



## Decision Notice Approval (amended)

*Planning Act Form 2 (version 1.1 effective 22 June 2018) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s87 (extension application) Planning Act 2016, and Section 334 of the Sustainable Planning Act 2009*

Application number:	<b>D/23-2015</b>	Contact:	Bevan Koelmeyer
Notice Date:	4 June 2019	Contact Number:	1300 22 55 77

### APPLICANT DETAILS

Name:	<b>Aurizon Operations Limited</b>		
Postal address:			
Phone no:	Mobile no:	Email:	

I acknowledge receipt of the above application on 28 May 2019 and confirm the following:

### DEVELOPMENT APPROVAL

**Preliminary Approval under section 241 of the *Sustainable Planning Act 2009* for a Material Change of Use for a Transport Terminal, (Intermodal Facility), including ancillary rail operations and future Medium and High Impact Industry**

### PROPERTY DESCRIPTION

Street address:	23 Boundary Road, Parkhurst
Real property description:	Lot 1 on RP601877, Lot 1 on RP606318, Lot 1 on RP601695 and Lot 3 on RP601963, Parish of Murchison

### OWNER DETAILS

Name:
Postal address:
<b>Dear Aurizon Operations Limited</b> I advise that, on <b>31 May 2019</b> the above development application was: <input checked="" type="checkbox"/> approved in full with conditions* (refer to the conditions contained in <b>Attachment 1</b> ) *Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.

### CHANGES TO CONDITIONS

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

1)	Item 6	Changed	31 May 2019
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**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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material Change of use	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 type="checkbox"/>	<input checked="" 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
Material Change of Use	
Reconfiguring a Lot	
Operational Works	
Building Works	
Plumbing and Drainage Works	

**4. REFERRAL AGENCIES**

The following Referral Agencies were activated by this application.

	For an application involving	Name of agency	Status	Address
<b>LAND RELATING TO A STATE-CONTROLLED ROAD</b>				
<b>DEVELOPMENT IMPACTING ON STATE TRANSPORT INFRASTRUCTURE</b>				
<b>2</b>	An aspect of development identified in schedule 9 that— (a) is for a purpose mentioned in schedule 9, column 1; and (b) meets or exceeds the threshold— (i) for development in LGA population 1—mentioned in schedule 9, column 2 for the purpose; or (ii) for development in LGA population 2—mentioned in schedule 9, column 3 for the purpose.  However, if the development is for a combination of purposes mentioned in the same item of schedule 9, the threshold is for the combination of purposes and not for each purpose individually.	Department of Infrastructure, Local Government and Planning	Concurrence Agency	Online: <a href="http://www.dilgp.qld.gov.au/MyDAS">www.dilgp.qld.gov.au/MyDAS</a>  Postal: PO Box 113 Rockhampton Qld 4700

<b>PUBLIC PASSENGER TRANSPORT</b>				
<b>14</b>	Development— (a) that is either— (i) a material change of use of premises; or (ii) operational work not associated with— (A) a material change of use of premises; or (B) reconfiguring a lot as mentioned in table 2, item 33; or (C) government supported transport infrastructure; and (b) if any part of the land is— (i) within 25m of a public passenger transport corridor; or (ii) future public passenger transport corridor	Department of Infrastructure, Local Government and Planning	Concurrence Agency	Online: <a href="http://www.dilgp.qld.gov.au/MyDAS">www.dilgp.qld.gov.au/MyDAS</a>  Postal: PO Box 113 Rockhampton Qld 4700
<b>RAILWAYS</b>				
<b>15A</b>	A material change of use of premises if any part of the land is— (a) within 25m of a railway or future railway land; or (b) future railway land	Department of Infrastructure, Local Government and Planning	Concurrence Agency	Online: <a href="http://www.dilgp.qld.gov.au/MyDAS">www.dilgp.qld.gov.au/MyDAS</a>  Postal: 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:

<u>Plan/Document Name</u>	<u>Plan/Document Reference</u>	<u>Dated</u>
Parkhurst Master Plan. Concept Plan - Sheet 1 of 1	AUR-C-0644-0001. Issue 6	July 2015
Parkhurst Master Plan. Concept Plan Detail one - Sheet 1 of 1	AUR-C-0644-0002. Issue 1	July 2015
Parkhurst Master Plan. Concept Plan Detail two - Sheet 1 of 1	AUR-C-0644-0003. Issue 1	July 2015

## 6. CURRENCY PERIOD FOR THE APPROVAL (s.87 of the Planning Act)

The currency period of this approval lapses on 30 July 2021.

## 7. STATEMENT OF REASONS

<b>Description of the development</b>	Extension to the Currency Period under section 87 of the <i>Planning Act 2016</i> to Development Permit D/23-2015 for a Preliminary Approval under section 241 of the <i>Sustainable Planning Act 2009</i> for a Material Change of Use for a Transport Terminal, (Intermodal Facility), including ancillary rail operations and future Medium and High Impact Industry
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<b>Reasons for decision</b>	<p>a) The extension to the currency period for a further two (2) years is reasonable and does not conflict with the provisions of the <i>Rockhampton Region Planning Scheme 2015</i>.</p> <p>b) The proposed use does not compromise the Strategic Framework in the <i>Rockhampton Region Planning Scheme 2015</i>;</p> <p>c) Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity; and</p> <p>d) The proposed development does not compromise the relevant <i>State Planning Policy</i>.</p>
<b>Assessment Benchmarks</b>	<p>The proposed development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> <li>• Low impact industry zone code;</li> <li>• Medium impact industry zone code; and</li> <li>• High impact industry zone code.</li> </ul>
<b>Matters prescribed by regulation</b>	<p>i) The <i>State Planning Policy – Part E</i>;</p> <p>ii) The Central Queensland Regional Plan;</p> <p>iii) The <i>Rockhampton Region Planning Scheme 2015</i>;</p> <p>iv) Surrounding use of adjacent premises in terms of commensurate and consistent development form; and</p> <p>v) The common material, being the material submitted with the application.</p>

## 8. 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.

## 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. ORIGINAL DECISION ASSESSMENT MANAGER**

Name: <b>Tarnya Fitzgibbon</b> <b><u>MANAGER DEVELOPMENT AND BUILDING</u></b>	Date: 30 July 2015
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**11. ASSESSMENT MANAGER**

Name: <b>Tarnya Fitzgibbon</b> <b><u>COORDINATOR DEVELOPMENT ASSESSMENT</u></b>	Signature:	Date: 4 June 2019
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C/C Department of State Development, Manufacturing, Infrastructure and Planning- [RockhamptonSARA@dsdmip.qld.gov.au](mailto:RockhamptonSARA@dsdmip.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**

1.0 ADMINISTRATION

- 1.1 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.
- 1.2 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.
- 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 Further Development/Compliance Permits, as required by the *Sustainable Planning Act 2009*, must be obtained in respect of the following in relation to this approval, prior to the commencement of any use/works associated with their purpose/s:
  - 1.4.1 Material Change of Use;
  - 1.4.2 Reconfiguring a Lot;
  - 1.4.3 Operational Works:
  - 1.4.4 Plumbing and Drainage Works; and
  - 1.4.5 Building Works.
- 1.5 All works must be designed, in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.
- 1.6 All engineering drawings/specifications and design and construction works must be in accordance with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.

2.0 APPROVED PLANS AND DOCUMENTS

- 2.1 This is a Preliminary Approval for a Material Change of Use under section 241 of the *Sustainable Planning Act 2009* for a Transport Terminal, (Intermodal Facility), including ancillary rail operations and future Medium and High Impact Industry, on the subject land, generally in accordance with the following plans and documents, except where amended by the Conditions of this approval:

<u>Plan/Document Name</u>	<u>Plan/Document Reference</u>	<u>Dated</u>
Parkhurst Master Plan. Concept Plan - Sheet 1 of 1	AUR-C-0644-0001. Issue 6	July 2015
Parkhurst Master Plan. Concept Plan Detail one - Sheet 1 of 1	AUR-C-0644-0002. Issue 1	July 2015
Parkhurst Master Plan. Concept Plan Detail two - Sheet 1 of 1	AUR-C-0644-0003. Issue 1	July 2015

- 2.2 The subject land must be developed generally in accordance with the approved plans (refer to condition 2.1), further Development/Compliance Permits and subject to amendments as conditioned.

### 3.0 PRELIMINARY APPROVAL

- 3.1 This Preliminary Approval does not authorise the commencement of any uses or authorise assessable development to take place over the subject land, other than those that are exempt or self-assessable in accordance with the respective Low, Medium and High Impact Industry Precincts in the Council Planning Scheme, pursuant to the *Sustainable Planning Act 2009*.
- 3.2 Prior to the commencement of any use contemplated in this Preliminary Approval a Development Permit for a Material Change of Use must be obtained, subject to the level of assessment established in the Planning Scheme at the time of lodgement of a properly made application.
- 3.3 It should be noted that in accordance with section 245 of the *Sustainable Planning Act 2009* the Preliminary Approval does not change the Level of Assessment, the Assessment Process or the Planning Scheme designation of land included in this Preliminary Approval, including the area of land identified as Proposed Industrial Development in accordance with the approved plans (refer to condition 2.1).
- 3.4 Infrastructure Charges associated with future applications for Development Permits arising from this Preliminary Approval will be charged and must be paid in accordance with the relevant instrument applicable at the time of the subsequent approvals.

### 4.0 FURTHER DEVELOPMENT PERMITS

- 4.1 Future applications for a Development Permit for a Material Change of Use must be supported by sufficient information to allow Council to assess the application against the matters set out in section 313 (code assessment) and section 314 (impact assessment) of the *Sustainable Planning Act 2009*.
- 4.2 Future assessable development over the site must be in accordance with the respective Low, Medium and High Impact Industry Precincts in the Council Planning Scheme at the time of lodgement and the development applications must provide as a minimum:
  - 4.2.1 Details on the development of the industrial uses including location and scale (Gross Floor Area) of all structures, site design, amenity, parking, access, lighting, refuse management, noise, air contaminants, odour, stormwater, waste, parking and landscaping for the development.
  - 4.2.2 A Traffic Impact Assessment Report addressing the impacts of traffic generated by the development, and how these issues will be catered for by existing infrastructure, and/or ameliorated if required. The Traffic Assessment Report must be prepared and certified by a Registered Professional Engineer of Queensland (RPEQ), suitably experienced and qualified in this discipline of engineering and include the following:
    - 4.2.2.1 existing traffic volumes on the adjacent roads and intersections expected to absorb development generated traffic;
    - 4.2.2.2 predicted future traffic volumes on the adjacent roads and intersections expected to absorb development generated traffic for a ten (10) year planning horizon starting from the year after the last stage of the development is expected to be completed;
    - 4.2.2.3 the total traffic expected to be generated by the proposed development in AM. and PM. peak hours and total daily traffic;
    - 4.2.2.4 the distribution of the development generated traffic to the local road network; and

- 4.2.2.5 an assessment of the impacts of the development generated traffic on the adjacent roads and intersections expected to absorb development generated traffic and recommendations regarding managing these impacts. In this regard, Council expects traffic modelling to be carried out using Sidra or alternatively approved traffic modelling software that addresses issues such as expected delays, queue lengths, Degree of Saturation, Level of Service and safety.
- 4.2.3 Suitably scaled and adequately dimensioned drawings for each of the proposed vehicular accesses demonstrating compliance with the relevant Australian Standards and integration with adjoining infrastructure within the road reserve. The plans must show all existing and proposed road line-markings, pavement markings, parking bays and associated signage. Any changes to on-street parking in the vicinity of the proposed accesses must be shown.
- 4.2.4 A sewerage strategy for the proposed development. The strategy must include levels demonstrating a gravity connection to the existing reticulation is achievable and that indicate how the proposed development will be connected to the Council's reticulation sewerage network.
- 4.2.5 A water supply strategy for the proposed development. The strategy must indicate how the proposed development will be connected to the Council's reticulation water supply network. The proposed development must have the minimum pressure for fire containment requirements in accordance with the design criteria outlined in the *Queensland's Water Resources Commission's Guidelines for Planning and Design of Urban Water Supply Schemes*.
- 4.2.6 An overall stormwater drainage strategy for the subject land prepared and certified by a suitably qualified and experienced Registered Professional Engineer of Queensland (RPEQ). This strategy must encompass the entire stormwater catchment area contributing to stormwater flows on the subject land. In addition, the strategy must demonstrate how the proposed development complies with the *Queensland Urban Drainage Manual* and must include, but is not limited to, an assessment of Q100 flows, velocities, proposals for on-site detention, on-site retention, and land dedications/ easements in favour of Council required to provide drainage corridors suitable for the conveyance of stormwater flows through the subject land during a 100 year Average Recurrence Interval (ARI) rainfall event.

The stormwater drainage strategy report must also include all calculations, clearly outline all assumptions, and address the following issues and all other stormwater-related issues relevant to the proposed development of the subject land:

- 4.2.6.1 identification of drainage catchment and sub-catchment areas for the pre-development and post-development scenarios. A suitably scaled stormwater master plan showing the stormwater catchment and sub-catchments for each of these scenarios must be provided and clearly identify the lawful point(s) of discharge for the subject land that comply with the provisions of the *Queensland Urban Drainage Manual*;
- 4.2.6.2 an assessment of the major and minor rainfall event peak discharges for the pre-development and post-development scenarios;
- 4.2.6.3 identification and conceptual design of all new drainage systems, and modifications to existing drainage systems, required to appropriately and adequately manage stormwater collection and discharge from the proposed development, and conveyance of major event flows through the subject land, consistent with the provisions of the *Queensland Urban Drainage Manual* and the *Capricorn Municipal Development Guidelines*;
- 4.2.6.4 identification and conceptual design of stormwater mitigation works located on the subject land such as on-site detention systems, on-site



retention systems, and associated outlet systems, in order to mitigate the impacts of the proposed development on downstream lands and existing upstream and downstream drainage systems. The proposed mitigation works must ensure that the post-development discharge from the subject land does not exceed the pre-development discharge for all design rainfall events up to and including the 100 year Average Recurrence Interval (ARI) event. In addition, supporting calculations demonstrating the adequacy and suitability of all proposed detention systems, retention systems and outlet systems located within the subject land must be included; and

4.2.6.5 identification of all areas of the subject land to be provided as dedications/easements in favour of Council for the purpose of conveyance of the 100 year Average Recurrence Interval (ARI) major rainfall event in the post-completion of development scenario. All land proposed as major event flow paths must include a freeboard and access and maintenance provisions consistent with the *Queensland Urban Drainage Manual*. These dedication/easement areas must be detailed on a suitably scaled and adequately dimensioned conceptual layout plan.

4.2.7 Any future application for a Development Permit for a Material Change of Use must be accompanied by an Erosion and Sediment Control Plan which addresses, but is not limited to, the following:

4.2.7.1 objectives;

4.2.7.2 site location/topography;

4.2.7.3 vegetation;

4.2.7.4 site drainage;

4.2.7.5 soils;

4.2.7.6 erosion susceptibility;

4.2.7.7 erosion risk;

4.2.7.8 concept;

4.2.7.9 design; and

4.2.7.10 implementation, for the construction and post construction phases of work.

The Erosion and Sediment Control Plan must incorporate detailed plans, control measures, monitoring programmes and maintenance procedures to ensure appropriate development and management practices within and adjacent to the site.

## 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](http://www.datsima.qld.gov.au).

NOTE 2. General Environmental Duty

General environmental duty under the *Environmental Protection Act 1994* prohibits unlawful environmental nuisance caused by noise, aerosols, particles, dust, ash, fumes, light, odour or smoke beyond the boundaries of the development site during all stages of the development including earthworks, construction and operation.

NOTE 3. Licensable Activities

Should an activity licensable by Rockhampton Regional Council be proposed for the development site, Council's Environment and Public Health Unit must be consulted to determine whether any approvals are required. Such activities may include food preparation, storage of dangerous goods or environmentally relevant activities. Approval for such activities is required before 'fit out' and operation.

NOTE 4. Infrastructure Charges Notice

Council has resolved not to issue an Infrastructure Charges Notice for this Preliminary Approval.



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**Attachment 1 – Part 2  
Referral Agency Conditions –  
Department of Infrastructure, Local Government  
and Planning**

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*PLANNING ACT 2016*

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The following is an extract from the *Planning Act 2016* (Chapter 6)

### Appeal rights

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

- (1) Schedule 1 states—
  - (a) matters that may be appealed to—
    - (i) either a tribunal or the P&E Court; or
    - (ii) only a tribunal; or
    - (iii) only the P&E Court; and
  - (b) the person—
    - (i) who may appeal a matter (the **appellant**); and
    - (ii) who is a respondent in an appeal of the matter; and
    - (iii) who is a co-respondent in an appeal of the matter; and
    - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The **appeal period** is—
  - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency or
  - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
  - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
  - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
  - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

#### Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
  - (a) the adopted charge itself; or
  - (b) for a decision about an offset or refund—
    - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
    - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

#### 230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to—
  - (a) the respondent for the appeal; and
  - (b) each co-respondent for the appeal; and

- (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
  - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
  - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
  - (f) for an appeal to the P&E Court—the chief executive; and
  - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The **service period** is—
    - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
    - (b) otherwise—10 business days after the appeal is started.
  - (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection
  - (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

#### 231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The Judicial Review Act 1991, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the Judicial Review Act 1991 in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section— **decision** includes—
  - (a) conduct engaged in for the purpose of making a decision; and
  - (b) other conduct that relates to the making of a decision; and
  - (c) the making of a decision or the failure to make a decision; and
  - (d) a purported decision; and
  - (e) a deemed refusal.

**non-appealable**, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the Judicial Review Act 1991 or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

#### 232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

**Schedule 1**

**Appeals section 229**

**1 Appeal rights and parties to appeals**

- (1) Table 1 states the matters that may be appealed to—(a) the P&E court; or (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
  - (a) the refusal, or deemed refusal of a development application, for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (b) a provision of a development approval for—
    - (i) a material change of use for a classified building; or
  - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (c) if a development permit was applied for—the decision to give a preliminary approval for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (d) a development condition if—
    - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and
    - (ii) the building is, or is proposed to be, not more than 3 storeys; and
    - (iii) the proposed development is for not more than 60 sole-occupancy units; or
  - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
  - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
  - (g) a matter under this Act, to the extent the matter relates to—
    - (i) the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
    - (ii) the Plumbing and Drainage Act, part 4 or 5; or
  - (h) a decision to give an enforcement notice in relation to a matter under paragraphs (a) to (g); or
  - (i) a decision to give an infrastructure charges notice; or
  - (j) the refusal, or deemed refusal, of a conversion application; or
  - (k) a matter that, under another Act, may be appealed to the tribunal; or
  - (l) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
  - (a) for a matter in subsection (2)(a) to (d)—
    - (i) a development approval for which the development application required impact assessment; and
    - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
  - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.
- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
  - (a) column 1 states the appellant in the appeal; and
  - (b) column 2 states the respondent in the appeal; and
  - (c) column 3 states the co-respondent (if any) in the appeal; and
  - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.

<b>Table 1</b>			
<b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
1. Development applications 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	1 A concurrence agency that is not a co-respondent 2 If a chosen Assessment manager is the respondent—

<b>Table 1</b>			
<b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
		concurrency agency	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&amp;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 concurrency 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 concurrency agency, other than the chief executive, for the application	The assessment manager	If a concurrency 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"> <li>• The incorrect application of gross floor area for a non-residential development</li> <li>• Applying an incorrect 'use category', under a regulation, to the development <ul style="list-style-type: none"> <li>(i) The working out of extra demands, for section 120; or</li> <li>(ii) An offset or refund; or</li> </ul> </li> </ul> b) The was no decision about an offset or refund; or  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>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent	Column 4 Co-respondent by election

<b>Table 1</b>			
<b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
		(if any)	(if any)
The person given the Infrastructure charges notice	The local government that gave the infrastructure charges notice	-	-
<p>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.</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 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

<b>Table 2</b>			
<b>Appeals to the P&amp;E Court only</b>			
<p>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.</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 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.</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

<b>Table 2 Appeals to the P&amp;E Court only</b>			
the change application			
<p><b>3. Eligible submitter and eligible advice agency appeals</b>            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)
<p>1 For a development application—an eligible submitter for the development application</p> <p>2 For a change application—an eligible submitter for the change application</p> <p>3 An eligible advice agency for the development application or change application</p>	<p>1 For a development application—the assessment manager</p> <p>2 For a change application—the responsible entity</p>	<p>1 The applicant</p> <p>2 If the appeal is about a concurrence agency's referral response—the concurrence agency</p>	<p>Another eligible submitter for the application</p>
<p><b>4. Compensation claims</b>            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><b>5. Registered premises</b>            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)
<p>1 A person given a decision notice about the decision</p> <p>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</p>	The Minister	-	If an owner or occupier starts the appeal – the owner of the registered premises



<b>Table 2 Appeals to the P&amp;E Court only</b>			
<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	-	-

<b>Table 3 Appeals to the tribunal only</b>			
<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	<p>1 A concurrence agency for the development application related to the approval</p> <p>2 A private certifier for the development application related to the approval</p>
<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	-	-