



Decision Notice Approval

Planning Act Form 1 (version 1.2 effective 7 February 2020) made under section 282 of the Planning Act 2016 for a decision notice (approval) under section 63(2) of the Planning Act 2016

Application number:	D/61-2021	Contact:	Amanda O'Mara
Notice Date:	21 December 2021	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	A M Russell		
Postal address:	C/- Capricorn Survey Group (CQ)		
Phone no:	Mobile no:	Email:	

I acknowledge receipt of the above application on 4 May 2021 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Material Change of Use for a Dwelling House

PROPERTY DESCRIPTION

Street address:	17 Greenwood Close, Frenchville
Real property description:	Lot 1 on SP245873, Parish of Archer

OWNER DETAILS

Name:	A M Russell
Postal address:	
Dear A M Russell	
I advise that, on 14 December 2021 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.	

1. DETAILS OF THE APPROVAL

The following approvals are given:

	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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use	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
Building Works	
Plumbing and Drainage Works	

4. SUBMISSIONS

Properly made submissions **were** /**were not** made in relation to the application.

There were 1 properly made submissions received from the following submitter(s);

Name of principal submitter	Residential or business address	Electronic address (if provided)
1. Wayne Gardiner	15 Greenwood Close Frenchville QLD 4701	Nil

5. REFERRAL AGENCIES

NIL

6. THE APPROVED PLANS

The approved development must be completed and maintained generally in accordance with the approved drawings and documents:

Plan/Document Name	Prepared by	Date	Reference Number	Version/Issue
Notes & Site Plan	Dezign Elements Building Designers	29 November 2021	20_028 A-01	B
Part Site Design	Dezign Elements Building Designers	29 November 2021	20_028 A-02	B
Ground Floor Plan	Dezign Elements Building Designers	29 November 2021	20_028 A-03	B
Upper Floor Plan	Dezign Elements Building Designers	29 November 2021	20_028 A-04	B
Slab Plan	Dezign Elements Building Designers	29 November 2021	20_028 A-05	B
Roof Plan	Dezign Elements	29 November 2021	20_028 A-06	B

	Building Designers			
Roof Details	Design Elements Building Designers	29 November 2021	20_028 A-07	B
Elevations	Design Elements Building Designers	29 November 2021	20_028 A-08	B
Elevations	Design Elements Building Designers	29 November 2021	20_028 A-09	B
Section Detail	Design Elements Building Designers	29 November 2021	20_028 A-10	B
3D Views	Design Elements Building Designers	29 November 2021	20_028 A-11	B
Rehabilitation Plan	Steer Environmental Consulting	9 November 2016	-	-
Geotechnical Investigation	Butler Partners	21 December 2015	R15-182A	-

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

The standard currency periods stated in section 85 of *Planning Act 2016* apply to each aspect of development in this approval, if not stated in the conditions of approval attached.

8. STATEMENT OF REASONS

Description of the development	The proposed development is for a Material Change of Use for a Dwelling House
Reasons for Decision	<p>a) The proposed development has been suitably designed to respond to environmental constraints affecting the site such as bushfire hazard and steep slopes.</p> <p>b) 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 or local character and amenity; and</p> <p>c) On balance, the application should be approved because the circumstances favour Council exercising its discretion to approve the application even though the development does not comply with an aspect of the assessment benchmarks.</p>
Assessment	The proposed development was assessed against the following assessment

Benchmarks	benchmarks: <ul style="list-style-type: none"> • Strategic Framework; • Environmental Management and Conservation Zone Code; • Low Density Residential Zone Code; • Access, Parking and Transport Code; • Filling and Excavation Code; • Landscape Code; • Stormwater Management Code; • Waste Management Code; • Water and Sewer Code; • Airport Environs Overlay Code; • Biodiversity Overlay Code; • Bushfire Hazard Overlay Code; and • Steep Land Overlay Code. 	
Compliance with assessment benchmarks	The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exception(s) listed below.	
	Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
	Environmental Management and Conservation Zone Code	<p>PO1</p> <p>The subject site is affected by a Biodiversity Overlay for Matters of State Environmental Significance (MSES). However it is noted that the associated vegetation is an 'of least concern regional ecosystem'. In addition, the development does not involve a land use, which supports and facilitates conservation activities. Despite this, it is noted that the existing lot which was created as part of an historic subdivision is not considered a 'large land holding' to effectively protect ecological conservation values given its limited size of 1,050 square metres. Furthermore, it is considered that the historic subdivision contemplated future residential use of the land, which is also highlighted by the two (2) zones applicable to different portions of the subject site.</p> <hr/> <p>PO2</p> <p>The development does not achieve the recommendations included in Acceptable Outcome 2.1.2 for a Dwelling House. This recommends that a Dwelling House only be established where: on a lot larger than five (5) hectares in size; located in areas outside of areas mapped as having Matters of State Environmental Significance (MSES); and where the house and access are located to avoid constraints including bushfire hazard and steep slopes.</p>

		<p>The development has access to Council infrastructure services including reticulated water and sewer. The house will gain access to Greenwood Close via an internal driveway, which is approximately 29 metres in length and will be constructed of impervious materials and designed to have a maximum slope gradient of 17 percent, which can comply with the <i>Capricorn Municipal Design Guidelines</i> for trafficable access including fire trucks and the like. The area within 19 metres of the rear property boundary will need to be established and maintained as an Asset Protection Zone, which allows short-cropped grass maintained at a height of less than 10 centimetres above ground level.</p> <p>The site has access to appropriate infrastructure and services and has sufficient area to accommodate the Dwelling House and associated access. Whilst the site is affected by overlay constraints such as bushfire hazard and steep slopes, the development will be designed and constructed to ensure it does not increase the risk to people or property due to these hazards. The development will have minimal impact on environmental values given approximately 400 square metres at the rear of the site is mapped as having Matters of State Environmental Significance (MSES) with the land adjacent to the lot's rear boundary accommodating over 40 hectares of land with vegetation being Matters of State Environmental Significance (MSES). Furthermore, the development is not anticipated to have a visual impact on elevated areas with landscaping to be incorporated to soften the bulk and scale of the proposed built form whilst reducing visual impacts on elevated areas.</p> <p>Therefore, the development complies with the overarching Performance Outcome.</p>
	Filling and Excavation Code	<p>PO1</p> <p>The development will not achieve Acceptable Outcome 1.1, as the proposed retaining walls associated with the Dwelling House will not be setback at least half their height from all property boundaries. However, the application was supported by a site based geotechnical investigation (refer to condition 2.1) which had specific design recommendations for the construction of retaining walls to ensure the structures will not adversely impact upon the stability of the land or existing structures.</p>
	Bushfire Hazard Overlay Code	<p>PO1</p> <p>The development will not achieve Acceptable Outcome 1.1.1(c) as the driveway will have a</p>

		slope gradient of a maximum of approximately 17 percent and is to be sealed using either concrete or asphalt. However, this slope gradient complies with the <i>Capricorn Municipal Design Guidelines</i> for road design. Therefore, the development will facilitate the safe and efficient access and egress of the site by site occupants and emergency services vehicles, prior to and during a bushfire event.
Matters raised in submissions	Issue	How matter was dealt with
	Drainage runoff diverted onto the rear of the submitter's property.	This water runoff was apparently caused by the owner of 17 Greenwood Close moving soil, rocks, trees and debris to the rear of his property and onto Council land. The related works were later included under an approved Operational Works application for stormwater, drainage works, earthworks and access, however the works have yet to be completed. Therefore, a condition has been included to ensure the Operational Works approval is finalised and the area of works within Council land will be rehabilitated by the owner to address this matter.
	The proposed driveway location will remove privacy to the submitter's property and will place stress on the adjoining retaining wall.	The earthworks and associated retaining walls will need to be constructed in accordance with <i>Australian Standard 3798</i> and the design recommendations included in the approved geotechnical investigation (refer to condition 2.1). Furthermore, the proposed access driveway is not anticipated to place any undue stress on the adjoining retaining walls. Additionally, the submitter's concern regarding the perception of reduced privacy due to the location of the access driveway does not conflict with the Planning Scheme.
	All roof downpipes must direct water away from the submitter's property boundary.	Condition 5.2 has been imposed which requires all roof water to be directed to a lawful point of discharge being Greenwood Close and to ensure that water runoff does not cause a nuisance to surrounding land including the submitter's property.
	Water pressure at the submitter's property and the surrounding area is poor and needs to be addressed in order for other houses to be established in the surrounding area. This is of particular concern for fire-fighting purposes.	Council's Infrastructure Planning unit investigated the alleged water pressure issues identified by the submitter to be affecting their property and the surrounding area. Their findings indicated that Greenwood Close is supplied with water from the Rogar Avenue water reservoir and that residents are supplied from this reservoir via a dedicated booster pump station located on Wehmeier Avenue. This dedicated booster pump station maintains a constant domestic pressure to these properties, even those located at the top of Greenwood Close.

Matters prescribed by regulation	<ul style="list-style-type: none"> • The <i>Rockhampton Region Planning Scheme 2015</i> (version 2.1); and • The common material, being the material submitted with the application.
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9. APPEAL RIGHTS

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*. There may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

Appeal by an applicant

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

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

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

Appeal by an eligible submitter

An eligible submitter for a development application may appeal to the Planning and Environment Court against the decision to approve the application, to the extent the decision relates to:

- any part of the development application 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 out the applicant's appeal rights and the appeal rights of a submitter.

10. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT

This development approval takes effect:

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

Or

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

Or

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

11. ASSESSMENT MANAGER

Name: Tarnya Fitzgibbon COORDINATOR DEVELOPMENT ASSESSMENT	Signature:	Date: 21 December 2021
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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



Attachment 1 – Part 1 Rockhampton Regional Council Conditions

Planning Act 2016

1.0 ADMINISTRATION

- 1.1 The Developer and their employee, agent, contractor or invitee is responsible for ensuring compliance with the conditions of this development approval.
- 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 may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions, works, or requirements of this development approval must be undertaken and completed:
 - 1.3.1 to Council’s satisfaction;
 - 1.3.2 at no cost to Council; and
 - 1.3.3 prior to the commencement of the use,
 unless otherwise stated.
- 1.4 Infrastructure requirements of this development approval must be contributed to the relevant authorities, where applicable, at no cost to Council, prior to the commencement of use, unless otherwise stated.
- 1.5 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
 - 1.5.2 Plumbing and Drainage Works; and
 - 1.5.3 Building Works:
- 1.6 All Development Permits for Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
- 1.7 All works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.
- 1.8 All engineering drawings/specifications, design and construction works must be in accordance with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.

2.0 APPROVED PLANS AND DOCUMENTS

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

Plan/Document Name	Prepared by	Date	Reference Number	Version/Issue
Notes & Site Plan	Dezign Elements Building Designers	29 November 2021	20_028 A-01	B
Part Site Design	Dezign Elements	29 November 2021	20_028 A-02	B

	Building Designers			
Ground Floor Plan	Dezign Elements Building Designers	29 November 2021	20_028 A-03	B
Upper Floor Plan	Dezign Elements Building Designers	29 November 2021	20_028 A-04	B
Slab Plan	Dezign Elements Building Designers	29 November 2021	20_028 A-05	B
Roof Plan	Dezign Elements Building Designers	29 November 2021	20_028 A-06	B
Roof Details	Dezign Elements Building Designers	29 November 2021	20_028 A-07	B
Elevations	Dezign Elements Building Designers	29 November 2021	20_028 A-08	B
Elevations	Dezign Elements Building Designers	29 November 2021	20_028 A-09	B
Section Detail	Dezign Elements Building Designers	29 November 2021	20_028 A-10	B
3D Views	Dezign Elements Building Designers	29 November 2021	20_028 A-11	B
Rehabilitation Plan	Steer Environmental Consulting	9 November 2016	-	-
Geotechnical Investigation	Butler Partners	21 December 2015	R15-182A	-

- 2.2 Where there is any conflict between the conditions of this development approval and the details shown on the approved plans and documents, the conditions of this development approval must prevail.
- 2.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for approval by Council prior to the submission of an application for a Development Permit for Building Works.
- 3.0 OPERATIONAL WORKS
- 3.1 The existing Development Approval for Operational Works (D/124-2016) for Stormwater, Drainage Works, Earthworks and Access Works associated with this development site must be finalised and satisfied prior to commencement of the use.
- 3.2 The internal driveway must not exceed a slope gradient of 17 percent in any section and must be sealed to the satisfaction of Council.
- 4.0 PLUMBING AND DRAINAGE WORKS
- 4.1 A Development Permit for Plumbing and Drainage Works must be obtained for the proposed dwelling on the development site.
- 4.2 All internal plumbing and drainage 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 2008, Plumbing and Drainage Act 2018, Council's Plumbing and Drainage Policies* and the provisions of a Development Permit for Plumbing and Drainage Works.
- 4.3 The development must be connected to Council's reticulated sewerage and water networks.
- 4.4 The existing sewerage and water connection point(s) must be retained to service the development.
- 4.5 Sewer connections and water meter boxes must be raised or lowered to suit the finished surface levels and must be provided with heavy-duty trafficable lids if located within trafficable areas.
- 5.0 ROOF AND ALLOTMENT DRAINAGE WORKS
- 5.1 All roof and allotment 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*, and sound engineering practice.
- 5.2 All roof and allotment runoff from the development must be directed to a lawful point of discharge and must not restrict, impair or change the natural flow of runoff water or cause a nuisance to surrounding land or infrastructure.
- 6.0 SITE WORKS
- 6.1 Cut and fill of the subject allotment must be undertaken in accordance with the recommendations of the Geotechnical Investigation (refer to condition 2.1).
- 6.2 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"*.
- 6.3 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 surrounding land or infrastructure.
- 6.4 The owner must ensure that Greenwood Close, including kerb, channels and road pavements remains clear of debris, mud and building materials at all times.
- 7.0 BUILDING WORKS
- 7.1 A Development Permit for Building Works must be obtained for the proposed Dwelling House on the development site.

- 7.2 The Dwelling House must be constructed to a Bushfire Attack level (BAL) 12.5 standard, in accordance with *AS3959:2018 Construction of buildings in bushfire-prone areas*.
- 7.3 All retaining walls and landscaping must be generally in accordance with the approved plans (refer to Condition 2.1).

8.0 ELECTRICITY AND TELECOMMUNICATIONS

- 8.1 The development must be connected to electricity and telecommunications services in accordance with the standards and requirements of the relevant service providers.

9.0 ASSET MANAGEMENT

- 9.1 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 undertaken and completed at no cost to Council.
- 9.2 Any damage to existing stormwater, water supply and sewerage infrastructure, kerb and channel, pathway or roadway (including removal of concrete slurry from public land and Council infrastructure), that occurs while any works are being carried out in association with this development approval must be repaired at full cost to the developer. This includes the reinstatement of any existing traffic signs or pavement markings that may have been removed or damaged.

10.0 ENVIRONMENTAL

- 10.1 An Erosion Control and Stormwater Control Management Plan in accordance with the *Capricorn Municipal Design Guidelines*, must be implemented, monitored and maintained for the duration of the development works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped). The plan must be available on-site for inspection by Council Officers whilst all works are being carried out.

11.0 OPERATING PROCEDURES

- 11.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the development site. Storage of materials or parking of construction machinery or contractors' vehicles must not occur within Greenwood Close.
- 11.2 All land located to the rear of the Dwelling House, as shown on the Approved Plans (refer to condition 2.1), must be established and maintained as a firebreak. This area must only include short-cropped grass maintained at a height of no greater than 10 centimetres above ground level or alternatively must use non-flammable ground covers such as gravel, stone etc.

12.0 REHABILITATION WORKS

- 12.1 The rehabilitation works on Lot 1 on RP618495 (i.e. Council freehold lot) which is located abutting the northern boundary of the site as per the approved 'Rehabilitation Plan' (refer to condition 2.1):
- 12.1.1 Must be completed in accordance with the 'Rehabilitation Plan' including but not limited to, the activities, monitoring and reporting actions as set out therein to demonstrate the rehabilitation works achieve the associated 'performance criteria';
 - 12.1.2 Must be completed prior to the final certification of Building Works for the Dwelling House or within one (1) calendar year of this approval date, whichever comes first; and
 - 12.1.3 Practical access to this area must be maintained for the duration of time from the works being completed until Council provides written confirmation that the works have been completed to the satisfaction of Council.

Note: A property note to this affect will be added against the property.

ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

It is advised that under section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the “cultural heritage duty of care”). Maximum penalties for breaching the duty of care are listed in the Aboriginal cultural heritage legislation. The information on Aboriginal cultural heritage is available on the Department of Aboriginal and Torres Strait Islander Partnerships website www.dsdsatsip.qld.gov.au

NOTE 2. General Environmental Duty

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

NOTE 3. General Safety Of Public During Construction

The *Work Health and Safety Act 2011* 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 4. Infrastructure Charges Notice

Council has resolved not to issue an Infrastructure Charges Notice for this development because the new infrastructure charges arising from the development are equal to the credits applicable for the new development.

NOTE 5. Property Note (Rehabilitation Works)

Rehabilitation works must be completed in accordance with condition 12.1 of this approval. This work must be completed prior to the final certification of Building Works for the Dwelling House or within one (1) calendar year of this approval date, whichever comes first.

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	1 A concurrence agency that is not a co-respondent

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
		agency's referral response—the concurrence agency	2 If a chosen Assessment manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application
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.			
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
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.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
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

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
<p>4. Infrastructure charges notices An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds</p> <p>a) The notice involved an error relating to –</p> <p>(i) The application of the relevant adopted charge; or</p> <p>Examples of errors in applying an adopted charge –</p> <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 <p>(i) The working out of extra demands, for section 120; or</p> <p>(ii) An offset or refund; or</p> <p>b) There was no decision about an offset or refund; or</p> <p>c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or</p> <p>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 (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	-	-
<p>5. Conversion applications An appeal may be made against—</p> <p>(a) the refusal of a conversion application; or</p> <p>(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—</p> <p>(a) an error or mistake in law on the part of the tribunal; or</p> <p>(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	-	-

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

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 application 2 For a change application—an eligible submitter for the 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

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.

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

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).

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	-	-

5. Registered premises

Table 2 Appeals to the P&E Court only			
An appeal may be made against a decision of the Minister under chapter 7, part 4.			
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 affected area for the registered premises who is dissatisfied with the decision	The Minister	-	If an owner or occupier starts the appeal – the owner of the registered premises
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.			
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			
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.			
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
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.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)

**Table 3
Appeals to the tribunal only**

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	-	-