

Decision Notice Approval (amended)

Planning Act Form 1 (version 1.0 effective 3 July 2017) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s81 Planning Act 2016

Application number:	D-R/599-2008	Contact:	Thomas Gardiner
Notice Date:	20 February 2018	Contact Number:	1300 22 55 77

APPLICANT DETAILS

Name:	Brown and Hurley Pty Ltd A.C.N. 000 465 378		
Postal address:			
Phone no:	Mobile no:	Email:	

I acknowledge receipt of the above application on 6 February 2018 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Reconfiguring a Lot (one lot into five lots)
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PROPERTY DESCRIPTION

Street address:	985-1005 Yaamba Road, Parkhurst
Real property description:	Lot 41 on SP226571, Parish of Murchison

OWNER DETAILS

Name:	Brown & Hurley Pty Ltd
Postal address:	
Dear	Brown and Hurley Pty Ltd
I advise that, on 21 February 2012	
the above development application was:	
<input checked="" type="checkbox"/> approved in full with conditions* (refer to the conditions contained in Attachment 1)	
*Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.	

CHANGES TO CONDITIONS

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

1)	Item 10	Changed	19 February 2018
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1. DETAILS OF THE APPROVAL

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

2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

3. FURTHER DEVELOPMENT PERMITS REQUIRED

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

Type of development permit required	Subject of the required development permit
Operational Works	<i>Road Works</i> <i>Access Works</i> <i>Sewerage Works</i> <i>Water Works</i> <i>Stormwater Works</i> <i>Site Works</i>
Building Works	
Plumbing and Drainage Works	

4. REFERRAL AGENCIES

The following IDAS Referral Agencies were activated by this application.

Referrals – triggered by other assessable development under schedule 8 of the IPA (whether or not the development is also assessable under a planning scheme)

	For an application involving	Name of agency	Status	Address
RECONFIGURATION OF A LOT				
	On land contiguous to a State-controlled road if – (i) The total number of lots is increased; and (ii) The number of lots abutting the State controlled road is increased	Department of Transport and Main Roads	Concurrence	Fitzroy Region Rockhampton Office PO Box 5096 Red Hill Rockhampton Qld 4702
	If any part of the lot is- (i) subject to an electricity easement ; or (ii) within 100 metres of a substation site	The Chief Executive of the distribution entity or transmission entity (eg, <i>Energex</i> , <i>Ergon</i> , <i>Powerlink</i> , etc)	Advice	Principal Town Planner Ergon Energy PO Box 15107 City East, Brisbane QLD 4002
	On land abutting rail corridor land, commercial corridor land or future railway land , and – (i) the total number of lots increases, or	Department of Transport and Main Roads	Concurrence	Fitzroy Region Rockhampton Office PO Box 5096 Red Hill Rockhampton Qld 4702

	For an application involving	Name of agency	Status	Address
	(ii) an easement abutting the land is created			

5. 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 Sheet 1 of 2	09935 Sheet P01 Issue F	23 August 2011
Site Plan Sheet 2 of 2	09935 Sheet P02 Issue F	23 August 2011
Proposed Services Plan Sheet 1 of 2	09935 Sheet P03 Issue F	23 August 2011
Proposed Services Plan Sheet 2 of 2	09935 Sheet P04 Issue F	23 August 2011

6. CURRENCY PERIOD FOR THE APPROVAL (S.85)

The currency period of this approval lapses on 17 February 2022.

7. STATEMENT OF REASONS

Description of the development	The proposed development is for Reconfiguring a Lot (one lot into five lots)
Reasons for Decision	An 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.
Assessment Benchmarks	<p>The proposed development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> • Low Impact Industry Zone Code; • Access, Parking and Transport Code; • Filling and Excavation Code; • Landscape Code; • Reconfiguring a Lot Code; • Stormwater Management Code; and • Water and Sewer Code.
Matters prescribed by regulation	<ul style="list-style-type: none"> • The <i>State Planning Policy – Part E</i>; • The <i>Central Queensland Regional Plan</i>; • The <i>Rockhampton Region Planning Scheme 2015</i>. • The common material, being the material submitted with the application.

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.

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

10. ORIGINAL DECISION ASSESSMENT MANAGER

Name: Petrus Barry <u>ACTING OPERATIONS MANAGER</u> <u>DEVELOPMENT ASSESSMENT</u>	Date: 21 February 2012
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11. ASSESSMENT MANAGER

Name: Tarnya Fitzgibbon <u>COORDINATOR</u> <u>DEVELOPMENT ASSESSMENT</u>	Signature:	Date: 20 February 2018
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C/C. Department of Infrastructure, Local Government and Planning - 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 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 Plan Sheet 1 of 2	09935 Sheet P01 Issue F	23 August 2011
Site Plan Sheet 2 of 2	09935 Sheet P02 Issue F	23 August 2011
Proposed Services Plan Sheet 1 of 2	09935 Sheet P03 Issue F	23 August 2011
Proposed Services Plan Sheet 2 of 2	09935 Sheet P04 Issue F	23 August 2011

- 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, at no cost to Council prior to the issue of the Compliance Certificate for the Survey Plan, unless otherwise stated.
- 1.6 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.
- 1.7 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.
- 1.8 The following further development permits are required prior to the commencement of any works on the site:
- 1.8.1 Operational Works:
- (i) Road Works;
 - (ii) Access Works;
 - (iii) Sewerage Works;
 - (iv) Water Works;
 - (v) Stormwater Works; and
 - (vi) Site Works;
- 1.8.2 Plumbing and Drainage Works; and

1.8.3 Building Works.

- 1.9 All Development Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of the Compliance Certificate for the Survey Plan.

2.0 ROAD WORKS

- 2.1 A Development Permit for Operational Works (road works) must be obtained prior to the commencement of any works on the site.
- 2.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 1.1), *Capricorn Municipal Development Guidelines*, relevant *Australian Standards* and the provisions of a Development Permit for Operational Works (road works).
- 2.3 The proposed *cul-de-sac* road and associated turning circle area shown on the approved plans (refer to condition 1.1) must comply with all requirements for a road classification of *Industrial access* in accordance with the requirements of the *Capricorn Municipal Development Guidelines*, complete streets and The association of Australian and New Zealand road transport and traffic authorities (*AUSTROADS*) suite of design guidelines.
- 2.4 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*.
- 2.5 All pathways and access ramps must be designed and constructed in accordance with *Australian Standard AS1428 "Design for Access and Mobility"*. All pathways located within a road reserve must be provided with public space lighting in accordance with *Australian Standard AS1158 "Lighting for Roads and Public Spaces"*.

3.0 ACCESS WORKS

- 3.1 A Development Permit for Operational Works (access works) must be obtained prior to the commencement of any works on the site.
- 3.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 1.1), *Capricorn Municipal Development Guidelines* and *Australian Standard AS2890 "Off Street Car Parking"* and the provisions of a Development Permit for Operational Works (access works).
- 3.3 Any extraordinary vehicular requirements must be constructed as part of the operational works in accordance with *Capricorn Municipal Development Guidelines*.

4.0 SEWERAGE WORKS

- 4.1 A Development Permit for Operational Works (sewerage works) must be obtained prior to the commencement of any works on the site.
- 4.2 All works must be designed and constructed in accordance with the *Capricorn Municipal Development Guidelines*, *Water Supply (Safety and Reliability) Act* and *Plumbing and Drainage Act* and the provisions of a Development Permit for Operational Works (sewerage works), in particular:
- 4.2.1 provision of a sixty-three (63) millimetre diameter rising main within the new road reserve and crossing Yaamba Road connecting into the existing gravity main on the eastern side of Yaamba Road. It may be feasible to relocate the existing rising main which is currently used by the Brown and Hurley development subject to Council approval; and
- 4.2.2 the Brown and Hurley development on Proposed Lot 53 must be reconnected to the new rising main.
- 4.3 The applicant must enter into a Special Sewerage Arrangement with Council for each of the allotments. The Special Sewerage Arrangement will outline the service provided and the contributions payable. The arrangement must be transferred onto any new owners, and Council must be advised accordingly.

- 4.4 A registered easement, six (6) metres wide, must be provided along the rear of the properties for the purposes of future sewerage main extensions when Council constructs the ultimate sewerage scheme, and for the purposes of stormwater pipe construction. The easement must be a combined services easement for stormwater and sewerage purposes. The stormwater pipe must be constructed 1.5 metres from the eastern easement boundary.
- 4.5 Trade waste permits must be obtained for the discharge of any non-domestic waste into Council's existing reticulation system.
- 4.6 Construction of internal sanitary drainage works, in particular the privately owned sewerage pump stations must be in accordance with regulated works under the *Plumbing and Drainage Act*.
- 4.7 Any buildings to be demolished must be disconnected from sanitary drainage, in accordance with regulated works under the *Plumbing and Drainage Act Compliance Permit*.
- 4.8 A plumbing and drainage application must be submitted for the internal privately owned sewage pumping stations and associated rising mains.
- 4.9 All sanitary drainage works must be in accordance with regulated work under the *Plumbing and Drainage Act*.
- 5.0 WATER WORKS
- 5.1 A Development Permit for Operational Works (water works) must be obtained prior to the commencement of any works on the site.
- 5.2 All works must be designed and constructed in accordance with the *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act* and the *Plumbing and Drainage Act* and the provisions of a Development Permit for Operational Works (water works), in particular:
 - 5.2.1 all proposed lots within the development must be connected to Council's reticulated water supply network;
 - 5.2.2 a new water main must be extended within the new road reserve from the existing 150 millimetre connection currently serving the Brown and Hurley development; and
 - 5.2.3 the new watermain must be extended in 150 millimetre diameter to ensure adequate fire fighting protection is available for each Lot.
- 5.3 The proposed access widening onto Yaamba Road must not adversely affect the existing watermain connection. The watermain connection must be clear of the trafficable area.
- 5.4 A plumbing and drainage application must be submitted for the disconnection and reconnection of the existing water connection and the disconnection and reconnection of the existing rising main.
- 6.0 STORMWATER WORKS
- 6.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any works on the site.
- 6.2 All stormwater drainage works must be designed and constructed in accordance with the approved plans, *Queensland Urban Drainage Manual, Capricorn Municipal Development Guidelines* and sound engineering practice. All stormwater must drain to a demonstrated lawful point of discharge into Lot 40 on SP169165 and must not exceed the pre-development peak discharge for all events up to and including a one in 100 Average Rainfall Interval event. This must be demonstrated as part of a Development Permit for Operational Works (stormwater works) and must not adversely affect any other 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.

6.3 Any application for a Development Permit for Operational Works (stormwater works) 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 works on the site.

7.2 Any vegetation cleared or removed must be:

- (i) mulched on-site and utilised on-site for landscaping purposes, in accordance with the landscaping plan approved by Council; or
- (ii) removed for disposal at a location approved by Council;

within sixty (60) days of clearing. Any vegetation removed must not be burnt.

8.0 BUILDING WORKS

8.1 A Development Permit for Building Works is required for the demolition of the existing dwelling on the site.

8.2 Any buildings to be demolished must be disconnected from sanitary drainage, in accordance with regulated works under the *Plumbing and Drainage Act Compliance Permit*.

9.0 ELECTRICITY AND TELECOMMUNICATIONS

9.1 Underground electricity and telecommunication connections must be provided to the proposed development to the standards of the relevant authorities.

9.2 All roadways must be provided with public space lighting in accordance with *Australian Standard AS1158 "Lighting for Roads and Public Spaces"*.

9.3 Evidence must be provided of a non-refundable contract 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 Compliance Certificate for the Survey Plan.

10.0 ASSET MANAGEMENT

10.1 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.

10.2 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.

10.3 'As constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the issue of the Compliance Certificate for the Survey Plan. This information must be provided in accordance with the *Manual for Submission of Digital As Constructed Information*.

11.0 ENVIRONMENTAL

11.1 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.

11.2 Any application for a Development Permit for Operational Works or Development Permit for Building Works must be accompanied by an Erosion and Sediment Control Plan which addresses, but is not limited to, the following:

- (i) objectives;
- (ii) site location / topography;
- (iii) vegetation;
- (iv) site drainage;
- (v) soils;
- (vi) erosion susceptibility;
- (vii) erosion risk;
- (viii) concept;
- (ix) design; and
- (x) 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.

11.3 The Environmental Management Plan and the Erosion and Sediment Control Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.

11.4 No works can commence on the site unless and until an Environmental Management Plan and an Erosion and Sediment Control Plan have been approved by Council as part of Development Permit for Operational Works.

12.0 OPERATING PROCEDURES

12.1 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 on Yaamba Road.

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 Environment and Resource Management website www.derm.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.

NOTE 5. Adopted Infrastructure Charges Notice

This application is subject to infrastructure contributions in accordance with Council policies. The contributions are presented on an Adopted Infrastructure Charges Notice which has been supplied with this decision notice.

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

Appeal rights

229 Appeals to tribunal or P&E Court

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

Note—

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

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

230 Notice of appeal

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

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

231 Other appeals

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

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

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

232 Rules of the P&E Court

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

Schedule 1

Appeals section 229

1 Appeal rights and parties to appeals

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

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

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

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

		response—the concurrence agency	manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application
<p>2. Change applications An appeal may be made against— (a) a responsible entity’s decision for a change application, other than a decision made by the P&E court; or (b) a deemed refusal of a change application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 The applicant 2 If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice	The responsible entity	If an affected entity starts the appeal—the applicant	1 A concurrence agency for the development application 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 A private certifier for the development application 4 Any eligible advice agency for the change application 5 Any eligible submitter for the change application
<p>3. Extension applications An appeal may be made against— (a) the assessment manager’s decision about an extension application; or (b) a deemed refusal of an extension application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 1 The applicant 2 For a matter other than a deemed refusal of an extension application – a concurrence agency, other than the chief executive, for the application	The assessment manager	If a concurrence agency starts the appeal – the applicant	If a chosen assessment manager is the respondent – the prescribed assessment manager
<p>4. Infrastructure charges notices An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds a) The notice involved an error relating to – (i) The application of the relevant adopted charge; or Examples of errors in applying an adopted charge – <ul style="list-style-type: none"> • The incorrect application of gross floor area for a non-residential development • Applying an incorrect ‘use category’, under a regulation, to the development <ul style="list-style-type: none"> (i) The working out of extra demands, for section 120; or (ii) An offset or refund; or b) The was no decision about an offset or refund; or c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or d) The amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</p>			

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the Infrastructure charges notice	The local government that gave the infrastructure charges notice	-	-
5. Conversion applications An appeal may be made against— (a) the refusal of a conversion application; or (b) a deemed refusal of a conversion application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The local government to which the conversion application was made	-	-
6. Enforcement notices An appeal may be made against the decision to give an enforcement notice.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the enforcement notice	The enforcement authority	-	If the enforcement authority is not the local government for the premises in relation to which the offence is alleged to have happened—the local government

Table 2 Appeals to the P&E Court only			
1. Appeals from tribunal An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of— (a) an error or mistake in law on the part of the tribunal; or (b) jurisdictional error.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A party to the proceedings for the decision	The other party to the proceedings for the decision	-	-
2. Eligible submitter appeals An appeal may be made against the decision to give a development approval, or an approval for a change application, to the extent that the decision relates to— (a) any part of the development application for the development approval that required impact assessment; or (b) a variation request.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 For a development application—an eligible submitter for the development	1 For a development application—the assessment manager	1 The applicant 2 If the appeal is about a concurrence agency's referral	Another eligible submitter for the application

Table 2
Appeals to the P&E Court only

application 2 For a change application—an eligible submitter for the change application	2 For a change application—the responsible entity	response—the concurrence agency	
<p>3. Eligible submitter and eligible advice agency appeals An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to— (a) any part of the development application or the change application, for the development approval, that required impact assessment; or (b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 For a development application—an eligible submitter for the development application 2 For a change application—an eligible submitter for the change application 3 An eligible advice agency for the development application or change application	1 For a development application—the assessment manager 2 For a change application—the responsible entity	1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application
<p>4. Compensation claims An appeal may be made against— (a) a decision under section 32 about a compensation claim; or (b) a decision under section 265 about a claim for compensation; or (c) a deemed refusal of a claim under paragraph (a) or (b).</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person dissatisfied with the decision	The local government to which the claim was made	-	-
<p>5. Registered premises An appeal may be made against a decision of the Minister under chapter 7, part 4.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 A person given a decision notice about the decision 2 If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the	The Minister	-	If an owner or occupier starts the appeal – the owner of the registered premises

Table 2 Appeals to the P&E Court only			
affected area for the registered premises who is dissatisfied with the decision			
<p>6. Local laws An appeal may be made against a decision of a local government, or conditions applied, under a local law about—</p> <p>(a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or</p> <p>(b) the erection of a building or other structure.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who— (a) applied for the decision; and (b) is dissatisfied with the decision or conditions.	The local government	-	-

Table 3 Appeals to the tribunal only			
<p>1. Building advisory agency appeals An appeal may be made against giving a development approval for building work to the extent the building work required code assessment against the building assessment provisions.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A building advisory agency for the development application related to the approval	The assessment manager	The applicant	1 A concurrence agency for the development application related to the approval 2 A private certifier for the development application related to the approval
<p>3. Certain decisions under the Building Act and the Plumbing and Drainage Act An appeal may be made against a decision under—</p> <p>(a) the Building Act, other than a decision made by the Queensland Building and Construction Commission; or</p> <p>(b) the Plumbing and Drainage Act, part 4 or 5.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who received, or was entitled to receive, notice of the decision	The person who made the decision	-	-
<p>4. Local government failure to decide application under the Building Act An appeal may be made against a local government's failure to decide an application under the Building Act within the period required under that Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who was entitled to receive, notice of the decision	The local government to which the application was made	-	-

