



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/125-2023	Contact:	Kathy McDonald
Notice Date:	24 January 2024	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	Bronsan Pty Ltd				
Postal address:	C/- 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 18 September 2023 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Reconfiguring a Lot for a Boundary Realignment (five lots into five lots)

PROPERTY DESCRIPTION

Street address:	49600 Burnett Highway, Mount Morgan
Real property description:	Lot 1 on MPH11602, Lot 1 on MPH11649, Lot 1 on MPH11791, Lot 1 on MPH11839 and Lot 40 on RN228, Parish of Mount Morgan

Dear Bronsan Pty Ltd

I advise that, on **19 January 2024** 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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Reconfiguring a lot	<input checked="" type="checkbox"/>	<input type="checkbox"/>

2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

3. FURTHER DEVELOPMENT PERMITS REQUIRED

NIL

4. REFERRAL AGENCIES

The following Referral Agencies were activated by this application.

For an application involving	Name of agency	Role of Agency	Contact Details
INFRASTRUCTURE-RELATED REFERRALS (Designated Premises)			
<i>Schedule 10, Part 9, Division 1, Table 1 – Development on designated premises</i>			
<p>Development application for development on premises that are the subject of a designation made by the Minister, if—</p> <p>(a) the development is assessable development under a local categorising instrument; and</p> <p>(b) the infrastructure the subject of the designation is to be supplied by a public sector entity; and</p> <p>(c) the premises are not owned by or for the State; and</p> <p>(d) the development is for a purpose other than the designated purpose; and</p> <p>(e) the development will not be carried out by or for the State</p>	<p>The chief executive of the department in which the <i>Planning Act 2016</i> is administered:</p> <p>Department of State Development, Tourism and Innovation</p>	Concurrence	<p><u>In person:</u> Level 2, 209 Bolsover Street, Rockhampton City</p> <p><u>Online lodgement using MyDAS2:</u> https://prod2.dev-assess.qld.gov.au/suite/</p> <p><u>Email:</u> RockhamptonSARA@dsdmip.qld.gov.au</p> <p><u>Postal:</u> PO Box 113 Rockhampton Qld 4700</p>
INFRASTRUCTURE-RELATED REFERRALS (Electricity Infrastructure)			
<i>Schedule 10, Part 9, Division 2, Table 1 – Reconfiguring a lot subject to an easement or near a substation site</i>			
<p>Development application for reconfiguring a lot that is assessable development under section 21, if—</p> <p>(a) all or part of the lot is subject to an easement—</p> <p>(i) for the benefit of a distribution entity, or transmission entity, under the Electricity Act; and</p> <p>(ii) for a transmission grid or supply network; or</p> <p>(b) part of the lot is within 100m of a substation site</p>	<p>The chief executive of the distribution entity or transmission entity:</p> <p>Powerlink</p>	Advice	<p><u>Postal:</u> Powerlink (Property Services) PO Box 1193 Virginia Qld</p> <p><u>Email:</u> Property@powerlink.com.au</p>
STATE TRANSPORT INFRASTRUCTURE (State Transport Corridors and Future State Transport Corridors)			
<i>Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 – Reconfiguring a lot near a State transport corridor</i>			
<p>Development application for reconfiguring a lot that is assessable development under section 21, if—</p> <p>(a) all or part of the premises are within 25m of a State transport corridor; and</p> <p>(b) 1 or more of the following apply—</p> <p>(i) the total number of lots is increased;</p> <p>(ii) the total number of lots adjacent to the State transport corridor is increased;</p> <p>(iii) there is a new or changed access</p>	<p>The chief executive of the department in which the <i>Planning Act 2016</i> is administered:</p> <p>State Development,</p>	Concurrence	<p><u>In person:</u> Level 2, 209 Bolsover Street, Rockhampton City</p> <p><u>Online lodgement using MyDAS2:</u> https://prod2.dev-assess.qld.gov.au/suite/</p> <p><u>Email:</u> RockhamptonSARA@ds</p>

between the premises and the State transport corridor; (iv) an easement is created adjacent to a railway as defined under the Transport Infrastructure Act, schedule 6; and (c) the reconfiguration does not relate to government supported transport infrastructure	Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department)		dilgp.qld.gov.au <u>Postal:</u> PO Box 113 Rockhampton Qld 4700
<i>Schedule 10, Part 9, Division 4, Subdivision 2, Table 3 – Reconfiguring a lot near a State-controlled road intersection</i>			
Development application for reconfiguring a lot that is assessable development under section 21, if— (a) all or part of the premises are— (i) adjacent to a road (the relevant road) that intersects with a State-controlled road; and (ii) within 100m of the intersection; and (b) 1 or more of the following apply— (i) the total number of lots is increased; (ii) the total number of lots adjacent to the relevant road is increased; (iii) there is a new or changed access between the premises and the relevant road; and (c) the reconfiguration does not relate to government supported transport infrastructure	The chief executive of the department in which the <i>Planning Act 2016</i> is administered: State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department)	Concurrence	<u>In person:</u> Level 2, 209 Bolsover Street, Rockhampton City <u>Online lodgement using MyDAS2:</u> https://prod2.dev-assess.qld.gov.au/suite/ <u>Email:</u> RockhamptonSARA@ds.dilgp.qld.gov.au <u>Postal:</u> PO Box 113 Rockhampton Qld 4700

5. THE APPROVED PLANS

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

Plan/Document Name	Prepared by	Date	Reference No.	Version/ Issue
Reconfiguration Plan 5 Lots into 5 Lots Realignment	Capricorn Survey Group CQ	14 January 2024	9106-01-ROL	B
Bushfire Hazard Assessment and Management Plan	Green Tape Solutions	13 December 2023	PR23290_BHAMP_ 4960 Burnett Highway	A

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

In accordance with section 85(1)(b)(ii) of the *Planning Act 2016*, the development approval lapses if a plan for the reconfiguration that, under the Land Title Act, is required to be given to a local government for approval is not given to the local government within four (4) 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	
Reconfiguring a Lot for a Boundary Realignment (five lots into five lots)	
Reasons for Decision	
<p>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</p> <p>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.</p>	
Assessment Benchmarks	
<p>The development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> • Local Government Infrastructure Plan; • Rural Zone Code; • Access, Parking and Transport Code; • Landscape Code; • Stormwater Management Code; • Waste Management Code; • Water and Sewer Code; • Reconfiguring a Lot Code; • Biodiversity Areas Overlay Code; • Bushfire Hazard Overlay Code; and • Steep Land Overlay Code. 	
Compliance with assessment benchmarks	
The development was assessed against all 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
Rural Zone Code	<p>Performance Outcome (PO) 34</p> <p>The proposed development does not comply with Acceptable Outcome (AO) 34.1 because four (4) of the resulting lots will not meet the minimum lot size requirement. AO34.1 specifies unless otherwise stated in a precinct the minimum lot size is 100 hectares.</p> <p>Despite this, the performance outcome specifies that further subdivision of land is limited to reflect the suitability of the land for primarily grazing purposes and to protect water quality, environmental and landscape values.</p> <p>The development is for a boundary realignment only and no new lots will be created, consequently no subdivision is occurring.</p> <p>The relocation of proposed Lots 1 to 4 will remove three (3) of the lots out of land mapped as containing matters of state environmental significance, regulated vegetation (category B, C and R) ensuring these environmental values are preserved.</p>

	<p>Furthermore, proposed Lots 1, 2, 3 and 4, even though under the minimum lot size requirement are of a suitable size and dimension for the intended productive potential of a rural land use.</p> <p>Therefore, the proposed development is taken to comply with Performance Outcome (PO) 34.</p>
<p>Reconfiguring a Lot Code</p>	<p>Performance Outcome (PO) 2</p> <p>The proposed development does not comply with Acceptable Outcome (AO) 2.1 because the resulting lots will not be connected to Councils infrastructure and no services will be provided, where AO2.1 requires all infrastructure connections and services to be provided within the sites they serve.</p> <p>The proposed development is located outside Councils priority infrastructure area within the Rural Zone. Therefore, infrastructure and service connections (water, sewer, electricity, and communications) are not deemed necessary in this instance. All proposed lots are vacant land and appropriate alternative on-site services can be provided when the land is developed in the future.</p> <p>Furthermore, the proposed boundary realignment does comply in part with PO2 because the lots are currently situated north of Lot 40 on RN228 and lack any practical access due to their frontage being to an unformed, unnamed gazetted road. The proposed realignment relocates proposed Lots 1 to 4 to the southern side of Lot 40 on RN228, providing road frontage and practical, safe access to Councils Road infrastructure (Oakey Creek Road and Halberstater Road).</p> <p>The non-compliance with AO2.1 and corresponding Performance Outcome is considered a low-level conflict and on balance the proposed development complies with the remainder of the Assessment Benchmarks.</p> <p>Performance Outcome 3</p> <p>The proposed development does not comply with Acceptable Outcome (AO) 3.1 because the resulting lots will not comply with Table 9.3.5.3.2 — Minimum lot sizes and dimensions. Where within the Rural Zone the minimum lot size requirement is 100 hectares.</p> <p>Despite this, the performance outcome specifies that boundary realignments result in lots with the appropriate size, dimension and road access to accommodate uses consistent with the Rural Zone.</p> <p>A response to the relevant provisions of the Rural Zone Code relating to lots with an appropriate size and dimension is provided above.</p> <p>In the context of a boundary realignment, the non-compliance with the minimum lot size requirement of 100 hectares is considered a low-level conflict as the existing size and dimension of proposed Lots 1 to 4 do not currently meet these requirements. The boundary realignment simply relocates these lots to ensure each is provided with a road frontage and practical, safe access to Councils Road infrastructure (Oakey Creek Road and Halberstater Road).</p> <p>Therefore, on balance the proposed development complies with PO3.</p>
<p>Relevant Matters</p>	
<p>Not applicable to an assessable development application subject to code assessment.</p>	
<p>Matters prescribed by regulation</p>	
<ul style="list-style-type: none"> • The Rockhampton Region Planning Scheme 2015 (version 2.2); 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: 24 January 2024
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C/C State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department) - RockhamptonSARA@dasilgp.qld.gov.au

Attachment 1 – Conditions of the approval

Part 1 – Conditions imposed by the assessment manager [Note: where a condition is imposed about infrastructure under Chapter 4 of the *Planning Act 2016*, the relevant provision of the Act under which this condition was imposed must be specified.]

Part 2 – Conditions required by the referral agency response

Attachment 2—Extract on appeal rights



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 and completed:
 - 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 Survey Plan Approval Certificate, unless otherwise stated.
- 1.4 All works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.
- 1.5 Street numbering for the development must be in accordance with *Australian/New Zealand Standard for Rural and Urban Addressing (AS4819:2011)*. Council will allocate street numbering to the development in accordance with this standard at the time of issuing the Survey Plan Approval Certificate.
- 1.6 All development conditions contained in this development approval about infrastructure under Chapter 4 of the *Planning Act 2016* should be read as being non-trunk infrastructure conditioned under section 145 of the *Planning Act 2016*, unless otherwise stated.

2.0 APPROVED PLANS AND DOCUMENTS

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

Plan/Document Name	Prepared by	Date	Reference No.	Version/Issue
Reconfiguration Plan 5 Lots into 5 Lots Realignment	Capricorn Survey Group CQ	14 January 2024	9106-01-ROL	B
Bushfire Hazard Assessment and Management Plan	Green Tape Solutions	13 December 2023	PR23290_BH AMP_4960 Burnett Highway	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 ALLOTMENT DRAINAGE WORKS

- 3.1 All allotment runoff from each proposed lot must be discharged such that it must not restrict, impair or change the natural flow of runoff water or cause a nuisance or worsening to surrounding land or infrastructure.

4.0 SITE WORKS

- 4.1 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.

5.0 ELECTRICITY

- 5.1 Electricity services must be provided to each lot in accordance with the standards and requirements of the relevant service provider.
- 5.2 A *Certificate of Electricity Supply* from the relevant service provider must be provided to Council, prior to the issue of the Survey Plan Approval Certificate.
- 5.3 Note: The applicant can enter into a *Negotiated Connection Establishment Contract* with the Supplier for the provisioning of electrical services and/or street lighting. Provided the Applicant has undertaken all the conditions of the contract, including providing performance security, the Supplier will issue a *Certificate of Electricity Supply*.
- 5.4 Alternatively, the approved development must be provided with an on-site energy supply installed in accordance with all laws and regulations and current best practice. The installation and maintenance of the on-site energy supply is to be borne by the landowner.

6.0 TELECOMMUNICATIONS

- 6.1 Telecommunications services must be provided to each lot in accordance with the standards and requirements of the relevant service provider.
- 6.2 Evidence (see below) of acceptance of the works from the relevant service provider must be provided to Council, prior to the issue of the Survey Plan Approval Certificate e.g. This will be a letter from either :-

NBN a *'Certificate of Practical Completion'*,

Telstra a-*"Telecommunications Agreement/Provisioning Letter"*,

A Licenced Carrier under the Telecommunications Act 1997- (*signed documentation from a Registered Professional Engineer Queensland -electrical engineer.*)

- 6.3 Alternatively, telecommunication services (satellite) can be provided to each lot by the developer and at the cost of the developer, in accordance with the standards and requirements of the relevant service provider.

7.0 ASSET MANAGEMENT

- 7.1 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.

8.0 ENVIRONMENTAL

- 8.1 The development must be undertaken in accordance with the recommendations in the approved Bushfire Management Plan (refer to condition 2.1).
- 8.2 The maintenance of fire management trails is the responsibility of the relevant property owners. All future owners of the proposed lots must be advised by the current owner in writing of their responsibility to comply with the requirements of the approved Bushfire Management Plan (refer to condition 2.1).

9.0 OPERATING PROCEDURES

- 9.1 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 Oakey Creek Road, Halberstater Road or the Burnett Highway.

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 Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships website www.dsdsatsip.qld.gov.au

NOTE 2. General Environmental Duty

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

NOTE 3. General Safety Of Public During Construction

The *Work Health and Safety Act 2011* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to ensure safe traffic control and safe public access in respect of works being constructed on a road.

NOTE 4. Infrastructure Charges Notice

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

NOTE 5. Works in Road Reserve Permit

For any future development on proposed Lots 1 to 5, the construction of access works must be in accordance with the *Capricorn Municipal Development Guidelines* and a Works in Road Reserve Permit must be obtained for the works within the road reserve.

NOTE 6. Provision for Sewer and Water services

Each lot must be provided with on-site sewerage treatment and disposal systems. All systems must comply with the *Queensland Plumbing and Wastewater Code, Australian Standard AS1547:2012 "On-site domestic wastewater management"* and Council Plumbing and Drainage Policies. Sustainable Water sources including rainwater tanks, and a bore or small dam or a combination of each, must be provided for domestic and fire-fighting purposes. The water storage must be easily accessible having regard to pedestrian and vehicular access and must be in accordance with regulated work under the *Plumbing and Drainage Act* and Council's Plumbing and Drainage Policies.

NOTE 7. Bushfire Prone Areas (Property Note)

All future buildings on the proposed Lots 1 to 5 must be constructed in accordance with *Australian Standard AS3959 "Construction of buildings in bushfire-prone areas"* and the approved Bushfire Management Plan 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.



Attachment 1 – Part 2
Referral Agency Conditions – State
Development, Infrastructure, Local
Government and Planning (State
Assessment and Referral Agency
Department) *Planning Act 2016*

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— <ol 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**

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

**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



D125-2023 -
Approved Plans.pdf

REFERRAL AGENCY CONDITIONS



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