

Decision Notice Approval (amended)

Planning Act Form 5 (version 1.0 effective 3 July 2017) made under Section 282 of the Planning Act 2016 for a minor change to the decision notice (approval) under s81 Planning Act 2016, Section 3.5.22 and 3.5.24 of the Integrated Planning Act 1997 and Section 376 of the Sustainable Planning Act 2009

Application number:	D-R/22-2007	Contact:	Jonathon Trevett-Lyall
Notice Date:	13 October 2017	Contact Number:	1300 22 55 77

APPLICANT DETAILS

Name:	Busby Group C/- Vision Surveys		
Postal address:			
Phone no:	Mobile no:	Email:	

I acknowledge receipt of the above application on 6 August 2017 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for a Material Change of Use for a Medium Impact Industry (House Removal Depot)

PROPERTY DESCRIPTION

Street address:	320-326 George Street, Depot Hill
Real property description:	Lot 45 on SP187380, Parish of Rockhampton

OWNER DETAILS

Name:	R M Busby
Postal address:	
Dear	Busby Group
I advise that on 13 October 2017 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)	Condition 1.1	changed	11 November 2009
2)	Condition 1.1	changed	25 June 2015
3)	Condition 1.1	changed	12 October 2017

4)	Condition 4.1	changed	12 October 2017
5)	Condition 8.6	changed	25 June 2015
6)	Condition 9.2	changed	12 October 2017
7)	Condition 9.4	changed	11 November 2009
8)	Condition 9.4	changed	12 October 2017
9)	Condition 9.5	changed	11 November 2009
10)	Condition 9.5	changed	12 October 2017
11)	Condition 12.2	changed	12 October 2017
12)	Condition 12.7	changed	12 October 2017
13)	Item 7	changed	12 October 2017

1. DETAILS OF THE APPROVAL

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

2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

3. FURTHER DEVELOPMENT PERMITS REQUIRED

Please be advised that the following development permits are required to be obtained before the development can be carried out:

Type of development permit required	Subject of the required development permit
Operational Works	<i>Road Works</i> <i>Access and Parking Works</i> <i>Stormwater Works</i> <i>Site Works (if any filling/excavation is intended)</i> <i>Landscaping Works</i>

4. SUBMISSIONS

There were 2 properly made submissions received from the following submitter(s);

Name of principal submitter	Residential or business address	Electronic address (if provided)
1. V. Latty-Weir	304 Kent Street, Rockhampton	
2. Mr & Mrs West	328 George Street, Depot Hill	

5. REFERRAL AGENCIES

NIL

6. 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
Sketch Plan	17055-SK-01 Revision B	28 September 2017

<u>Plan/Document Name</u>	<u>Plan Number</u>	<u>Dated</u>
Proposed Temporary Office and Roof Shelter	17.66 Sheet 2 of 9	28 August 2017
Proposed Temporary Office and Roof Shelter	17.66 Sheet 5 of 9	28 August 2017
Material Change of Use Busby House Removal Depot	042-07-08 Revision A	May 2008
Revised Acoustic Assessment	B4026201_RPTFinal_R EV01_29Feb08	29 February 2008
Email from Tim Eakin to Mark Weyer of McMurtrie Consulting Engineers	N/A	24 April 2009
Busby House Removal Flood Emergency Plan	Draft Template Version 1.0	March 2015

7. CURRENCY PERIOD FOR THE APPROVAL (S.3.5.21)

The standard relevant periods stated in section 3.5.21 of the *Integrated Planning Act 1997* apply to each aspect of development in this approval, unless otherwise stated in the conditions of approval attached.

8. STATEMENT OF REASONS

Description of the development	Material Change of Use (Medium Impact Industry - House Removal Depot)
Assessment Benchmarks	<p>The proposed development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> • Rural Zone Code • Acid Sulfate Soils Overlay Code • Airport Environs Overlay Code • Coastal Protection Overlay Code • Flood Hazard Overlay Code • Steep Land Overlay Code
Relevant Matters	<p>The relevant matters for this application are:</p> <ul style="list-style-type: none"> • The assessment benchmarks • The submissions made against the application • Rockhampton City Plan 2005
Matters raised in submissions	<p>V. Latty-Weir – Condition of the road, Hours of operation, No need for industrial type use in this 'green' area.</p> <p>Mr & Mrs West – Imported fill impacting on flood levels, Condition of property leading to increased number of rats, Advised that they would not be able to develop the land if they bought it so why can Busby's do so.</p>
Reasons for decision	<p>The proposal to add a shade structure adjoining the existing caretaker's residence is deemed to not be a substantially different development.</p> <p>Properly made submissions from the original approval have been considered and the impacts of the Minor Change are deemed to not have any effect on the items raised in the submissions.</p> <p>A review of the assessment benchmarks prescribed under section 81 (2) of the</p>

	<i>Planning Act 2016</i> demonstrates that the Change Application (Change Approval) will not compromise the intent of the <i>Rockhampton Region Planning Scheme 2015</i> . Therefore, Council will consider the applicant's representations to be reasonable and will issue an amended decision notice to reflect this decision.
Matters prescribed by a regulation	Not Applicable

9. RIGHTS OF APPEAL

The rights of an applicant to appeal to a tribunal or the Planning and Environment Court against a decision about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

Appeal by an applicant

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal of all or part of the development application
- a provision of the development approval
- the decision to give a preliminary approval when a development permit was applied for
- a deemed refusal of the development application.

An applicant may also have a right to appeal to the Development tribunal. For more information, see schedule 1 of the *Planning Act 2016*.

Appeal by a submitter

A submitter for a development application may appeal to the Planning and Environment Court against:

- any part of the development application for the development approval that required impact assessment
- a variation request.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 229 of the *Planning Act 2016*.

Attachment 2 is an extract from the *Planning Act 2016* that sets down the applicant's appeal rights and the appeal rights of a submitter.

10. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT

This development approval takes effect:

- From the time the decision notice is given – if there is no submitter and the applicant does not appeal the decision to the court.

Or

- When the submitter's appeal period ends – if there is a submitter and the applicant does not appeal the decision to the court.

Or

- Subject to the decision of the court, when the appeal is finally decided – if an appeal is made to the court.

This approval will lapse unless substantially commenced within the above stated relevant periods (refer to sections 85 of *Planning Act 2016* for further details).

11. ORIGINAL DECISION ASSESSMENT MANAGER

Name: Henry Bezuidenhout <u>COORDINATOR</u> <u>DEVELOPMENT ASSESSMENT</u>	Date: 17 December 2008
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12. ASSESSMENT MANAGER

Name:	Tarnya Fitzgibbon COORDINATOR <u>DEVELOPMENT ASSESSMENT</u>	Signature:		Date:	13 October 2017
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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

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>
Sketch Plan	17055-SK-01 Revision B	28 September 2017
Proposed Temporary Office and Roof Shelter	17.66 Sheet 2 of 9	28 August 2017
Proposed Temporary Office and Roof Shelter	17.66 Sheet 5 of 9	28 August 2017
Material Change of Use Busby House Removal Depot	042-07-08 Revision A	May 2008
Revised Acoustic Assessment	B4026201_RPTFinal_ REV01_29Feb08	29 February 2008
Email from Tim Eakin to Mark Weyer of McMurtrie Consulting Engineers	N/A	24 April 2009
Busby House Removal Flood Emergency Plan	Draft Template Version 1.0	March 2015

- 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 Any reference in these conditions to a ‘registered professional engineer’ means a person registered as a registered professional engineer under the *Professional Engineers Act 2002*.
- 1.5 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.
- 1.6 All conditions, works, or requirements of this approval must be undertaken and completed to the satisfaction of Council, prior to the commencement of the use.
- 1.7 The following further development permits are required prior to the commencement of any works on the site:
- 1.7.1 Operational Works:
- (i) Road Works;

- (ii) Access and Parking;
- (iii) Stormwater Works;
- (iv) Site Works (if any filling/excavation is intended); and
- (v) Landscaping.

1.8 All Development Permits for Operational Works must be obtained prior to the commencement of the use on site.

1.9 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.

2.0 ROAD WORKS

2.1 A Development Permit for Operational Works (road works) must be obtained prior to the commencement of any works on the site.

2.2 All road works and associated stormwater drainage system works must be designed generally in accordance with Design Guidelines D1 (Geometric Road Design) and Design Guideline D5 (Stormwater Drainage Design), which form part of the Capricorn Municipal Development Guidelines, unless noted otherwise in these conditions.

2.3 All engineering designs of all new roads and associated stormwater drainage systems, submitted as part of any application for a Development Permit for Operational Works (Road Works) must be prepared and certified by a registered professional engineer.

2.4 Any application for a Development Permit for Operational Works (Road Works) must include all proposed road works detailed in the approved plans (refer condition 1.1).

3.0 ACCESS AND PARKING

3.1 A Development Permit for Operational Works (access and parking) must be obtained prior to the commencement of any works on the site.

3.2 All car parking and turnout (access and egress) areas must be paved or sealed to the satisfaction of Council. Design and construction must be in accordance with the provisions of a Development Permit for Operational Works (access and parking). The layout must be generally in accordance with the endorsed plans (refer to condition 1.1).

3.3 Vehicular access to the site must be from George Street only, and limited in number to one only.

3.4 Vehicular egress from the site must be to Wood Street only, and limited in number to one only.

3.5 Any application for a Development Permit for Operational Works (access and parking) must be prepared and certified by a registered professional engineer and demonstrate that the proposed turnout areas adequately provide for the turning movements of an extendable Articulated Vehicle (id. est. up to 25m long).

3.6 Each property owner must remain responsible for all recurrent costs associated with vehicular access and egress to the lot.

4.0 SEWERAGE WORKS

4.1 Any construction works proposed in the vicinity of Council's existing sewerage infrastructure must not adversely affect the integrity of the infrastructure. Any restoration works required on the existing water supply and sewerage infrastructure, caused by the construction of the proposed development, must be at no cost to Council.

Note: A Building Over/Adjacent to the Local Government Sewerage Infrastructure Permit must be obtained prior to commencement of any building works on site.

5.0 WATER WORKS

- 5.1 Any construction works proposed in the vicinity of Council's existing water infrastructure must not adversely affect the integrity of the infrastructure. Any restoration works required on the existing water supply infrastructure, caused by the construction of the proposed development, must be borne at no cost to Council.

6.0 STORMWATER WORKS

- 6.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any works on the site.
- 6.2 Any application for a Development Permit for Operational Works (stormwater works) must include all proposed stormwater works detailed in the approved plans (refer condition 1.1).
- 6.3 Any filling or changes to the site proposed as part of any Development Permit for Operational Works must not adversely impact on any adjoining or downstream land, drainage systems, or any Council infrastructure.

7.0 SITE WORKS

- 7.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any works on the site, if undertaking any earthworks.
- 7.2 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks' plan which clearly identifies the following:
- (i) the location of cut and/or fill;
 - (ii) the type of fill to be used and the manner in which it is to be compacted;
 - (iii) the quantum of fill to be deposited or removed and finished cut and/or fill levels;
 - (iv) details of any proposed access routes to the site which are intended to be used to transport fill to or from the site; and
 - (v) the maintenance of access roads to and from the site so that they are free of all cut and/or fill material and cleaned as necessary.
- 7.3 Any vegetation cleared or removed must be:
- (i) mulched on-site and utilised on-site for landscaping purposes, in accordance with the landscaping plan approved by Council; or
 - (ii) removed for disposal at a location approved by Council; within sixty (60) days of clearing. Any vegetation removed must not be burnt

8.0 BUILDING

- 8.1 All outdoor lighting must be installed and maintained in accordance with Australian Standard AS4282 'Control of the obtrusive effects of Outdoor Lighting' and the Noise and Light Nuisance Code under the *Rockhampton City Plan 2005*.
- 8.2 All lighting must be positioned/shielded so as not to cause a light spillage nuisance off-site, during the operation of the use. Light spillage from sources such as traffic movements to and from the site, security and flooding lighting must be managed in such a way not to cause an environmental nuisance off site.
- 8.3 Night lighting must be designed, constructed and operated in accordance with 'Australian Standard AS4282 – Control of the obtrusive effects of outdoor lighting'.
- 8.4 Two waste bin compound area(s) must be provide on site. Each bin storage area must be:
- 8.4.1 surrounded by a fence/screen, at least 1.8 metres in height, that obstructs from view the contents of the bin compound by any member of the public from any public place;
 - 8.4.2 of a minimum size to accommodate one commercial type bin with a capacity of three cubic metres; and

- 8.4.3 constructed generally in the location identified on the endorsed plans (refer condition 1.1).
- 8.5 All waste containers must be:
- 8.5.1 stored within the bin storage area;
 - 8.5.2 securely covered at all times; and
 - 8.5.3 maintained in a clean condition and in good repair.
- 8.6 All temporary houses stored on site must be supported in accordance with the support types and methods identified in endorsed report 042-07-08 Revision A and dated May 2008 (refer to Condition 1.1) and to a minimum of 1.5 metres above ground level. These houses must be raised to a minimum height of 2.5 metres above ground level and above the one per cent (1%) Annual Exceedance Probability flood level in times of major flooding and supported as recommended in endorsed report 042-07-08 Revision A.
- 8.7 All services and utilities connected to the property, including electrical outlets, must be installed a minimum 500 millimetres above the Average Recurrence Interval 100 year flood event.
- 9.0 LANDSCAPING
- 9.1 A Development Permit for Operational Works (landscaping) must be obtained prior to the commencement of any works on the site.
- 9.2 Any application for a Development Permit for operational Works (landscaping) must be generally in accordance with the Sketch Plan (refer to Condition 1.1). The landscape plan must include, but is not limited to, the following:
- 9.2.1 A plan documenting the “Extent of Works” and supporting documentation which includes:
 - (i) location and name of existing trees, including those to be retained (the location of the trees shall be overlaid or be easily compared with the proposed development design);
 - (ii) the extent of soft and hard landscape proposed;
 - (iii) important spot levels and/or contours. The levels of the trees to be retained shall be provided in relation to the finished levels of the proposed buildings and works;
 - (iv) underground and overhead services;
 - (v) typical details of critical design elements (eg stabilisation of batters, retaining walls, podium/balcony planters, trees in car park areas, fences);
 - (vi) details of landscape structures including areas of deep planting; and
 - (vii) specification notes on mulching and soil preparation.
 - 9.2.2 A “Planting Plan” and supporting documentation which includes:
 - (i) trees, shrubs and groundcovers to all areas to be landscaped;
 - (ii) position and canopy spread of all trees and shrubs;
 - (iii) the extent and type of works (i.e. paving, fences, garden bed edging etc). All plants shall be located within an edged garden; and
 - (iv) a plant schedule with the botanic and common names, total plant numbers and pot sizes at the time of planting.
- 9.3 The landscaped areas must be subject to an ongoing maintenance and replanting programme (if necessary).
- 9.4 The landscaped areas fronting Wood Street, Murray Street, Arthur Street, and George Street must be established as shown on the Sketch Plan (refer to Condition 1.1).

9.5 Acoustic fencing must be constructed in accordance with the Revised Acoustic Assessment Report and in the location identified on the Sketch Plan (refer to Condition 1.1). Any changes in design of the fencing as outlined as Option 2 in an email from Tim Eakin to Mark Weyer of McMurtrie Consulting Engineers dated 24 April 2009 must not affect the integrity and effectiveness of the fencing as outlined under the Revised Acoustic Assessment Report (refer to Condition 1.1). For clarity, all maintenance of any fencing shall be the responsibility of the owner and Council accepts no liability whatsoever in connection with the fencing.

10.0 ELECTRICITY AND TELECOMMUNICATIONS

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

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

11.0 CONTRIBUTIONS/COSTS

11.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, stormwater drainage systems, and/or public utility installations resulting from the development or in connection with the development, must be at no cost to Council.

12.0 OPERATING PROCEDURES

12.1 All construction materials, waste, waste skips, and machinery must be located and stored in an enclosed, covered area and must not be located or stored where it can be viewed by any member of the public from any public place.

12.2 The temporary house storage site located on the George Street frontage of the site, shown on the Sketch Plan (refer to Condition 1.1), must be utilised only after the twelve other temporary house storage sites have been utilised.

12.3 All loading and unloading and preparation of the temporary dwellings for transport must occur in accordance with the following:

12.3.1 Monday to Friday – 0700 hours to 1800 hours; and

12.3.1 Saturday, Sunday, or Public Holidays – no operations.

12.4 Transportation of the temporary dwellings to and from the site must occur in accordance with the following:

12.4.1 Monday to Friday – 1800 hours to 0700 hours;

12.4.2 Saturday, Sunday or Public Holidays – no operation;

12.4.3 The route used to transport temporary dwellings to and from the site must be generally in accordance with Route 2, as detailed in the approved plans (refer condition 1.1), subject to all other required approvals for the transportation of any temporary dwellings;

12.4.4 To remove any doubt, the use of Route 1, as detailed in the approved plans (refer condition 1.1), is not approved.

12.5 Cranes and trucks involved in the loading and unloading of the temporary dwellings must remain at least forty (40) metres from the boundary of Lots 1, 2, 3, 4, 5, and 6 on RP605588.

12.6 Noise from the activity must not cause an environmental nuisance.

12.7 All non-domestic waste must be stored within a waste bin compound area(s), generally in the location shown on the Sketch Plan (refer to Condition 1.1).

12.8 During temporary storage on the site all houses must be secured and stabilised in accordance with the approved plans (refer condition 1.1).

- 12.9 All additional measures to ensure the security and stability of all temporarily stored houses on the site during any flood event, as detailed in the approved plans (refer condition 1.1), must be undertaken within a reasonable time.

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.

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	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 – • The incorrect application of gross floor area for a non-residential development • Applying an incorrect ‘use category’, under a regulation, to the development (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.</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</p> <p>An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to—</p> <p>(a) any part of the development application or the change application, for the development approval, that required impact assessment; or</p> <p>(b) a variation request.</p>			
Column 1 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</p> <p>An appeal may be made against—</p> <p>(a) a decision under section 32 about a compensation claim; or</p> <p>(b) a decision under section 265 about a claim for compensation; or</p> <p>(c) a deemed refusal of a claim under paragraph (a) or (b).</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person dissatisfied with the decision	The local government to which the claim was made	-	-
<p>5. Registered premises</p> <p>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</p> <p>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</p> <p>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</p> <p>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</p> <p>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	-	-