



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/76-2020	Contact:	Bevan Koelmeyer
Notice Date:	18 January 2021	Contact Number:	1300 22 55 77

APPLICANT DETAILS

Name:	Thistle B Super Pty Ltd		
Postal address:	C/- Reel Planning		
Phone no:	Mobile no:	Email:	

I acknowledge receipt of the above application on 22 July 2020 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for a Material Change of Use for a Food and Drink Outlet, Garden Centre, Community Use and Function Facility
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PROPERTY DESCRIPTION

Street address:	146 William Street, Rockhampton City
Real property description:	Lot 1 on RP607807 and Lot 5 on RP602359

OWNER DETAILS

Name:	Thistle B Super Pty Ltd
Postal address:	
Dear Thistle B Super Pty Ltd Tte	
I advise that, on 14 January 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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use	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 not** made in relation to the application.

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:

Drawing/report title	Prepared by	Date	Reference number	Revision
Location Plan	Design + architecture	8 October 2020	SK-001	6
Existing Floor Area Plan	Design + architecture	8 October 2020	SK-002	6
Proposed Plan	Design + architecture	8 October 2020	SK-003	6
Swept Path Analysis Plan	McMurtrie Consulting Engineers	25 September 2020	0242021-SK-0001	B

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 Food and Drink Outlet, Garden Centre, Community Use and Function Facility
Reasons for Decision	<ol style="list-style-type: none">The development will not compromise the Strategic Framework of <i>Rockhampton Region Planning Scheme 2015</i> (version 2.1);The development will provide non-residential uses with retail and commercial services as well as recreational opportunities for the local residential community which are anticipated to service their consumptive and entertainment needs;The development is anticipated to maintain the safety and capacity of the road transport network with on-street parking available in proximity to the site expected to meet the demands generated by the development;The development is anticipated to protect the residential amenity of the surrounding area by minimising the adverse amenity impacts generated by the development;Assessment of the development against the relevant planning scheme codes 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; andOn 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.	
Assessment Benchmarks	<p>The proposed development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> • Strategic Framework; • Low-Medium Density Residential Zone Code; • Acid Sulfate Soils Overlay Code; • Airport Environs Overlay Code; • Flood Hazard Overlay Code; • Access, Parking And Transport Code; • Filling and Excavation Code; • Landscape Code; • Stormwater Management Code; • Waste Management Code; and • Water and Sewer 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 exceptions listed below.	
	Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
	Strategic Framework and Low-Medium Density Residential Zone (PO13)	<p>The development has the potential to operate 24 hours, 7 days per week and includes four (4) non-residential land uses. Therefore, the development is not considered to be small in scale, which conflicts with Performance Outcome 13 of the Low-Medium Density Residential Zone. Justification is therefore required against the Strategic Framework outlined in the <i>Rockhampton Region Planning Scheme 2015</i> (version 2.1).</p> <p>The proposed development will repurpose the existing office building to become a mixed-use facility. The development is expected to provide services and activities that will support the entertainment and consumptive needs of residents in the local community.</p> <p>The existing building is consistent with the built form and streetscape in the surrounding area. Furthermore, the development does not adjoin an existing commercial centre zone and will not compromise the role or function of existing centres. The development will utilise on-street parking in close proximity to the site along William Street and Campbell Street. Given the number of on-street parking spaces available, the development is not anticipated to compromise the safety or efficiency of the local street network.</p> <p>While the development's operating hours are not restricted, adverse amenity impacts resulting from light, odour, dust or noise must not to be generated. Furthermore, should Council receive a genuine complaint, the owner can be directed by Council to undertake nuisance monitoring supported by a report including appropriate mitigation measures, as per conditions 11.2 and 11.3.</p> <p>Despite not being consistent with the purpose of the zone, the development's non-residential uses focus on the consumptive and entertainment needs of the local residential community. The Food and Drink Outlet, Garden Centre and Community Use will provide</p>

		<p>local residents with retail and commercial services, as well as recreational opportunities with community workshops and group training sessions. Additionally, the development is anticipated to protect residential amenity of the surrounding area.</p> <p>Therefore, the development has demonstrated that it will not compromise the <i>Rockhampton Region Planning Scheme 2015 (version 2.1) Strategic Framework</i>.</p>
	<p>Low-Medium Density Residential Zone (PO21)</p>	<p>The development does not achieve Acceptable Outcomes 21.1 and 21.2. These outcomes recommend that non-residential uses operate between the hours of 0700 and 2200 and provide a 1.8 metre high solid screen fence along all side and rear property boundaries.</p> <p>The development is proposed to operate without restriction to its operating hours. Despite this, the four (4) land uses are not anticipated to operate concurrently as they utilise the same floor area. Should Council receive a genuine complaint in relation to amenity impacts generated by the development, Council may direct the owner to undertake nuisance monitoring supported by a report with appropriate mitigation measures. Additionally, delivery and service vehicles will only access the site between 0700 and 2200.</p> <p>The site has one (1) existing side boundary fence along the common boundary with the residential property located on Lot 4 on RP602359. This fencing is approximately 1.2 metres in height and does not include screening, however the site's existing building is setback approximately seven (7) metres from this boundary. The site does not have any other fencing as the existing building is located abutting the boundaries. The existing building has solid external walls, which are up to approximately 35 centimetres in thickness that is anticipated to assist in mitigating noise generated by the development.</p> <p>Therefore, the development is anticipated to minimise adverse impacts on the amenity of adjoining land uses and the surrounding area.</p>
	<p>Low-Medium Density Residential Zone (PO24)</p>	<p>The development does not achieve Acceptable Outcome 24.1, which recommends that non-residential development includes a minimum landscaped area of ten (10) per cent of the total site area. The development will repurpose the existing site and will retain the existing planting bed located in front of the shed oriented to Campbell Street. This planting bed is approximately 10 square metres in size and will be established and maintained as a landscaping area, as per condition 8.1.</p> <p>The development's landscaping area is anticipated to enhance the appearance of the development to the streetscape.</p>
	<p>Access, Parking and Transport Code (PO5)</p>	<p>The development does not achieve Acceptable Outcome 5.1.2, which recommends that the existing number of on-site car parks be retained where there is a change of use and no increase in gross floor area. The site has three (3) car parking spaces including two (2) within the existing shed and one (1) in the external carpark. However, the development will remove the two (2) spaces within the shed and repurpose this area as gross floor area associated with the Garden Centre, Community Use and Function Facility.</p> <p>Despite the development including four (4) non-residential land uses, as the use areas overlap it is unlikely all uses will concurrently operate. It is anticipated that the Garden Centre and Food and Drink Outlet uses will primarily operate during the</p>

		<p>daytime whereas the Community Use and Function Facility will operate infrequently, usually on evenings and weekends. Additionally, the surrounding area particularly along William Street has a mixed-use pattern, which is primarily commercial in nature. This pattern is expected to facilitate the frequent turnover of vehicles using on-street parking associated with businesses operating during the day. In the surrounding area, only a limited number of businesses operate at night when there is the highest on-street parking vacancy. The proposed development's Function Facility is anticipated to be the highest traffic generating use. However, this use is expected to usually operate at night or on weekends when there is anticipated to be the highest number of on-street parking spaces available in proximity to the site.</p> <p>Therefore, the development is not anticipated to adversely impact on the safety or capacity of the road network.</p>
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. 	

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*.

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: 18 January 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 the 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:
 - 1.5.1 Plumbing and Drainage Works; and
 - 1.5.2 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:

Drawing/report title	Prepared by	Date	Reference number	Revision
Location Plan	Design + architecture	8 October 2020	SK-001	6
Existing Floor Area Plan	Design + architecture	8 October 2020	SK-002	6
Proposed Plan	Design + architecture	8 October 2020	SK-003	6

Swept Path Analysis Plan	McMurtrie Consulting Engineers	25 September 2020	0242021-SK-0001	B
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- 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 **ACCESS AND PARKING WORKS**
- 3.1 The existing access from Campbell Street to the development must comply with the requirements of the *Capricorn Municipal Development Guidelines* and be upgraded, if required to comply.
- 3.2 All vehicle operations associated with the development must be directed by suitable directional, informative, regulatory or warning signs in accordance with *Australian Standard AS1742.1 "Manual of uniform traffic control devices"* and *Australian Standard AS2890.1 "Parking facilities – Off-street car parking"*.
- 3.3 The development must retain a minimum of one (1) off-street car parking space that is designed in accordance with *Capricorn Municipal Development Guidelines* and *Australian Standard AS2890 "Parking facilities"*.
- 4.0 **PLUMBING AND DRAINAGE WORKS**
- 4.1 The development must be connected to Council's reticulated sewerage and water networks. If required, the existing sewerage and water connection point(s) must be retained, and upgraded if necessary, to service the development.
- 4.2 Any alteration, disconnection or relocation of internal plumbing and sanitary drainage works associated with the existing building must be in accordance with regulated work under the *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 Adequate domestic and firefighting protection must be provided to the development.
- 4.4 If required, the proposed development must be provided with a master meter at the development site boundary and sub-meters for each sole occupancy building in accordance with the *Queensland Plumbing and Drainage Code* and Council's Sub-metering Policy.
- 4.5 If required, sewerage trade waste permits must be obtained for the discharge of non-domestic waste into Council's reticulated sewerage network and arrestor traps must be provided where commercial or non-domestic waste is to be discharged into the sewer system.
- 5.0 **STORMWATER WORKS**
- 5.1 All stormwater must drain to a demonstrated lawful point of discharge and must not adversely affect surrounding land or infrastructure in comparison to the pre-development conditions, including but not limited to blocking, altering or diverting existing stormwater runoff patterns or having the potential to cause damage to other infrastructure.
- 6.0 **ROOF AND ALLOTMENT DRAINAGE WORKS**
- 6.1 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.
- 7.0 **BUILDING WORKS**
- 7.1 A Development Permit for Building Works must be obtained for the alteration, removal and/or demolition of any existing structure on the development site.

- 7.2 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the development 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"*.
- 7.3 An impervious paved waste storage area must be provided in accordance with the approved plan (refer to condition 2.1) and the *Environmental Protection Regulation 2008* and must be:
- 7.3.1 designed and located so as not to cause a nuisance to neighbouring properties; and
- 7.3.2 aesthetically screened from any road frontage or adjoining property.
- 8.0 LANDSCAPING WORKS
- 8.1 The existing garden bed in front of the building oriented to Campbell Street, refer to the approved *Existing Floor Area Plan* (condition 2.1), must be established and maintained as a landscaping area which:
- 8.1.1 Predominantly contain plant species that have a low water dependency;
- 8.1.2 Is the subject of a watering and maintenance plan during the establishment moment and an ongoing maintenance and replanting programme; and
- 8.1.3 Upon reaching full maturity, the plant species must not obstruct sight visibility zones as defined in the Austroads 'Guide to Traffic Engineering Practice' series of publications; adversely affect any road lighting or public space lighting; or adversely affect any Council infrastructure, or public utility plant.
- 9.0 ELECTRICITY AND TELECOMMUNICATIONS
- 9.1 Electricity and telecommunications services must be provided to the development in accordance with the standards and requirements of the relevant service providers.
- 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 undertaken and completed at no cost to Council.
- 10.2 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.
- 11.0 ENVIRONMENTAL HEALTH
- 11.1 Operations on the development site must have no significant impact on the amenity of adjoining premises or the surrounding area due to the emission of light, noise, odour or dust.
- 11.2 When requested by Council, nuisance monitoring must be undertaken and recorded within three (3) months, to investigate any genuine complaint of nuisance caused by light, odour or dust. An analysis of the monitoring data and a report, including nuisance mitigation measures, must be provided to Council within fourteen (14) days of the completion of the investigation.
- 11.3 When requested by Council, noise monitoring must be undertaken and recorded within three (3) months, to investigate any genuine complaint of nuisance caused by noise. The monitoring data, an analysis of the data and a report, including noise mitigation measures, must be provided to Council within fourteen (14) days of the completion of the investigation. Council may require any noise mitigation measures identified in the assessment to be

implemented within appropriate timeframes. Noise measurements must be compared with the acoustic quality objectives specified in the most recent edition of the *Environmental Protection (Noise) Policy 2008*.

12.0 OPERATING PROCEDURES

- 12.1 Service and delivery vehicles, including waste collection vehicles must only enter the site via Campbell Street. When entering and exiting the site via Campbell Street, this must only be performed as a reverse-in ingress and forward-out egress movement. No vehicle larger than 8.8 metres of length is permitted to enter the development site via Campbell Street.
- 12.2 The loading and/or unloading of service and delivery vehicles, including waste collection vehicles if required, is limited to between the hours of 0700 and 2200 on all days, including public holidays. These vehicles must not enter the development site outside these times to wait for unloading/loading.
- 12.3 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 Campbell Street or William Street.

ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

It is advised that under section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal cultural heritage legislation. The information on Aboriginal cultural heritage is available on the Department of Aboriginal and Torres Strait Islander and Partnerships website: www.datsip.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 *Work Health and Safety Act 2011* and *Public Health Act 2005*.

NOTE 3. 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 4. Licensable Activities

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

NOTE 5. 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 6. Infrastructure Charges Notice

This application is subject to infrastructure charges in accordance with Council policies. The charges are presented on an Infrastructure Charges Notice.

NOTE 7. Building Works

A Building Works Permit for a change of building classification may be required in accordance with the *Building Act 1975*.

NOTE 8. Rating Category

Please note, a Material Change of Use approval may result in an adjustment to a property's rating category, particularly in residential and rural zones. Please contact Council's Rates Department should you require further information.

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) The 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	-	-



ATTACHMENTS (for office use only)

APPROVED PLANS AND OR REFERRAL AGENCY CONDITIONS

APPROVED PLANS



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