

## Decision Notice Approval (amended)

*Extension application under section 86 of the Planning Act 2016 made under Section 282 of the Planning Act 2016 for an extension application to the decision notice (approval) under s86 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/270-2013	Contact:	Jonathon Trevett-Lyall
Notice Date:	27 February 2018	Contact Number:	1300 22 55 77

### APPLICANT DETAILS

Name:	Bingford Pty Ltd		
Postal address:			
Phone no:	Mobile no:	Email:	

I acknowledge receipt of the above application on 26 October 2017 and confirm the following:

### DEVELOPMENT APPROVAL

<b>Development Permit for a Material Change of Use for a Showroom</b>
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### PROPERTY DESCRIPTION

Street address:	320 Lower Dawson Road, Allenstown
Real property description:	Lot 1 on RP605479, Lot 1 on SP125027 and Lot 1 on RP608196, Parish of Rockhampton

### OWNER DETAILS

Name:	Bingford Pty Ltd
Postal address:	
<b>Dear Bingford Pty Ltd</b>	
I advise that, on <b>23 February 2018</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 DECISION NOTICE

The currency period has been extended for a further two (2) years. Refer to item 8.

## 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. GROUNDS OF JUSTIFICATION OF APPROVAL DESPITE CONFLICT WITH THE PLANNING SCHEME:

The grounds for approving the application, despite the conflict with the planning scheme, are:

1)	The planning scheme specifically mentions motels, services stations, car wash and Caravan Park for this site and that Council considers a Car Sales Yard will have a similar or lesser impact and will benefit from the highway frontage.
2)	The Department Transport and Main Roads have approved access to the site and
3)	There have been no objections against this application

## 3. CONDITIONS

This approval is subject to the conditions in Attachment 1.

## 4. 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</i>
Building Works	
Plumbing and Drainage Works	

## 5. SUBMISSIONS

NIL

## 6. 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>				
1	Making a material change of use of premises if any part of the land— (a) is within 25m of a State-controlled road; or (b) is future State-controlled road; or (c) abuts a road that intersects with a State-controlled road within 100m of the land	Department of Transport and Main Roads	Concurrence	Department of Infrastructure, Local Government and Planning  Online: <a href="http://www.dilgp.qld.gov.au/MyDAS2">www.dilgp.qld.gov.au/MyDAS2</a>  Postal: PO Box 113 Rockhampton Qld 4700  (previously known as

	For an application involving	Name of agency	Status	Address
				Fitzroy Region Rockhampton Office PO Box 5096 Red Hill Rockhampton Qld 4702)

## 7. 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
Site Plan	12-055 Sheet 1 of 3	18 June 2013
Landscaping and External Works Plan	12-055 Sheet 2 of 3	18 June 2013
Office Floor Plan and Elevations	12-055 Sheet 3 of 3	18 June 2013

## 8. CURRENCY PERIOD FOR THE APPROVAL (S.85)

The currency period for this Development Permit expires on 20 November 2019.

## 9. STATEMENT OF REASONS

<b>Description of the development</b>	The proposed development is for a Material Change of Use for a Showroom
<b>Assessment Benchmarks</b>	The proposed development was assessed against the following assessment benchmarks: <ul style="list-style-type: none"> <li>• <i>Rockhampton Region Planning Scheme 2015.</i></li> </ul>
<b>Reasons for decision</b>	The development was assessed against all of the assessment benchmarks listed above and although there are conflicts with the <i>Rockhampton Region Planning Scheme 2015</i> , it has been deemed that the development will be in a suitable location that will benefit from the highway frontage.
<b>Matters prescribed by regulation</b>	<ul style="list-style-type: none"> <li>• The State Planning Policy – Part E;</li> <li>• The Central Queensland Regional Plan;</li> <li>• The <i>Rockhampton Region Planning Scheme 2015</i>; and</li> <li>• The common material, being the material submitted with the application.</li> </ul>

## 10. 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.

#### 11. 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).

#### 12. ORIGINAL DECISION ASSESSMENT MANAGER

Name: <b>Erin McCabe</b> <b><u>ACTING OPERATIONS MANAGER</u></b> <b><u>DEVELOPMENT ASSESSMENT</u></b>	Date: 20 November 2013
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#### 13. ASSESSMENT MANAGER

Name: <b>Tarnya Fitzgibbon</b> <b><u>COORDINATOR</u></b> <b><u>DEVELOPMENT ASSESSMENT</u></b>	Signature:	Date: 27 February 2018
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C/C. Department of Infrastructure, Local Government and Planning - [RockhamptonSARA@dilgp.qld.gov.au](mailto:RockhamptonSARA@dilgp.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 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.
- 1.3 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.
- 1.4 All conditions, works, or requirements of this approval must be undertaken and completed prior to the commencement of the use, unless otherwise stated.
- 1.5 Where applicable, infrastructure requirements of this approval must be contributed to the relevant authorities, at no cost to Council prior to the commencement of the use, unless otherwise stated.
- 1.6 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
- 1.6.1 Operational Works:
- (i) Road Works;
  - (ii) Access and Parking Works;
  - (iii) Stormwater Works; and
  - (iv) Site Works.
- 1.6.2 Plumbing and Drainage Works; and
- 1.6.3 Building Works.
- 1.7 All Development Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
- 1.8 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.
- 1.9 All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.
- 1.10 Lot 1 on RP605479 and Lot 1 on SP125027 must be amalgamated and registered as one title prior to the commencement of the use.

2.0 APPROVED PLANS AND DOCUMENTS

- 2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan/Document Number</u>	<u>Dated</u>
Site Plan	12-055 Sheet 1 of 3	18 June 2013

<u>Plan/Document Name</u>	<u>Plan/Document Number</u>	<u>Dated</u>
Landscaping and External Works Plan	12-055 Sheet 2 of 3	18 June 2013
Office Floor Plan and Elevations	12-055 Sheet 3 of 3	18 June 2013

- 2.2 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.
- 2.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for endorsement by Council prior to the submission of a Development Application for Operational Works.
- 3.0 ROAD WORKS
- 3.1 A Development Permit for Operational Works (road works) must be obtained prior to the commencement of any road works on the site.
- 3.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, relevant *Australian Standards* and the provisions of a Development Permit for Operational Works (road works).
- 3.3 A concrete pathway, with a minimum width of 1.2 metres, must be constructed on the western side of Lower Dawson Road for the full frontage of the site.
- 3.4 All pathways and access ramps must be designed and constructed in accordance with *Australian Standard AS1428 "Design for Access and Mobility"*.
- 3.5 Traffic signs and pavement markings must be provided in accordance with the *Manual of Uniform Traffic Control Devices – Queensland*. Where necessary, existing traffic signs and pavement markings must be modified in accordance with the *Manual of Uniform Traffic Control Devices – Queensland*.
- 4.0 ACCESS AND PARKING WORKS
- 4.1 A Development Permit for Operational Works (access and parking works) must be obtained prior to the commencement of any access and parking works on the site.
- 4.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, *Australian Standard AS2890 "Parking Facilities"* and the provisions of a Development Permit for Operational Works (access and parking works).
- 4.3 Parking areas must be designed and marked in accordance with the provision of Australian Standards AS 2890.1-2004 and AS2890.2-2002.
- 4.4 Universal access parking spaces must be provided in accordance with *Australian Standard AS2890.6 "Parking Facilities - Off-Street parking for people with disabilities"*.
- 4.5 All redundant vehicle crossings must be removed and replaced with Council's standard kerb and channel.
- 5.0 PLUMBING AND DRAINAGE WORKS
- 5.1 All works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *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.
- 5.2 The development must be connected to Council's reticulated sewerage and water networks.
- 5.3 The existing sewerage and water connection point(s) must be retained, and upgraded if necessary, to service the development.

- 5.4 Sewer connections and water meter boxes located within trafficable areas must be raised or lowered to suit the finished surface level and must be provided with trafficable lids.
- 5.5 Sewerage/ Amended Sewerage trade waste permits must be obtained for the discharge of any non-domestic waste into Council's sewerage reticulation. Arrester traps must be provided where commercial or non-domestic waste water is proposed to be discharged into the system.
- 6.0 STORMWATER WORKS
- 6.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works on the site.
- 6.2 All stormwater drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Queensland Urban Drainage Manual, Capricorn Municipal Development Guidelines*, sound engineering practice and the provisions of a Development Permit for Operational Works (stormwater works).
- 6.3 A detailed overall stormwater drainage strategy for the subject land prepared and certified by a suitably qualified and experienced Registered Professional Engineer of Queensland (RPEQ) must be prepared and submitted as part of the Development Application for Operational Works (stormwater works).
- 6.4 All stormwater must drain to a demonstrated lawful point of discharge and must not adversely affect adjoining land or infrastructure by way of blocking, altering or diverting existing stormwater runoff patterns or have the potential to cause damage to other infrastructure.
- 6.5 The proposed development must not increase peak stormwater runoff for a selected range of storm events up to and including the one in one hundred year storm event (100 year Average Recurrence Interval) for the post development condition.
- 6.6 The Operational Works (stormwater works) application must include an assessment of how the development meets the water quality objectives of the *State Planning Policy 4/10 – Healthy Waters*.
- 7.0 SITE WORKS
- 7.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works.
- 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:
- 7.2.1 the location of cut and/or fill;
  - 7.2.2 the type of fill to be used and the manner in which it is to be compacted;
  - 7.2.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;
  - 7.2.4 details of any proposed access routes to the site which are intended to be used to transport fill to or from the site; and
  - 7.2.5 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 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to adjoining properties or infrastructure.
- 8.0 BUILDING WORKS
- 8.1 All external elements, such as air conditioners, must be adequately screened from public view, to Council's satisfaction. Noise from any external elements, such as air conditioners, must not exceed 5dB(A) (decibels) above the background ambient noise level, measured at the boundaries of the subject site.

- 8.2 Appropriate lighting must be provided within the site to allow casual surveillance and prevent dark, concealment spots during the night.
- 8.3 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"*.
- 8.1 All waste storage areas must be:
- 8.1.1 of a minimum size to accommodate appropriately sized commercial bins in accordance with the *Environmental Protection (Waste Management) Regulations* ;
  - 8.1.2 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;
  - 8.1.3 kept in a clean and tidy condition; and
  - 8.1.4 located at least two (2) metres from a road frontage.
- 8.2 Impervious paved and drained washdown areas to accommodate all refuse containers must be provided. The areas must be aesthetically screened from any road frontage or adjoining property.
- 8.3 A suitable hose-cock (with backflow prevention) and hoses must be provided at the refuse container area, and wash-down must be drained to the sewer and fitted with an approved stormwater diversion valve arrangement.
- As an alternative to a wash-down facility, a fully contained commercial bin cleaning service is acceptable provided no wastewater is discharged from the site to the sewer.
- 9.0 LANDSCAPING WORKS
- 9.1 All Landscaping works must be generally in accordance with the approved plans (refer to condition 2.1)
- 9.2 Large trees must not be planted within one (1) metre of the centreline of any sewerage infrastructure. Small shrubs and groundcover are acceptable.
- 9.3 The landscaped areas must be subject to an ongoing maintenance and replanting programme (if necessary).
- 10.0 ELECTRICITY AND TELECOMMUNICATIONS
- 10.1 Electricity and telecommunication connections must be provided to the proposed development to the standards of the relevant authorities.
- 10.2 Evidence must be provided of a certificate of supply with the relevant service providers to provide each lot with live electricity and telecommunication connections, in accordance with the requirements of the relevant authorities prior to the issue of the commencement of the use.
- 11.0 ASSET MANAGEMENT
- 11.1 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.
- 11.2 Any damage to existing kerb and channel, pathway or roadway (including removal of concrete slurry from public land, pathway, roads, kerb and channel and stormwater gullies and drainage lines) which may occur during any works carried out in association with the approved development must be repaired. This must include the reinstatement of the existing traffic signs and pavement markings which may have been removed.

## 12.0 ENVIRONMENTAL

12.1 An Erosion Control and Stormwater Control Management Plan must be implemented and maintained on-site for the duration of any works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, and landscaped). The prepared Erosion Control and Stormwater Control Management Plan must be available on-site for inspection by Council Officers during any works

## 13.0 OPERATING PROCEDURES

13.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site.

13.2 The hours of operations must be limited to:

13.2.1 Monday to Friday 0800 to 1800;

13.2.2 Saturday 0800 to 1300; and

13.2.3 must not operate on Sundays or Public Holidays.

13.3 The loading and/or unloading of delivery and waste collection vehicles is not permitted on Sundays and public holidays and is limited between the hours of 0700 and 1900 Monday to Friday and between the hours of 0800 and 1500 on Saturdays.

13.4 All waste storage areas must be kept in a clean, tidy condition in accordance with *Environmental Protection (Waste Management) Regulations*.

## ADVISORY NOTES

### NOTE 1. Aboriginal Cultural Heritage

It is advised that under *Section 23 of the Aboriginal Cultural Heritage Act*, 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 Straight Islander and Multicultural Affairs website [www.datsima.qld.gov.au](http://www.datsima.qld.gov.au)

### 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 and *Public Health Act 2005*.

### NOTE 3. General Environmental Duty

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

### NOTE 4. General Safety Of Public During Construction

The *Workplace Health and Safety Act* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to ensure safe traffic control and safe public access in respect of works being constructed on a road.



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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.

**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"> <li>(a) the refusal of all or part of the development application; or</li> <li>(b) the deemed refusal of the development application; or</li> <li>(c) a provision of the development approval; or</li> <li>(d) if a development permit was applied for—the decision to give a preliminary approval.</li> </ul>			
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	<ul style="list-style-type: none"> <li>1 A concurrence agency that is not a co-respondent</li> <li>2 If a chosen Assessment manager is the respondent—</li> </ul>

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

		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

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

the change application			
<p>3. Eligible submitter and eligible advice agency appeals            An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to—            (a) any part of the development application or the change application, for the development approval, that required impact assessment; or            (b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>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</p>	<p>1 For a development application—the assessment manager            2 For a change application—the responsible entity</p>	<p>1 The applicant            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>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)
<p>A person dissatisfied with the decision</p>	<p>The local government to which the claim was made</p>	<p>-</p>	<p>-</p>
<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)
<p>1 A person given a decision notice about the decision            2 If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the affected area for the registered premises who is dissatisfied with the decision</p>	<p>The Minister</p>	<p>-</p>	<p>If an owner or occupier starts the appeal – the owner of the registered premises</p>

<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— (a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or (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	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— (a) the Building Act, other than a decision made by the Queensland Building and Construction Commission; or (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	-	-

