



Decision Notice Approval (amended)

Planning Act Form 5 (version 1.1 effective 22 June 2018) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s83 Planning Act 2016, and Section 334 of the Sustainable Planning Act 2009

Application number:	D/278-2010	Contact:	Brendan Standen
Notice Date:	2 March 2023	Contact Number:	1300 22 55 77

APPLICANT DETAILS

Name:	M R Vaughan and B L Vaughan		
Postal address:	2 Geraldine Court KURUNJANG VIC 3337		
Phone no:	-	Mobile no:	0403 420 664
		Email:	Michaelvaughan18@bigpoond.com

I acknowledge receipt of the above change application on 15 December 2022 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Material Change of Use - Multiple Dwelling Units (three units)
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PROPERTY DESCRIPTION

Street address:	21 Russell Street, Gracemere
Real property description:	Lot 3 on SP175972, Parish of Gracemere

OWNER DETAILS

Name:	B L and M R Vaughan
Postal address:	2 Geraldine Court, Kurunjang VIC 3337
Dear M R Vaughan and B L Vaughan	
I advise that, on 28 February 2023, the above change application was:	
<input checked="" type="checkbox"/> approved in full with conditions* (refer to the conditions contained in Attachment 1)	
*Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.	

CHANGES TO CONDITIONS

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

1)	Item 4	Changed	15 August 2012
2)	Item 6	Changed	17 December 2013
3)	Item 6	Changed	18 November 2015
4)	Item 6	Changed	28 February 2023
5)	Condition 1.1	Changed	15 August 2012
6)	Condition 1.1	Changed	23 February 2023
7)	Condition 1.6	changed	15 August 2012

8)	Condition 1.6	Changed	17 December 2013
9)	Condition 3.1	Deleted	15 August 2012
10)	Condition 4.1	Deleted	15 August 2012
11)	Condition 9.1	deleted	17 December 2013
12)	Condition 9.2	changed	17 December 2013
13)	Condition 9.6	New	28 February 2023
14)	Condition 9.7	New	28 February 2023
15)	Condition 9.8	New	28 February 2023
16)	Condition 9.9	New	28 February 2023
17)	Condition 9.10	New	28 February 2023
18)	Condition 11.1	changed	15 August 2012

1. DETAILS OF THE APPROVAL

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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material Change of use	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

2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

3. 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>Access and Parking Works</i> <i>Roof and Allotment Drainage Works</i>
Building Works	
Plumbing and Drainage Works	

4. REFERRAL AGENCIES

NIL

5. SUBMISSIONS

Properly made submissions were received from:

1) GC Todman and DM Todman, 7 Strelow Avenue, Glenlee Qld 4711
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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
Site and Drainage Plan	22L0033RU - 4 of 15	28 November 2022

<u>Plan/Document Name</u>	<u>Plan Number</u>	<u>Dated</u>
Floor Plans	29070 DA02 Amendment E	24 May 2012
Ground Floor Plan	22L0033RU – 5 of 15	28 November 2022
Overall Site Plan	29070 DA01 Amendment E	24 May 2012
Section and Elevations	29070 DA03 Amendment E	24 May 2012
Elevation 1 and Elevation 2	22L0033RU – 7 of 15	28 November 2022
Elevation 3 and Elevation 4	22L0033RU – 8 of 15	28 November 2022

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

This development approval will lapse if the first change of use has not commenced by 17 December 2022.

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*.

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.

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: CECIL BARNARD OPERATIONS MANAGER DEVELOPMENT ASSESSMENT	Date: 17 December 2010
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11. ASSESSMENT MANAGER

Name: Amanda O'Mara COORDINATOR DEVELOPMENT ASSESSMENT	Signature: 	Date: 2 March 2023
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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

1.0 **ADMINISTRATION**

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

<u>Plan/Document Name</u>	<u>Plan Number</u>	<u>Dated</u>
Site and Drainage Plan	22L0033RU - 4 of 15	28 November 2022
Floor Plans	29070 DA02 Amendment E	24 May 2012
Ground Floor Plan	22L0033RU – 5 of 15	28 November 2022
Overall Site Plan	29070 DA01 Amendment E	24 May 2012
Section and Elevations	29070 DA03 Amendment E	24 May 2012
Elevation 1 and Elevation 2	22L0033RU – 7 of 15	28 November 2022
Elevation 3 and Elevation 4	22L0033RU – 8 of 15	28 November 2022

1.2 Where there is any conflict between conditions of this decision notice and details shown on the approved plans, the conditions of approval must prevail.

1.3 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.

1.4 The Developer is responsible for ensuring compliance with this Approval and the Conditions of the Approval by an employee, agent, contractor or invitee of the Developer.

1.5 All conditions, works, or requirements of this approval must be undertaken and completed to the satisfaction of Council.

1.6 The following further development permits are required prior to the commencement of any works on the site:

- (i) Operational Works:
 - (i) Access and Parking; and
 - (ii) Roof and Allotment Drainage.
- (ii) Plumbing and Drainage Works; and
- (iii) 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 Any outstanding rates, charges or expenses levied by the Council over the subject land must be paid prior to the issue of a Development Permit for Building Works.

2.0 **ACCESS AND PARKING**

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

- 2.2 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).
- 2.3 All the design and construction must be in accordance with the Australian Standard for parking facilities; Off-Street Car Parking (Australian Standard/New Zealand Standard AS/NZ2890.1 and 2 2004 or as amended)), the Capricorn Municipal Development Guidelines relevant standard drawings, and to the satisfaction of Council.
- 2.4 The proposed access driveway, internal access road/driveway and visitor parking areas must be concrete paved, or bitumen sealed in accordance with the Capricorn Municipal Development Guidelines and to the satisfaction of Council.
- 2.5 All vehicles must be able to leave the site and enter the public road in a forward direction.
- 2.6 The existing driveway crossover must be reinstated to match the existing kerb and channel.
- 3.0 SEWERAGE WORKS
- 3.1 Deleted.
- 3.2 The connection to the reticulated sewerage to the development site must be provided in accordance with the Water Supply (Safety and Reliability) Act. The proposed sewerage reticulation works, including connections to the existing system, must be carried out in accordance with the Capricorn Municipal Development Guidelines.
- 3.3 Where a sewerage connection does not exist for the subject site, Council will provide one at no cost to the applicant. The development must be connected to the reticulated sewerage system.
- 3.4 A trafficable brass cover must be provided on the connection point where it is to be located within a trafficable area.
- 3.5 Large trees must not be planted within one (1.0) metre of the sewerage reticulation. Small shrubs and groundcover are acceptable.
- 4.0 WATER WORKS
- 4.1 Deleted.
- 4.2 The connection to the reticulated water supply to the development site must be provided in accordance with the Water Supply (Safety and Reliability) Act.
- 4.3 In accordance with the Queensland Plumbing and Drainage Code and Council's Sub-metering Policy, the proposed development must be provided with a master meter at the property boundary and sub-meters for each sole occupancy unit.
- 5.0 ROOF AND ALLOTMENT DRAINAGE
- 5.1 A Development Permit for Operational Works (roof and allotment drainage) must be obtained prior to the commencement of any works on the site.
- 5.2 All drainage works must be designed and constructed in accordance with the Queensland Urban Drainage Manual, the Capricorn Municipal Development Guidelines and sound engineering practice.
- 5.3 All stormwater must drain to a demonstrated lawful point of discharge and must not adversely affect external land or infrastructure by way of blocking, altering or diverting existing stormwater runoff patterns or have the potential to cause damage to other infrastructure items.
- 5.4 An application for a Development Permit for Operational Works (roof and allotment drainage) must be accompanied by a stormwater drainage strategy, prepared and certified by a suitably experienced registered professional engineer, which must include (but not limited to):

- (i) Encompasses the whole stormwater catchment area contributing to stormwater flows on the subject land; and
- (ii) Identifies, in the form of a stormwater drainage master plan, the drainage catchment and sub-catchment areas for the pre-development and post-development scenarios; and
- (iii) Includes an assessment of the major and minor rainfall event discharges from the drainage catchments for the pre-development and post-development scenarios; and
- (iv) Assesses and mitigates the impact of the changes to the storm water drainage catchments as a consequence of the development on the subject land; and
- (v) Assesses how the proposed development will achieve no net increase in stormwater runoff for a selected range of stormwater events up to and including the 1 in 100 year event, in the post-development scenario. The report is also required to identify the extent to which the site is inundated by stormwater runoff from a 1 in 100 year storm event; and
- (vi) Demonstrates the method of drainage through the subject land; and
- (vii) Includes detailed engineering design calculations and drawing for both the minor and major drainage systems; and
- (viii) Demonstrates that all proposed drainage systems comply with the requirements of the Queensland Urban Design Manual, the Capricorn Municipal Development Guidelines and the Queensland Water Quality Guidelines; and
- (ix) Incorporates Water Sensitive Urban Design Principles, with specific treatment and structural measures provided to ensure compliance with the water quality objectives prescribed in the Queensland Environmental Protection Agency's Water Quality Guidelines and Australian Run-off Quality.

6.0 SITE WORKS

6.1 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.

7.0 PLUMBING AND DRAINAGE

- 7.1 Construction of independent internal sanitary drainage works must be in accordance with regulated work under the Plumbing and Drainage Act.
- 7.2 Construction of independent internal plumbing works must be in accordance with regulated work under the Plumbing and Drainage Act.
- 7.3 The development must be provided with a master water meter at the property boundary and sub meters for each of the proposed units, and must be in accordance with Water Supply (Safety and Reliability) Act and Council's sub-metering policies.

8.0 BUILDING

- 8.1 Privacy screening must be provided to second floor windows facing surrounding properties.
- 8.2 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.
- 8.3 A waste bin compound must be provided and the development must be designed to a waste management standard with one (1) normal 240 litres general waste and one (1) 240 litre recyclable waste bin per unit.

- 8.4 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 and must be set back a minimum of two (2) metres from any road frontage. A suitable hosecock (with backflow prevention) and hoses must be provided at the refuse container area, and washdown must be drained to the sewer and fitted with an approved stormwater diversion valve arrangement, in accordance with a Plumbing and Drainage Permit and Sewerage Trade Waste Permit.
- 8.5 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*'.
- 8.6 The approval for the Multiple Dwelling Unit component of the application is for four units only. Units must not be operated as dual key apartments unless and until separate approval is obtained from Council, via the issue of Development Permit for a Material Change of Use.
- 9.0 LANDSCAPING
- 9.1 Deleted.
- 9.2 Landscaping must be in accordance with the approved plans (see condition 1.1), except as varied by Condition 9.6.
- 9.3 The landscaped areas must be subject to an ongoing maintenance and replanting programme (if necessary).
- 9.4 The fence fronting Russell Street must have a maximum height of 1.2 metres (if solid) or 1.5 metres with Fifty (50) percent transparency.
- 9.5 All remaining boundary fences must be constructed to a height of 1.8 metres.
- 9.6 Landscaping must be provided within a 1.5-metre-wide landscaped garden bed to be provided along the site's entire frontage to Russell Street (within the site boundaries), except where vehicle or pedestrian access is required, as follows:
- 9.6.1 Trees at five (5) metre intervals;
- 9.6.2 Shrubs at two (2) metre intervals; and
- 9.6.3 Groundcovers at 0.5 metre to one (1) metre intervals.
- 9.7 Two (2) street trees, located generally equidistance apart and on the southern side of the existing pedestrian footpath, must be planted within the Russell Street road reserve that Lot 3 on SP175972 has frontage to. Street trees must be maintained by the owner / developer until established.
- 9.8 Street trees may be one or a combination of the following species:
- (i) *Buckinghamia celcissima* – Ivory Curl
 - (ii) *Corymbia ptychocarpa* –Swamp Bloodwood
 - (iii) *Cupaniopsis anacardioides* – Tuckeroo
 - (iv) *Cupaniopsis parvisolia* – Small Leaf Tuckeroo
 - (v) *Harpullia pendula* – Tulip wood
 - (vi) *Melicope elleryana*- Pink Flowering Euodia
 - (vii) *Syzygium leuhmanii*- Small Leafed Lilly Pilly
 - (viii) *Waterhousia floribunda* – Weeping Lilly Pilly
 - (ix) *Xanthostemon chrysanthus* – Golden Penda

- 9.9 Street tree planting must be carried out in accordance with the requirements of Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy.
- 9.10 Street trees must be located such that when mature, they do not impact on street lighting, future driveway locations or other infrastructure in accordance with the *Capricorn Municipal Development Guidelines*.

Note: There is a sewer line within the road reserve. Council recommends the developer undertakes a “dial before you dig” search before tree planting.

10.0 ELECTRICITY AND TELECOMMUNICATIONS

- 10.1 Each unit must be provided with underground electricity and telecommunication connections in accordance with the relevant authority.

11.0 CONTRIBUTIONS/COSTS

- 11.1 Contributions must be paid to Council prior to the issue of a Building Works Permit. The contributions must be paid in accordance with the Council Policy rates at the date of payment. The following table sets out the contributions required to be paid:

<u>Policy</u>	<u>Contribution</u>	<u>Current Total*</u>
Planning Scheme Policy 1/96	Water Headworks	\$5,100.70
Planning Scheme Policy 1/96	Sewerage Headworks	\$3,237.80
Planning Scheme Policy 4/96	Strategic Road Network	\$1,323.00
* The sums of money quoted will remain firm for a period of twelve (12) months, after which time, Council reserves the right to review same in accordance with the policies and rates and charges current at the time of payment.		

- 11.2 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be at full cost to the developer.

12.0 ENVIRONMENTAL

- 12.1 Any application for a Development Permit for Operational Works or a Development Permit for Building Works must be accompanied by a detailed Environmental Management Plan, which addresses, but is not limited to, the following matters:

- (i) water quality and drainage;
- (ii) erosion and silt/sedimentation management;
- (iii) acid sulphate soils;
- (iv) fauna management;
- (v) vegetation management and clearing;
- (vi) top soil management;
- (vii) interim drainage plan during construction;
- (viii) construction programme;
- (ix) geotechnical issues;
- (x) weed control;
- (xi) bushfire management;

- (xii) emergency vehicle access;
 - (xiii) noise and dust suppression; and
 - (xiv) waste management.
- 12.2 The Environmental Management Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.
- 12.3 No works can commence on the site unless and until an Environmental Management Plan has been approved by Council as part of Development Permit for Operational 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. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in Russell Street.

NOTES

NOTE 1. Aboriginal Cultural Heritage Act, 2003

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 Environment and Heritage Protection website <http://www.ehp.qld.gov.au>.

NOTE 2. 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 3. 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 4. 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 5. General Safety of Public During Construction

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

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

NOTE 6. Telecommunications

To ensure that services are provided in your development with minimal disruption and cost, you need to ensure that early notification to a Telecommunications Carrier is given. If you have not entered into an agreement with a Telecommunication Carrier, it is advisable to “Register Your Development” on www.telstrasmartcommunity.com website to ensure co-ordination of trenching with your other infrastructure.

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

Appeal rights

229 Appeals to tribunal or P&E Court

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

Note—

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

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

230 Notice of appeal

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

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

231 Other appeals

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

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

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

232 Rules of the P&E Court

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

Schedule 1

Appeals section 229

1 Appeal rights and parties to appeals

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

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

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

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&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"> • The incorrect application of gross floor area for a non-residential development • Applying an incorrect ‘use category’, under a regulation, to the development <ul style="list-style-type: none"> (i) The working out of extra demands, for section 120; or (ii) An offset or refund; or b) The was no decision about an offset or refund; or c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or d) The amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent	Column 4 Co-respondent by election

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

Table 2			
Appeals to the P&E Court only			
<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>

Table 2 Appeals to the P&E Court only			
<p>6. Local laws An appeal may be made against a decision of a local government, or conditions applied, under a local law about— (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	-	-

Table 3 Appeals to the tribunal only			
<p>1. Building advisory agency appeals An appeal may be made against giving a development approval for building work to the extent the building work required code assessment against the building assessment provisions.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A building advisory agency for the development application related to the approval	The assessment manager	The applicant	1 A concurrence agency for the development application related to the approval 2 A private certifier for the development application related to the approval
<p>3. Certain decisions under the Building Act and the Plumbing and Drainage Act An appeal may be made against a decision under— (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	-	-