section 32 of the Environmental Protection (Water) Policy 1997 to prevent soil erosion and contamination of the stormwater drainage system and waterways.

NOTE 5. Noise During Construction And Noise In General

It is the developer's responsibility to ensure compliance with Section 6S General Emission Criteria and Section 6T Noise Emission Criteria of the Environmental Protection Regulation 1998.

NOTE 6. General Safety Of Public During Construction

It is the principal contractor's responsibility to ensure compliance with Section 31 of the Workplace Health and Safety Act 1995. Section 31(1)(c) states that the principal contractor is obliged on a construction workplace to ensure that work activities at the workplace are safe and without risk of injury or illness to members of the public at or near the workplace.

It is the responsibility of the person in control of the workplace to ensure compliance with Section 30 of the Workplace Health and Safety Act 1995. Section 30(1)(c) states that the person in control of the workplace is obliged to ensure there is appropriate, safe access to and from the workplace for persons other than the person's workers.

NOTE 7. Relevant Period

This approval is valid for a period of four (4) years from the day the approval takes effect. If the use has not commenced in accordance with the approved conditions within four (4) years the approval will lapse.

NOTE 8. Fitzroy River Water

Fitzroy River Water (FRW) can provide cost estimates for any water and sewerage works if requested.

FRW will not upgrade, or provide additional connections, unless requested by the applicant. It may be necessary to upgrade the existing water service to the development site.

Alterations to existing services that may be required when Council is carrying out the connection of the water and sewerage mains shall be the responsibility of the developer. This requirement may require negotiations with other service authorities such as Telstra and Energex.

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

<p>1. Development applications An appeal may be made against—</p> <ul style="list-style-type: none"> (a) the refusal of all or part of the development application; or (b) the deemed refusal of the development application; or (c) a provision of the development approval; or (d) if a development permit was applied for—the decision to give a preliminary approval. 			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral	1 A concurrence agency that is not a co-respondent 2 If a chosen Assessment

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

		response—the concurrence agency	manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application
<p>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.</p>			
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
<p>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.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 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
<p>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 </p> <p>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.</p>			

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the Infrastructure charges notice	The local government that gave the infrastructure charges notice	-	-
5. Conversion applications An appeal may be made against— (a) the refusal of a conversion application; or (b) a deemed refusal of a conversion application.			
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	-	-
6. Enforcement notices An appeal may be made against the decision to give an enforcement notice.			
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			
1. Appeals from tribunal An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of— (a) an error or mistake in law on the part of the tribunal; or (b) jurisdictional error.			
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	-	-
2. Eligible submitter appeals An appeal may be made against the decision to give a development approval, or an approval for a change application, to the extent that the decision relates to— (a) any part of the development application for the development approval that required impact assessment; or (b) a variation request.			
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	1 For a development application—the assessment manager	1 The applicant 2 If the appeal is about a concurrence agency's referral	Another eligible submitter for the application

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

application 2 For a change application—an eligible submitter for the change application	2 For a change application—the responsible entity	response—the concurrence agency	
<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	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			
affected area for the registered premises who is dissatisfied with the decision			
<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	-	-



ATTACHMENTS

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