



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/5-2025	Contact:	Michelle Mackay
Notice Date:	5 August 2025	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	M and T Manning		
Postal address:	CI- Capricorn Survey Group (CQ) Pty Ltd PO Box 1391 ROCKHAMPTON QLD 4700		
Phone no:	07 4927 5199	Mobile no:	0407 581 850
Email:	reception@csgcq.com.au		

I acknowledge receipt of the above application on 21 January 2025 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Material Change of Use for a Dwelling House

PROPERTY DESCRIPTION

Street address:	15 Stoneybrook Court, Frenchville
Real property description:	Lot 7 on SP172937

Dear M P Manning and T K Manning

I advise that, on 30 July 2025 the above development application was:

☒ 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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use	☒	☐

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>Site Works</i>
Building Works	
Plumbing and Drainage Works	

4. REFERRAL AGENCIES - NIL

5. THE APPROVED PLANS

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

<u>Plan / Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version / Issue</u>
Landslide Risk Assessment and Geotechnical Comments	CQ Soil Testing	30 August 2023	CQ23592	A
Bushfire Hazard Assessment Bushfire Report	Max Bushfire Protection Consulting	23 April 2025	B5159	2.0
Locality & Notes	Designtek	16 June 2025	A00.02	C
Site Plan	Designtek	16 June 2025	A01.01	C
Landscape Site Plan	Designtek	16 June 2025	A01.02	C
Floor Plan – Ground Floor	Designtek	16 June 2025	A02.01	C
Dimension Plan -Ground Floor	Designtek	16 June 2025	A02.02	C
Floor Plan – Level 2	Designtek	16 June 2025	A02.05	C
Dimension Plan – Level 2	Designtek	16 June 2025	A02.06	C
Floor Plan – Level 3	Designtek	16 June 2025	A02.08	C
Dimension Plan – Level 3	Designtek	16 June 2025	A02.09	C
Stormwater Reticulation Plan	Designtek	16 June 2025	A04.02	C
Elevations	Designtek	16 June 2025	A05.01	C
Elevations	Designtek	16 June 2025	A05.02	C
Cover Sheet	CQ Civil Engineering	12 June 2025	25025-C-0G001	A
Existing Site Plan	CQ Civil Engineering	12 June 2025	25025-C-0G101	A
Typical Sections and Details	CQ Civil Engineering	12 June 2025	25025-C-0R001	A
New Driveway Plan	CQ Civil Engineering	12 June 2025	25025-C-0R101	A
Driveway Earthworks	CQ Civil Engineering	12 June 2025	25025-C-0R102	A
Vehicle Tracking Paths	CQ Civil Engineering	12 June 2025	25025-C-0R103	A
Driveway Longitudinal	CQ Civil Engineering	12 June 2025	25025-C-0R201	A

Sections				
Annotated Cross Sections 1 – Control Line 1	CQ Civil Engineering	12 June 2025	25025-C-0R401	A
Annotated Cross Sections 2 – Control Line 1	CQ Civil Engineering	12 June 2025	25025-C-0R402	A
Annotated Cross Sections 3 – Control Line 2	CQ Civil Engineering	12 June 2025	25025-C-0R403	A

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

In accordance with section 85(1)(a)(ii) of the *Planning Act 2016*, the development approval lapses if the first change of use does not happen within six (6) years after the approval starts to have effect, if not stated otherwise in the conditions of approval attached.

7. STATEMENT OF REASONS

Description of the development	
Material Change of Use for a Dwelling House	
Reasons for Decision	
a) 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; and b) 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.	
Assessment Benchmarks	
The development was assessed against the following assessment benchmarks: • 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 exceptions listed below.	
Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
Biodiversity Overlay Code	Performance Outcome (PO) 1 and 2 No acceptable outcomes are nominated. The Dwelling House is located within the Biodiversity Overlay, land mapped as containing matters of state or local environmental significance. A Bushfire Hazard Assessment Report has been provided by Max Bushfire Consulting that requires the establishment of an Asset Protection Zone (APZ) with a radius of twenty (20) metres around the proposed development to ensure adequate separation from hazardous vegetation. As a result of the recommendations, vegetation within the overlay will be cleared. Majority of the APZ area is within land zoned as Low Density Residential and deemed unavoidable. A small portion of the APZ area is within the Environmental

	Management and Conservation Zone however only necessary clearing will occur in this area with fuel load reduction activities carefully targeted, focusing exclusively on the management of invasive weeds, overgrown ground cover, and understorey vegetation. Importantly, these measures will not require the removal of mature native trees, ensuring the preservation of significant ecological values. Therefore, the proposed development is taken to comply with the purpose of the Biodiversity Overlay Code.
Bushfire Overlay Code	Performance Outcome (PO) 1 The proposed development does not comply with Acceptable Outcome (AO) 1.1.1(b) as the access driveway length is greater than sixty (60) metres from the street to the development, and AO1.1.1(c) as the access driveway exceeds the maximum gradient of 12.5 percent. The proposed dwelling is located approximately 45 metres from Stoneybrook Court, however due to the curve in the driveway design, and being sited along the left common boundary, the actual length of driveway is approximately 68 metres. The driveway has a minimum width of four (4) metres which will contribute/act as a fire break to allow for safe access to and evacuation from the site. The proposed development avoids potential for entrapment and is therefore taken to comply with Performance Outcome (PO) 1. Performance Outcome (PO) 4 The proposed development does not comply with Acceptable Outcome (AO) 4.1 because the Bushfire Hazard Assessment Report and recommendations state that to achieve a Bushfire Attack Level (BAL) of 12.5 is dependent on necessary clearing in the Asset Protection Zone for the proposed development. As a result of the site being partially affected by the Environmental Management and Conservation Zone allowing only limited, necessary clearing to occur, the development is unable to fully meet a BAL of 12.5. Despite this, the report and recommendations demonstrate the proposed development is compatible with the level of risk associated with the bushfire hazard, therefore, the proposed development is taken to comply with Performance Outcome (PO) 4.
Steep Land Overlay Code	Performance Outcome (PO) 1 and 2 No acceptable outcomes are nominated. A site-specific Landslide Risk Assessment and Geotechnical Comments Report has been provided by CQ Soil Testing demonstrating compliance with Performance Outcomes 1 and 2, with the report concluding that the subject site: • does not present any significant vegetation cover; • has a low-level risk of global hazard failure; • has a low-level risk of shallow slumping of surface soils. Further to this, the report states that appropriate measures are incorporated into the structural engineering plans to achieve a low landslide susceptibility rating. On this basis, the proposed development is taken to comply with PO 1 and PO 2 as the site presents a low-level risk of potential landslides, is void of any significant vegetation requiring clearing within the development footprint and has design measures incorporated to ensure the long-term stability of the site has been considered.
Relevant Matters	
Not applicable to an assessable development application subject to code assessment.	
Matters prescribed by regulation	

- The Rockhampton Region Planning Scheme 2015 (version 5.0); and
- The common material, being the material submitted with the application.

8. 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.

9. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT

This development approval takes effect:

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

Or

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

Or

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

10. ASSESSMENT MANAGER

Name: **Amanda O'Mara**
COORDINATOR
DEVELOPMENT ASSESSMENT

Signature:



Date: 5 August 2025

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 owner, the owner's successors in title, and any occupier of the premises 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, completed, and be accompanied by a Compliance Certificate for any operational works required by this development approval:
 - 1.3.1 to Council's satisfaction;
 - 1.3.2 at no cost to Council; and
 - 1.3.3 prior to the issue of the Certificate of Classification for the Building Works, 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 issue of the Certificate of Classification for the Building Works, 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 Operational Works:
 - (i) Site Works;
 - 1.5.2 Plumbing and Drainage Works; and
 - 1.5.3 Building Works.
- 1.6 All Development Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
- 1.7 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:

<u>Plan / Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version / Issue</u>
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Dimension Plan – Level 3	Designtek	16 June 2025	A02.09	C
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Driveway Longitudinal Sections	CQ Civil Engineering	12 June 2025	25025-C-OR201	A
Annotated Cross Sections 1 – Control Line 1	CQ Civil Engineering	12 June 2025	25025-C-OR401	A
Annotated Cross Sections 2 – Control Line 1	CQ Civil Engineering	12 June 2025	25025-C-OR402	A
Annotated Cross Sections 3 – Control Line 2	CQ Civil Engineering	12 June 2025	25025-C-OR403	A

- 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.
- 3.0 ACCESS WORKS
- 3.1 A Development Permit for Operational Works (Site Works) must be obtained prior to the commencement of any access works on the development site
- 3.2 All access works must be designed and constructed in accordance with the approved plans (refer to condition 2.1) and *Capricorn Municipal Development Guidelines*.
- 3.3 All access areas must be concrete paved and must comply with the requirements of the *Capricorn Municipal Development Guidelines*.
- 3.4 A new access to the development must be provided from Stoneybrook Court.
- 3.5 All vehicles must ingress and egress the development in a forward gear.
- 4.0 PLUMBING AND DRAINAGE WORKS
- 4.1 A Development Permit for Plumbing and Drainage Works must be obtained for the removal and/or demolition of any existing structure 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, and upgraded, if necessary, to service the development.
- 4.5 Adequate domestic and fire-fighting protection must be provided to the development and must be certified by a hydraulic engineer or other suitably qualified person.
- 4.6 Sewer connections and water meter boxes located within trafficable areas must be raised or lowered to suit the finished surface levels and must be provided with heavy duty trafficable lids.
- 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 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works on the development site.
- 6.2 All construction works must be designed and completed in accordance with the recommendations in the Geotechnical Comments Report (refer to condition 2.1).
- 6.3 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks plan that clearly identifies the following:
- 6.3.1 the location of cut and/or fill;
 - 6.3.2 the type of fill to be used and the manner in which it is to be compacted;
 - 6.3.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;
 - 6.3.4 details of any proposed access routes that are intended to be used to transport fill to or from the development site; and
 - 6.3.5 the maintenance of access roads to and from the development site so that they are free of all cut and/or fill material and cleaned as necessary.
- 6.4 Cut and fill of the subject allotment(s) must only be undertaken in areas where site-specific slope stability assessments have been carried out by a Registered Professional Engineer of Queensland

experienced in Geotechnical investigations. In this regard, any works must comply with the recommendations of the site-specific assessments as approved by Council.

- 6.5 Cut and fill of the subject allotment must be undertaken in accordance with the recommendations of the Landslide Risk Assessment and Geotechnical Comments Report (refer to condition 2.1).
- 6.6 Slope stability must be managed as follows:
 - 6.6.1 all engineering drawings/specifications and designs must be in accordance with the requirements of the relevant *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"* and must be approved by a Registered Professional Engineer of Queensland;
 - 6.6.2 site inspections must be undertaken by a Registered Professional Engineer of Queensland to confirm the design; and
 - 6.6.3 full engineering certification must be undertaken by a Registered Professional Engineer of Queensland.
- 6.7 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"*.
- 6.8 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.
- 6.9 All retaining structures above one (1) metre in height must require a building approval. Structural engineering plans are to be prepared and endorsed by a *Registered Professional Engineer of Queensland (Structural Engineer)* for all structural components of the retaining wall.

7.0 BUILDING WORKS

- 7.1 A Development Permit for Building Works assessable under the Building Assessment Provisions must be obtained prior to the commencement of any building works on the site.
- 7.2 The proposed Dwelling House must be constructed in accordance with *Australian Standard AS3959 "Construction of buildings in bushfire-prone areas"* and the approved Bushfire Hazard Assessment Bushfire Report (refer to Condition 2.1).
- 7.3 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"*.
- 7.4 An Asset Protection Zone (APZ) must be established and maintained in accordance with the recommendations of the Bushfire Hazard Assessment Bushfire Report, Landslide Risk Assessment and Geotechnical Comments Report (refer to condition 2.1). Only necessary clearing is allowed within the Environmental and Conservation Zone.
- 7.5 The Inner Protection Area must be managed as follows:
 - 7.5.1 A minimum one (1) metre wide area, suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;
 - 7.5.2 Planting is limited in the immediate vicinity of the building;
 - 7.5.3 All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period;
 - 7.5.4 Planting does not provide a continuous canopy to the building;
 - 7.5.5 Within ten (10) metres of a building, flammable objects must not be located close to the vulnerable parts of the building;
 - 7.5.6 Low flammability vegetation species are used;
 - 7.5.7 Tree cover should be less than 15 per cent at maturity;
 - 7.5.8 Trees at maturity should not touch or overhang the building;
 - 7.5.9 Lower limbs should be removed up to a height of two (2) metres above the ground;
 - 7.5.10 Tree canopies should be separated by two (2) to five (5) metres;
 - 7.5.11 Preference should be given to smooth barked and evergreen trees;

- 7.5.12 Create large discontinuities or gaps in the vegetation to slow down or break the progress of fire towards buildings must be provided;
- 7.5.13 Shrubs should not be located under trees;
- 7.5.14 Shrubs should not form more than 10% ground cover;
- 7.5.15 Clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation;
- 7.5.16 Grass should be kept mown regularly (as a guide grass should be kept to no more than 100 millimetres in height); and
- 7.5.17 Leaves and vegetation debris should be removed regularly.
- 7.6 The Outer Protection Area must be managed as follows:
 - 7.6.1 Tree canopy cover should be less than 30 per cent at maturity;
 - 7.6.2 Tree canopies should be separated by two (2) to five (5) metres;
 - 7.6.3 Shrubs should not form a continuous canopy;
 - 7.6.4 Shrubs should not form more than 20 per cent ground cover;
 - 7.6.5 Grass should be kept mown regularly to a height of less than 100 millimetres; and
 - 7.6.6 Leaves and other debris should be removed regularly.
- 8.0 ELECTRICITY
- 8.1 Underground electricity services must be provided in accordance with the standards and requirements of the relevant service provider.
- 9.0 TELECOMMUNICATIONS
- 9.1 Telecommunications services must be provided to the development in accordance with the standards and requirements of the relevant service provider. Unless otherwise stipulated by telecommunications legislation at the time of installation, this includes all necessary pits and pipes, and conduits that provide a connection to the telecommunications network.
- 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
- 11.1 An Erosion Control and Stormwater Control Management Plan prepared and certified by a suitably qualified person (*Certified Professional in Erosion and Sediment Control or a Registered Professional Engineer of Queensland*) in accordance with the *State Planning Policy 2017* and *Capricorn Municipal Design Guidelines* requirements, must be
 - 11.1.1 implemented, monitored, and maintained for the duration of the works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydro mulched, concreted, landscaped); and
 - 11.1.2 available on-site for inspection by Council Officers whilst all works are being carried out.
- 11.2 The development must be undertaken in accordance with the recommendations in the approved Bushfire Hazard Assessment Bushfire Report (refer to condition 2.1).
- 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 development site. Storage of materials or parking of construction machinery or contractors' vehicles must not occur within Stoneybrook Court.

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 Women, Aboriginal and Torres Strait Islander Partnerships and Multiculturalism website <https://www.tatsipca.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. Retention of vegetation

It is advised that part of the development site is mapped by the Department of the Environment, Tourism, Science and Innovation as containing Regulated Vegetation. The *Vegetation Management Act 1999* has requirements with regard to the clearing of vegetation. Information on Vegetation Management is available at: <https://www.qld.gov.au/environment/land/management/vegetation>

NOTE 5. Bushfire Prone Areas

Any future buildings in a bushfire prone area are required to be constructed in accordance with any bushfire management plan approved as part of this development permit and with AS3959 – *Construction of buildings in bushfire prone areas and/or the National Association of Steel-Framed Housing Standard: Steel framed construction in bushfire areas*. Regard should also be had to the *Bushfire Resilient Building Guide for Queensland Homes* published by the Queensland Government and CSIRO.

NOTE 6. Rating Category

Please note, a Material Change of Use approval may result in an adjustment to a property's rating category. 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

1. Development applications An appeal may be made against— (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 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			
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 – - The incorrect application of gross floor area for a non-residential development - Applying an incorrect ‘use category’, under a regulation, to the development - The working out of extra demands, for section 120; or - 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.			
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	-	-

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	-	-
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.			
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	-	-