



# Decision Notice Approval (amended)

Planning Act Form 5 (version 1.1 effective 22 June 2018) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s83 (change application) Planning Act 2016, and Section 334 of the Sustainable Planning Act 2009

Application number:	<b>D/143-2015</b>	Contact:	Aidan Murray
Notice Date:	15 April 2024	Contact Number:	1300 22 55 77

## APPLICANT DETAILS

Name:	Powercat Developments Pty Ltd				
Postal address:	C/- Adapt Development Management Pty Ltd PO BOX 7618 SIPPY DOWNS QLD 4556				
Phone no:	n/a	Mobile no:	0404 924 160	Email:	Tiani.boulton@adaptplanning.com.au

I acknowledge receipt of the above change application on 12 February 2024 and confirm the following:

## DEVELOPMENT APPROVAL

**Development Permit for a Material Change of Use for a Child Care Centre**

## PROPERTY DESCRIPTION

Street address:	28 Main Street, Park Avenue
Real property description:	Lot 1 on SP232206

## OWNER DETAILS

Name:	Powercat Developments Pty Ltd
Postal address:	Level 2, 13/22 Baildon Street, KANGAROO POINT QLD 4169
<b>Dear Powercat Developments Pty Ltd</b> I advise that, on 8 April 2024 the above change application was: <input checked="" type="checkbox"/> approved in full with conditions* (refer to the conditions contained in <b>Attachment 1</b> ) *Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.	

## CHANGES TO CONDITIONS

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

1)	Condition 2.1	Changed	8 April 2024
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## 1. DETAILS OF THE APPROVAL

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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval	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

- 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>Access and Parking Works</i> <i>Water Works</i> <i>Stormwater Works</i> <i>Roof and Allotment Drainage 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>Plan / Document Number</u>	<u>Dated</u>
Cover Page & Locality Plan	1283-CD001	7 February 2024
Site Plan – Overall	1283-CD101	7 February 2024
Floor Plan – Existing & Demolition	1283-DC102	7 February 2024
Floor Plan – Proposed	1283-DC103	7 February 2024
Elevations	1283-DC201	07 February 2024
Child Care Centre Floor Plan	1283-CD601 (Revision A)	07 February 2024
Traffic Engineering Report	1391-TRAF01	20 February 2016
Stormwater Management Plan	1391-SWMP01	11 January 2016

## 6. THE RELEVANT PERIOD

The standard relevant periods stated in section 341 of *Sustainable Planning Act 2009* apply to each aspect of development in this approval, if not stated in the conditions of approval attached.

## 7. STATEMENT OF REASONS

<b>Description of the development</b>
Material Change of Use for a Child Care Centre
<b>Reasons for Decision</b>
Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure,

community facilities, or local character and amenity.	
<b>Assessment Benchmarks</b>	
The development was assessed against the following assessment benchmarks: <ul style="list-style-type: none"> <li>• Local Government Infrastructure Plan;</li> <li>• Neighbourhood Centre Zone; and</li> <li>• Works Code</li> </ul>	
<b>Compliance with assessment benchmarks</b>	
The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exceptions listed below.	
<b>Assessment Benchmark</b>	<b>Reasons for the approval despite non-compliance with benchmark</b>
Works Code	<p><b>Performance Outcome (PO) 5</b></p> <p>The development is non-compliant with Acceptable Outcome (AO) 5.1 and the prescribed rates set out in Table 9.4.1.3.2 of the Access, Parking and Mobility Code.</p> <p>The Planning Scheme car parking rates:</p> <ul style="list-style-type: none"> <li>• Child care centre – One (1) space per full-time employee plus one (1) space per six (6) children, which may be provided as a passenger set-down/pick up area.</li> <li>• Shop – One (1) space per twenty-five (25) square metres of gross floor area</li> </ul> <p>Under the current valid approvals (D/143-2015 and D/278-2011) 62 total car parks were conditioned (41 for shop/s + 21 for child care centre). Under the current Planning Scheme car parking rates identified above, 75 spaces (48 for shop/s + 27 for child care centre) would be required. Therefore, the previously approved development and existing car parking resulted in a shortfall of 13 car parking spaces.</p> <p>When factoring in the changes to the development the updated parking requirement would be 72 parking spaces (34 for the remaining tenancy 1 shop and 38 for the child care centre). The change does not alter the existing parking arrangements and will retain the existing parking numbers and layout. Whilst the existing parking on-site does not meet the prescribed rates, the proposed changes result in a reduced shortfall of 10 car parking spaces and is therefore considered an improved outcome. The development is being undertaken within the existing premises and the changes (expansion of the child care centre into the previous shop tenancies) only require minor building work that does not increase the overall gross floor area of buildings on the site.</p> <p>The development provides for on-site vehicle parking that is likely to meet the demand generated and avoids on-street parking. Therefore, is taken to comply with Performance Outcome (PO) 5 of the Works Code.</p>
<b>Relevant Matters</b>	
The proposed development was not assessed against any relevant matters outside of the matters prescribed by regulation.	
<b>Matters prescribed by regulation</b>	

- The *Rockhampton Region Planning Scheme 2015* (version 1); and
- The common material, being the material submitted with the application.

## 8. RIGHTS OF APPEAL

The rights of an applicant to appeal to a tribunal or the Planning and Environment Court against a decision about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

### Appeal by an applicant

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

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

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

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 229 of the *Planning Act 2016*.

**Attachment 2** is an extract from the *Planning Act 2016* that sets down the applicant's appeal rights and the appeal rights of a submitter.

## 9. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT

This development approval takes effect:

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

Or

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


Or

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

## 10. ORIGINAL DECISION ASSESSMENT MANAGER

Name: <b>Corina Hibberd</b> <b>ACTING MANAGER DEVELOPMENT AND BUILDING</b>	Date: 1 June 2016
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## 11. ASSESSMENT MANAGER

Name: <b>Amanda O'Mara</b> <b>COORDINATOR</b> <b>DEVELOPMENT ASSESSMENT</b>	Signature: 	Date: 15 April 2024
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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

1.0 ADMINISTRATION

- 1.1 The Developer is responsible for ensuring compliance with this approval and the Conditions of the approval by an employee, agent, contractor or invitee of the Developer.
- 1.2 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 of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.
- 1.4 All conditions, works, or requirements of this approval must be undertaken and completed prior to the commencement of the use, unless otherwise stated.
- 1.5 Where applicable, infrastructure requirements of this approval must be contributed to the relevant authorities, at no cost to Council prior to the commencement of the use, unless otherwise stated.
- 1.6 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
- 1.6.1 Operational Works:
    - (i) Access and Parking Works;
    - (ii) Water Works;
    - (iii) Stormwater Works; and
    - (iv) Roof and Allotment Drainage Works;
  - 1.6.2 Plumbing and Drainage Works; and
  - 1.6.3 Building Works.
- 1.7 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.
- 1.8 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.
- 1.9 All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.

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 the conditions of this permit:

<u>Plan / Document Name</u>	<u>Plan / Document Number</u>	<u>Dated</u>
Cover Page & Locality Plan	1283-CD001	7 February 2024
Site Plan – Overall	1283-CD101	7 February 2024
Floor Plan – Existing & Demolition	1283-DC102	7 February 2024
Floor Plan – Proposed	1283-DC103	7 February 2024
Elevations	1283-DC201	7 February 2024
Child Care Centre Floor Plan	1283-CD601 (Revision A)	7 February 2024

<u>Plan / Document Name</u>	<u>Plan / Document Number</u>	<u>Dated</u>
Traffic Engineering Report	1391-TRAF01	20 February 2016
Stormwater Management Plan	1391-SWMP01	11 January 2016

- 2.2 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.
- 2.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for endorsement by Council prior to the submission of a Development Application for Operational Works.
- 3.0 ACCESS AND PARKING WORKS
- 3.1 A Development Permit for Operational Works (access and parking works) must be obtained prior to the commencement of any access and parking works on the site.
- 3.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines, Australian Standard AS2890 "Parking Facilities"* and the provisions of a Development Permit for Operational Works (access and parking works).
- 3.3 A minimum of sixty-two (62) parking spaces must be provided on-site. This includes forty-one (41) spaces associated with the previously approved retail component of the site (D/278-2011), and twenty-one (21) spaces for the Child Care Centre associated with the subject application.
- 3.4 All parking spaces, access driveway(s), and vehicular manoeuvring areas associated with this proposed development must be concrete paved or asphalted.
- 3.5 Service and delivery vehicles, including refuse collection vehicles must be via the access from Haynes Street only.
- 3.6 Any redundant vehicular crossover must be replaced by Council standard kerb and channel.
- 3.7 All vehicles must ingress and egress the development in a forward gear.
- 3.8 Adequate sight distances must be provided for all ingress and egress movements at the access driveways in accordance with *Australian Standard 2890.2 "Parking Facilities - Off Street Commercial Facilities"*.
- 3.9 Universal access parking spaces must be provided in accordance with *Australian Standard AS2890.6 "Parking Facilities - Off-Street parking for people with disabilities"*.
- 3.10 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"*.
- 3.11 All vehicle operation areas must be illuminated in accordance with the requirements of *Australian Standard AS1158 "Lighting for Roads and Public Spaces"*.
- 3.12 All internal pedestrian pathways must be designed and constructed in accordance with *Australian Standard AS1428 "Design for Access and Mobility"*.
- 4.0 SEWERAGE WORKS
- 4.1 All 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, Plumbing and Drainage Act*.
- 4.2 The development must be connected to Council's reticulated sewerage network.
- 4.3 The existing sewerage connection point(s) must be retained and upgraded, if necessary, to service the development.
- 4.4 All works must be undertaken in accordance with Queensland Development Code *MP1.4 – Building over or near relevant infrastructure*.

- 4.5 The finished sewerage access chamber surface must be at a sufficient level to avoid ponding of stormwater above the top of the chamber. A heavy duty trafficable lid must be provided in the trafficable area.
- 4.6 Sewer connections located within trafficable areas must be raised or lowered to suit the finished surface levels and must be provided with trafficable lids.
- 5.0 WATER WORKS
- 5.1 A Development Permit for Operational Works (water works) must be obtained prior to the commencement of any water works on the site.
- 5.2 All 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*, the *Plumbing and Drainage Act*.
- 5.3 The development must be connected to Council's reticulated water network.
- 5.4 The existing water connection point(s) must be relocated away from the proposed buildings and upgraded, if necessary, to service the development. A hydraulic consultant must determine the size of connection required.
- 5.5 The proposed development must be provided with a master meter at the property boundary and sub meters for each sole occupancy building in accordance with the *Queensland Plumbing and Drainage Code* and Council's Sub-metering Policy.
- 5.6 Water meter boxes located within trafficable areas must be raised or lowered to suit the finished surface level and must be provided with heavy duty trafficable lids.
- 6.0 PLUMBING AND DRAINAGE WORKS
- 6.1 All sanitary drainage works must be in accordance with regulated work under the *Plumbing and Drainage Act* and Council's Plumbing and Drainage Policies.
- 6.2 All internal plumbing and sanitary drainage works must be in accordance with regulated work under the *Plumbing and Drainage Act*.
- 6.3 Alteration or relocation of internal sanitary drainage works associated with the existing building must be in accordance with regulated work under the *Plumbing and Drainage Act*.
- 6.4 Internal Plumbing and Sanitary Drainage of existing buildings must be contained within the lot it serves.
- 6.5 Sewerage / Amended Sewerage trade waste permits must be obtained for the discharge of any non-domestic waste into Council's sewerage reticulation. Arrester traps must be provided where commercial or non-domestic waste water is proposed to be discharged into the system.
- 6.6 Hoses must be provided at the refuse container area, and washdown must be drained to the sewer in accordance with a Plumbing and Drainage Permit and Sewerage Trade Waste Permit.
- 7.0 STORMWATER WORKS
- 7.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works on the site.
- 7.2 All stormwater 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*, sound engineering practice and the provisions of a Development Permit for Operational Works (stormwater works).
- 7.3 All stormwater must drain to a demonstrated lawful point of discharge and must not adversely affect adjoining land or infrastructure in comparison to the pre-development condition by way of blocking, altering or diverting existing stormwater runoff patterns or have the potential to cause damage to other infrastructure.
- 7.4 The proposed development must achieve no increase in peak stormwater runoff for a selected range of storm events up to and including the one in one hundred year storm event (100 year Average Recurrence Interval) for the post development condition.
- 7.5 The installation of gross pollutant traps must be in accordance with relevant Australian Standards and all maintenance of the proposed gross pollutant traps must be the responsibility of the property owner or body corporate (if applicable).

8.0 ROOF AND ALLOTMENT DRAINAGE WORKS

- 8.1 A Development Permit for Operational Works (roof and allotment drainage works) must be obtained prior to the commencement of any drainage works on the site.
- 8.2 All roof and allotment drainage must be in accordance with the requirements of the *Queensland Urban Drainage Manual* and the *Capricorn Municipal Development Guidelines*.
- 8.3 All roof and allotment drainage must be discharged such that it does not restrict, impair or change the natural flow of runoff water or cause a nuisance to adjoining properties or infrastructure.

9.0 SITE WORKS

- 9.1 All earthworks must be undertaken in accordance with *Australian Standards, AS3798 "Guidelines on Earthworks for Commercial and Residential Developments"*.
- 9.2 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 adjoining properties or infrastructure.

10.0 BUILDING WORKS

- 10.1 Provide a 1.8 metre high fence between the subject site and adjacent properties of the development. The fence must be constructed of materials and finishes that are aesthetically pleasing.
- 10.2 All building works must be undertaken in accordance with Council's *Building Over/Adjacent to Local Government Sewerage Infrastructure Policy*.
- 10.3 The refuse bins (wheelie bins) must be kept within the 'refuse storage area' as per the approved plans (see condition 2.1).

11.0 LANDSCAPING WORKS

- 11.1 All landscaping must be established generally in accordance with the approved plans (refer to condition 2.1). The landscaping must be constructed and/or established prior to the commencement of the use and the landscape areas must predominantly contain plant species that are locally native to the Central Queensland region due to their low water dependency.
- 11.2 Large trees must not be planted within one (1) metre of the centreline of any sewerage infrastructure; small shrubs and groundcover are acceptable.
- 11.3 Landscaping, or any part thereof, upon reaching full maturity, must not:
- (i) obstruct sight visibility zones as defined in the *Austroads 'Guide to Traffic Engineering Practice'* series of publications;
  - (ii) adversely affect any road lighting or public space lighting; or
  - (iii) adversely affect any Council infrastructure, or public utility plant.
- 11.4 The landscaped areas must be subject to:
- 11.4.1 a watering and maintenance plan during the establishment moment; and
  - 11.4.2 an ongoing maintenance and replanting programme.

12.0 ELECTRICITY AND TELECOMMUNICATIONS

- 12.1 Electricity and telecommunication connections must be provided to the proposed development to the standards of the relevant authorities.

13.0 ASSET MANAGEMENT

- 13.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be at full cost to the Developer.
- 13.2 Any damage to existing kerb and channel, pathway or roadway (including removal of concrete slurry from public land, pathway, roads, kerb and channel and stormwater gullies and drainage lines) which may occur during any works carried out in association with the approved development must be repaired. This must include the reinstatement of the existing traffic signs and pavement markings which may have been removed.
- 13.3 'As-constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the commencement



of the use. This information must be provided in accordance with the Manual for Submission of Digital As Constructed Information.

#### 14.0 ENVIRONMENTAL

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

- (i) objectives;
- (ii) site location / topography;
- (iii) vegetation;
- (iv) site drainage;
- (v) soils;
- (vi) erosion susceptibility;
- (vii) erosion risk;
- (viii) concept;
- (ix) design; and
- (x) implementation, for the construction and post construction phases of work.

14.2 The Erosion Control and Stormwater Control Management Plan must be implemented and maintained on-site for the duration of the works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped). The prepared Erosion Control and Stormwater Control Management Plan must be available on-site for inspection by Council Officers during those works.

#### 15.0 ENVIRONMENTAL HEALTH

15.1 All external elements, such as air conditioners, pool and spa pumps and associated equipment, must be adequately screened from public view to Council's satisfaction.

15.2 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"*.

15.3 Noise emitted from the activity must not cause an environmental nuisance.

15.4 Operations on the site must have no significant impact on the amenity of adjoining premises or the surrounding area due to the emission of light, noise or dust.

15.5 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 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

15.6 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*.

#### 16.0 OPERATING PROCEDURES

16.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in Main Street or Haynes Street.

16.2 All waste storage areas must be kept in a clean, tidy condition in accordance with *Environmental Protection (Waste Management) Regulations*.

16.3 The hours of operation for the Child Care Centre must be limited to:

- 16.3.1 0600 to 1900 on Monday to Friday; and

16.3.2 No operations on a Saturday, Sunday, or Public Holiday.

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 Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships website [www.dsdsatsip.qld.gov.au](http://www.dsdsatsip.qld.gov.au).

NOTE 1. General Environmental Duty

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

NOTE 2. General Safety Of Public During Construction

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

NOTE 3. Licensable Activities

Should an activity licensable by Rockhampton Regional Council be proposed for the premises, Council’s Environment and Public Health Unit should be consulted to determine whether any approvals are required. Such activities may include the operation of a food business. Approval for such activities is required before ‘fitout’ and operation.

NOTE 4. Infrastructure Charges Notice

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

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

### Appeal rights

#### 229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
    - (a) matters that may be appealed to—
      - (i) either a tribunal or the P&E Court; or
      - (ii) only a tribunal; or
      - (iii) only the P&E Court; and
    - (b) the person—
      - (i) who may appeal a matter (the **appellant**); and
      - (ii) who is a respondent in an appeal of the matter; and
      - (iii) who is a co-respondent in an appeal of the matter; and
      - (iv) who may elect to be a co-respondent in an appeal of the matter.
  - (2) An appellant may start an appeal within the appeal period.
  - (3) The **appeal period** is—
    - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency or
    - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
    - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
    - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
    - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
    - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.
- Note—  
See the P&E Court Act for the court's power to extend the appeal period.
- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
  - (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
  - (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
    - (a) the adopted charge itself; or
    - (b) for a decision about an offset or refund—
      - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
      - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

#### 230 Notice of appeal

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

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

#### 231 Other appeals

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

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

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

#### 232 Rules of the P&E Court

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

## Schedule 1

### Appeals section 229

#### 1 Appeal rights and parties to appeals

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

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

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

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

<b>Table 1</b> <b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
		(if any)	(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— (a) the refusal of a conversion application; or (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

<b>Table 2</b> <b>Appeals to the P&amp;E Court only</b>			
<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— (a) an error or mistake in law on the part of the tribunal; or (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	-	-
<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	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

<b>Table 2 Appeals to the P&amp;E Court only</b>			
the change application			
<p><b>3. Eligible submitter and eligible advice agency appeals</b>            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><b>4. Compensation claims</b>            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><b>5. Registered premises</b>            An appeal may be made against a decision of the Minister under chapter 7, part 4.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 A person given a decision notice about the decision 2 If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the 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

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

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