



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/166-2022	Contact:	Kathy McDonald
Notice Date:	18 July 2023	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	Malchi Holdings Pty Ltd		
Postal address:	C/- Groundwork Plus PO BOX 1779 MILTON QLD 4064		
Phone no:	07 3871 0411	Mobile no:	Email: planning@groundwork.com.au

I acknowledge receipt of the above application on 12 December 2022 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for a Material Change of Use for an Extractive Industry

PROPERTY DESCRIPTION

Street address:	Lot 3 Malchi - Nine Mile Road, Nine Mile and Lot 951 Capricorn Highway, Gracemere
Real property description:	Lot 3 on RP868380 and Lot 951 on LIV40270, Parish of Gracemere

Dear Malchi Holdings Pty Ltd

I advise that, on 11 July 2023, 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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use	☒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	Road Works Access Works
Building Works	
Plumbing and Drainage Works	

4. SUBMISSIONS

Properly made submissions were made in relation to the application.

There were 101 properly made submissions received from the following submitter(s);

Name of principal submitter	Residential or business address	Electronic address (if provided)
1. Jacqueline Scott	489-509 Nine Mile Rd Fairy Bower QLD 4700	lionviewlivestock@hotmail.com
2. Randall and Barbara James	268 Malchi-Nine Mile Road, Nine Mile Qld 4702	jamesf4@westnet.com.au
3. Colin and Sherilee Hoch	"Greenacres" Gracemere QLD 4702	admin@cshoch.com.au
4. Rodger and Janice Wilson	759 Malchi-Nine Mile Road, Nine Mile QLD 4702	wilsonop@bigpond.com
5. Stephen Alan Bell	117 Kabra-Scrubby Creek Road, Kabra QLD 4702	steve.jill.bell@bigpond.com
6. Dr Taryn Naggs	16 Atthow Avenue, Ashgrove QLD 4060	
7. Jill Narelle Williams	117 Kabra-Scrubby Creek Road, Kabra QLD 4702	steve.jill.bell@bigpond.com
8. Sue-Ellen Gleeson	238 Malchi-Nine Mile Road, Nine Mile QLD 4702	
9. Joash and Rebekah Richards	869 Malchi-Nine Mile Road, Nine Mile QLD 4702	tropicalplants55@gmail.com
10. Peta Lorraway	53/10 Lower River Terrace South Brisbane QLD 4101	petal700@hotmail.com
11. Danielle Lorraway	53/10 Lower River Terrace South Brisbane QLD 4101	danielleaspinall269@gmail.com
12. Dr Hannah Burns	33 Barwood Street, Newmarket Brisbane QLD 4051	hannah_burns@hotmail.com
13. Aaron Baulch	114 Malchi-nine Mile road, Gracemere, QLD 4702	baulchy80@gmail.com
14. Dr Lynda Lorraway	597 Malchi-Nine Mile Road, Nine Mile, QLD, 4702	

15. Reece Kime	46 Lion Creek Road, Wandal, QLD, 4700	
16. Elizabeth Lorroway	41/10 Lower River Terrace, South Brisbane, QLD, 4700	
17. Thomas Jackson	323 EWilliams Road, Kabra, QLD, 4702	
18. Bradley Lorroway	597 Malchi-Nine Mile Road, Nine Mile, QLD, 4702	
19. Lex Alan Williams	412 Malchi-Nine Mile Road, Nine Mile, QLD, 4702	Lexwilliams58@gmail.com
20. Cassandra Kent	2019 Prospect Creek – Goovigen Road, Greycliffe, QLD, 4715	
21. Isaac Kent	440 Bundalba Road, Goovigen, QLD, 4702	
22. Darren Kent	440 Bundalba Road, Goovigen, QLD, 4702	
23. Sue Kent	440 Bundalba Road, Goovigen, QLD, 4702	
24. Megan Kent	440 Bundalba Road, Goovigen, QLD, 4702	
25. James Kent	2019 Prospect Creek – Goovigen Road, Greycliffe, QLD, 4715	
26. Wendy Smith	2 Kurrajong Place, Norman Gardens QLD 4701	
27. Sandra Gibson	88 Sheehan Road, Alton Downs QLD 4702	
28. Nicole McGhee	12 Bradley Place, Kawana QLD 4701	
29. Sherri Grieves	13 Crear Court, Norman Gardens QLD 4701	
30. Vince Robertson	217 Kerrigan Street, Frenchville QLD 4701	
31. Lame Bartlett	70 Sunset Drive, Norman Gardens QLD 4701	
32. Kailee Barton-Barnes	372 Cherryfield Road, Gracemere QLD 4702	
33. Irene Burton	U2/47 Twigg Street, Park Avenue QLD 4702	
34. Paul Tyler	217 Schmidt Street, Frenchville QLD 4702	
35. Narelle Anderson	9 Miles Street, Berserker QLD 4701	
36. Gayle Wilson	43 Mungarie Street, Keperra QLD	gayletwilson@gmail.com

	4054	
37. Jennifer Pirog	214 Craig Street, Berserker QLD 4701	pirogs@icloud.com
38. Rebecca Reeves	2 Reid Court, Bracken Ridge QLD 4054	Rebecca.Reeves@protonmail.com
39. Keelan McDonald	30 Princess Street, Berserker QLD 4701	
40. Peter Pirog	214 Craig Street, Berserker QLD 4701	p.pirog@icloud.com
41. Nick Moore	70 Glencoe Street, The Range QLD 4700	
42. Michael Keating	39 Corberry Street, The Range QLD 4700	
43. Helen Constant	4 McKelligett Street, Wandal QLD 4700	
44. Maureen Moore	19 Norman Street, Wandal QLD 4700	
45. Andrew Davies	11 Mitchell Court, Gracemere QLD 4702	
46. Brian Egan	44 Reid Road, Alton Downs QLD 4702	
47. Dr Sudarsman Sharma	13 Mistletoe Avenue, Norman Gardens QLD 4701	
48. Lauren Boddice	273 Halford Street, Frenchville QLD 4701	
49. Emma Jackson	323 E Williams Road, Kabra QLD 4702	
50. Rodney Boddice	273 Halford Street, Frenchville QLD 4701	
51. Leesa Crossley	31 Wilkinson Street, Wandal QLD 4700	
52. Jean Holmes	19 Hardacre Street, Wandal QLD 4700	
53. Rod Smith	668 North Langmorn Road, Marmor QLD 4702	
54. Dawn Spencer	35/191 Alexandra Street, Kawana QLD 4701	
55. Elizabeth Brown	29 Geaney Street, Norman Gardens QLD 4701	
56. Judith Keating	39 Corberry Street, The Range QLD 4700	
57. Chelsea Lorroway	597 Malchi-Nine Mile Road, Nine Mile QLD 4702	
58. Axel Wehmeier	206 Cobb and Co Road,	

	Tungamull QLD 4702	
59. Michaela Kime	46 Lion Creed Road, Wandal QLD 4700	
60. Shannon O'Neill	418 Dean Street, Frenchville QLD 4701	
61. Kellie Rawlinson	4 Breakspear Street, Gracemere QLD 4702	
62. Kelvin Roderick The Caves Quarry	Mt Charlton Road, The Caves QLD 4702	kelvin@tcqcq.com.au
63. Keren Greenhalgh	50 MacGregor Street, The Range QLD 4700	
64. William Tucker	282 Moonmera Road, Bouldercombe QLD 4702	
65. Lorraine Smith	2 Impalla Drive, Gracemere QLD 4701	
66. Wendy Cole	391 Fairy Bower Road, Gracemere QLD 4702	
67. Nathan and Cassandra Ryan	391 Fairy Bower Road, Gracemere QLD 4702	
68. Patricia Draper	741 San Jose Road, Marmor QLD 4702	
69. Terrance Gregson	210 Ashford Street, Gracemere QLD 4702	
70. Kenneth Cole	391 Fairy Bower Road, Gracemere QLD 4702	
71. Margaret Whitchurch	19 Spencer Street, The Range QLD 4700	whitchur@bigpond.net.au
72. Elizabeth Weston	3/33 Hants Street, Hamilton QLD 4007	
73. Barry Wilson	43 Mungarie Street, Keperra QLD 4054	bwil4064@outlook.com
74. Gavin Connor		gavinc@stankegroup.com.au
75. John Weir	77 McKenzie Road, Alton Downs Qld 4702	mt.olive.806@gmail.com
76. Ian Greenhalgh	50 MacGregor Street, The Range QLD 4700	
77. Gavin Bartley	50 MacGregor Street, The Range QLD 4700	
78. Kevin Jenson	Dean Street North	
79. Jaap Barendrecht	16 Atthow Avenue, Ashgrove Qld 4060	jaapemail@gmail.com
80. Allan Clarke	19 Norman Street, Rockhampton Qld 4700	
81. Gary Lynch	23 Jamie Crescent, Gracemere	

	Qld 4702	
82. Jennifer Thomasson	21 Warner Avenue, Norman Gardens Qld 4701	
83. Gloria Lowry	101/6 Victoria Parade, Rockhampton Qld 4700	
84. Judy Tyler	217 Schmidt Street, Frenchville Qld 4701	
85. Anita Anderson	10 Cypress Avenue, Norman Gardens Qld 4701	
86. Jessica Timms	1008 Malchi-Nine Mile Road, Nine Mile QLD 4702	Jessica.Timms@elders.com.au
87. Hannah Goode	1008 Malchi-Nine Mile Road, Nine Mile QLD 4702	Hannah.Goode@elders.com.au
88. Eliza Connors	1008 Malchi-Nine Mile Road, Nine Mile QLD 4702	Eliza.Connors@elders.com.au
89. Redmond Lorroway	689 Malchi-Nine Mile Road, Nine Mile QLD 4702	email.of.red@gmail.com
90. Barbara Wigginton	PO Box 164 Gracemere 4702	byron.shelley@bigpond.com
91. GC & AJ, SC & JL Iker	16 Del Rosa Road, Alton Downs QLD 4702	
92. Reece Gough	227 Power Station Road, Stanwell QLD 4702 PO Box 5164, Red Hill Rockhampton 4701	reece@capricornsandstone.com.au
93. Tamsyn Smith	227 Power Station Road, Stanwell QLD 4702 PO Box 5164, Red Hill Rockhampton 4701	sales@capricornsandstone.com.au
94. Christopher Cole	1 Koolamara Drive, Gracemere QLD 4702	kenrol123@gmail.com
95. Greg Fawcett		gregmfawcett@bigpond.com
96. Edna Weir	367 Fairy Bower Road, Gracemere QLD 4702	kirsteneweir@gmail.com
97. Brett and Christine Lewis	215 Fairy Bower, Gracemere QLD 4702	christine@rdogroup.com.au lewisbn@bigpond.com
98. Christine Lewis	Lot 5 on SP 240876	manager@qvcoperations.com.au
99. Kathryn Williams	"Ebbw Vale" 252 Hopper Road Nine Mile QLD 4702	
100. Tim Duggan and Jaimie Kriesch	Po Box 2129 Wandal QLD 4700	jaimielouise@icloud.com
101. Tom and Sherrie Acton	PO Box 4084 Rockhampton Qld 4700	tsacton@bigpond.com

5. REFERRAL AGENCIES

The following Referral Agencies were activated by this application.

For an application involving	Name of agency	Role of Agency	Contact Details
ENVIRONMENTALLY RELEVANT ACTIVITIES			
<i>Schedule 10, Part 5, Division 4, Table 2 - Non-devolved environmentally relevant activities</i>			
Development application for a material change of use that is assessable development under section 8, if— (a) the environmentally relevant activity the subject of the application has not been devolved to a local government under the Environmental Protection Regulation; and (b) the chief executive is not the prescribed assessment manager for the application	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
INFRASTRUCTURE-RELATED REFERRALS (Electricity Infrastructure)			
<i>Schedule 10, Part 9, Division 2, Table 2 – Material change of use of premises near a substation site or subject to an easement</i>			
Development application for a material change of use that is assessable development under a local categorising instrument and does not relate to reconfiguring a lot, if— (a) all or part of the premises are within 100m of a substation site; or (b) both of the following apply— (i) all or part of the premises are subject to an easement for the benefit of a distribution entity, or transmission entity, under the Electricity Act; (ii) the easement is for a transmission grid or supply network	The chief executive of the distribution entity or transmission entity: Powerlink Queensland and Ergon Energy	Advice	<u>Postal:</u> Ergon Energy (Town Planning) PO Box 1090 Townsville Qld <u>Email:</u> townplanning@ergon.com.au and Powerlink (Property Services) PO Box 1193 Virginia Qld <u>Email:</u> Property@powerlink.com.au
STATE TRANSPORT INFRASTRUCTURE (Generally)			
<i>Schedule 10, Part 9, Division 4, Subdivision 1, Table 1 – Aspect of development stated in schedule 20</i>			
Development application for an aspect of development stated in schedule 20 that is assessable development under a local categorising instrument or section 21,	The chief executive of the department in which the	Concurrence	<u>In person:</u> Level 2, 209 Bolsover Street, Rockhampton City

if— (a) the development is for a purpose stated in schedule 20, column 1 for the aspect; and (b) the development meets or exceeds the threshold— (i) for development in local government area 1—stated in schedule 20, column 2 for the purpose; or (ii) for development in local government area 2—stated in schedule 20, column 3 for the purpose; and (c) for development in local government area 1—the development is not for an accommodation activity or an office at premises wholly or partly in the excluded area However, if the development is for a combination of purposes stated in the same item of schedule 20, the threshold is for the combination of purposes and not for each individual purpose.	<i>Planning Act 2016</i> is administered: State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department)		<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
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6. ENVIRONMENTAL AUTHORITY

Environmental Authority P-EA-100380307
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7. 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>
Supply Site Plan	Groundwork Plus	25 January 2023	2613.DRG.015	4
Transport and Pavement Impact Assessment	McMurtrie Consulting Engineers	6 February 2023	R030-22-23	1
Stormwater Management Plan	Groundwork Plus	6 February 2023	2613.DRG.024	5
Environmental Management Plan	Groundwork Plus	December 2022	2613_610_001	1

8. 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.

9. STATEMENT OF REASONS

Description of the development
Material Change in use for Extractive Industry

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: • Strategic Framework; • Rural Zone Code; • Biodiversity Areas Overlay Code; • Bushfire Hazard Overlay Code; • Steep Land Overlay Code; • Access, Parking And Transport Code; • Landscape Code; • Stormwater Management Code; • Waste Management Code; and • Extractive Industry 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
Extractive Industry Code	Performance Outcome (PO) 1 The development does not comply with Acceptable Outcome 1.1 as an extractive industry involving blasting requires a minimum setback of 1,000 metres to the nearest sensitive land use. Investigations to date indicate there is no need to drill or blast on the subject site to extract the Class A1 fill material that is proposed to be removed. However unforeseen circumstances (pockets of hard rock) may be encountered in which minimal blasting may occur. As the proposed development must cater for this unforeseen circumstance and the nearest sensitive land use is located approximately 650 metres from the subject site, the following mitigation measures will be administered: • Noise impacts will be mitigated through limitations outlined in the Environmental Management Plan including monitoring of ground vibration levels and permitted hours of blasting between 9am to 3pm Monday to Friday, 9am to 1pm on Saturdays and no blasting at any

	time on Sundays or Public Holidays. Visual impacts will be mitigated through setbacks of 130 to 140 metres from the operational areas to the subject site's road boundary (Malchi Nine Mile Road) along with conditions imposing the progressive establishment and ongoing maintenance of grassed visual amenity bunds, two (2) metres in height within the eastern boundary of each operational area. It is not the intention to drill or blast as a regular operation on site and if no hard rock is encountered and blasting operations do not occur, the development would meet the required 500 metre setback. The development must operate as per the recommendations in the Environmental Management Plan to mitigate visual and noise impacts to nearby sensitive land uses, along with reasonable and relevant conditions within the associated Environmental Authority P-EA-100380307 permit, regulated by the Department of Environment and Science. The proposal is considered to achieve PO1.
	Performance Outcome (PO) 4 The development does not comply with Acceptable Outcome 4.1 as the internal haul roads will be gravel base and not sealed. The gravel surface will be regularly maintained and dampened by a water cart to reduce the potential dust impacts external to the site. Furthermore, the development is required to comply with, and manage operations in accordance with the air quality objectives within the Environmental Management Plan and reasonable and relevant conditions within the associated Environmental Authority P-EA-100380307 permit regulated by the Department of Environment and Science have been imposed to ensure those objectives are met. This is considered sufficient to achieve PO4.
	Performance Outcome (PO) 8 The development does not comply with Acceptable Outcome 8.2 as the haul route is not more than 100 metres from any sensitive land use. As the development is located within a Rural Zone where dwelling houses are accepted (subject to requirements) it is expected that sensitive land uses would be established. Therefore, any proposed haul route would not meet the acceptable outcome by default. Despite this, a Traffic and Pavement Impact Assessment has been prepared by a Registered Professional Engineer of Queensland (RPEQ) that demonstrates the proposed haul route (south via Malchi Nine Mile Road onto the Capricorn Highway) and road network is capable of the increase in demand from the development. Furthermore, all material required to produce the Class A1 fill that will be extracted is wholly sourced from within the subject site meaning no additional materials will be imported (hailed) into the site, resulting in fewer truck movements. Therefore, the proposal is considered to comply with PO8.
	Performance Outcome (PO) 5 The development does not comply with AO5.1 as security fencing is not provided for the full length of the perimeter of the site and around the extractive industry stockpiles and operations. The subject site has an existing perimeter fence and is surrounded in all

	directions by established dense vegetation on large vacant rural lots to the north, west and south. To the east is Malchi Nine Mile Road. 30 metres from the road into the subject site, a 100 metre easement exists for the full road frontage and restricts structures or operations. A lockable gate with signage will be erected at the entry point and will provide appropriate security. Given the area of the site, (179.768 hectares) it would be unreasonable to require additional perimeter fencing. Furthermore, fencing of the stockpiles and operations are considered unnecessary given the extensive setback (130 plus metres) from a public road. Therefore, the development is considered to comply with PO5 as these measures are anticipated to ensure the development does not compromise public safety.
Rural Zone Code	Performance Outcome (PO) 14, 15 and 30 No Acceptable Outcomes are nominated. PO 14, 15 and 30 consider non-rural uses located within the Rural Zone where potential impacts can be appropriately managed. The development, through the implementation of operational controls and management measures outlined in the Environmental Management Plan will ensure that potential impacts on sensitive receivers and nearby rural uses are minimised. Some of these key measures include but are not limited to: • Meeting air quality objectives by ensuring sufficient on-site water supply is available for dust suppression, including all internal trafficable roads, access areas and stockpiles. Furthermore, additional water supply is required to ensure plant and equipment (trucks) are clean and materials are dampened and covered when exiting to prevent material spillages external to the site. • Operational areas are outside the subject sites waterways however water quality objectives will still be managed by preventing clean stormwater to enter disturbed areas through the use of catch drains or flow diversions. Furthermore, the development must maintain drainage and sediment control devices and no land clearing outside the operational areas is permitted. • Noise mitigation through limited hours of operations, occurring solely during daytime hours (6:00am to 6:00pm Monday to Saturday with no operations on Sundays or Public Holidays). Blasting operations are limited further between 9am to 3pm Monday to Friday, 9am to 1pm on Saturdays and no blasting at any time on Sundays or Public Holidays. Furthermore, site design measures will ensure mobile plant move forward in, forward out to avoid unnecessary reversing and fitted with effective exhaust silencers where practical. • Waste management through the use of designated waste storage areas with regular visual inspections and removal by a suitably licensed transporter. Setbacks surrounding the site are considered appropriate along with the mitigation measure above to avoid any potential off-site impacts to the surrounding area due to the emission of light, noise, odour or dust. Setbacks include 1.6 kilometres to the closest dwelling house to the north and one (1) kilometre to the south-east. No dwelling houses are in the locality to the west and immediately to the east is Malchi-Nine Mile Road. Beyond the road is a large rural lot with a dwelling house 650 metres from

	the site's operational areas. (refer to response to PO1 of Extractive Industry Code) Extractive Industries are contemplated within the Rural Zone purpose (1) (b) of the <i>Rockhampton Region Planning Scheme 2015</i>. The subject site is not mapped as productive agricultural land and the development will not restrict the ongoing safe and efficient use of nearby rural uses or sensitive receivers as the mitigation measures outlined above are considered sufficient to achieve Performance Outcomes 14, 15 and 30.
Relevant Matters	
The proposed development was not assessed against any relevant matters outside of the matters prescribed by regulation	
Matters raised in submissions	
Issue	How matter was dealt with
Separation distances to nearby sensitive land uses	The nearest lawful dwelling house is 650 metres away, east of the subject site. As outlined in the response above to Performance Outcome (PO) 1 of the Extractive Industry Code, it is not the intention to drill or blast as a regular operation on site and if no hard rock is encountered and blasting operations do not occur, the development would meet the required 500 metre setback. To ensure ongoing operations of the Malchi Supply Site will not cause environmental nuisance to any nearby sensitive land uses, the development must operate as per the recommendations in the Environmental Management Plan and mitigate visual and noise impacts to the surrounding area. Furthermore, ongoing operations must comply with the associated Environmental Authority P-EA-100380307 permit, regulated by the Department of Environment and Science.
Inconsistent with the Rural Zone purpose	Extractive Industries are contemplated within the Rural Zone purpose (1) (b) of the <i>Rockhampton Region Planning Scheme 2015</i>. The subject site is not mapped as productive agricultural land and the development will not restrict the ongoing safe and efficient use of nearby rural uses or sensitive receivers as outlined in the response above to Performance Outcomes (PO) 14, 15 and 30.
Not supported by an Economic Impact Assessment to address the impacts on existing extractive operations, and a surplus need of extractive industry operations	After a review of the relevant sections of the planning scheme, it was found that this specific planning scheme policy is not referred to by the provisions of the Rural Zone Code, the Extractive Industry Development Code or the Strategic Framework. Therefore, it is not a relevant policy for the assessment of the development application. Notwithstanding, the development is not anticipated to have a detrimental impact on the economic viability of existing hard rock quarries. The material extracted from the subject site is Class A1 Embankment Fill which is a product not commonly available from hard rock quarries. Class A1 Embankment Fill is a fill material that requires the correct blend of clay and rock to form a processed material that is suitable to build an embankment in an area that can experience water inundation. This material for example is used to construct flood levees that need to have the integrity to withhold large volumes and flows of water during peak flood periods.

Road network and traffic impacts from heavy vehicles on local rural roads	The quantity of material to be transported along the haulage route is to be approximately 400,000 tonnes over approximately 365 days (300 haulage days). The Transport and Pavement Impact Assessment summarises that based on the relatively low background traffic volumes and the relatively small increase in traffic numbers (up to a maximum of 37 vehicles per day in each direction), it is anticipated that the proposed development and haulage operations will have a relatively small impact on the traffic operations along the identified haulage routes, with adequate capacity expected to be available on each road link to cater for the additional heavy vehicles. The Transport and Pavement Impact Assessment further identified that the additional heavy vehicle movements associated with the development's road haulage operations are expected to lead to an increase in pavement loadings on Malchi - Nine Mile Road with the outbound values above the recommended five (5) per cent impact trigger for the proposed haulage scenario assessed. As a result, Council has conditioned road maintenance levies be imposed and must be paid on a six-monthly basis for the duration of the activity (refer to Conditions 3.2 and 3.3)
Amenity (noise, dust, light etc.) and the impacts to the rural area	The development must operate as per the recommendations in the Environmental Management Plan to mitigate amenity impacts. All environmental matters raised are regulated through and addressed by the conditions of the Environmental Authority (EA) imposed by the Department of Environment and Science (DES) as the lead agency for assessing potential environmental impacts including water, air, noise, land, and blast vibration impacts for Extractive Industries through the <i>Environmental Protection Act 1994</i>.
Environmental (Clearing of Cat C vegetation, water/air quality), Impacts to the rural area	The subject sites operational areas are mapped as comprising of Matters of State Environmental Significance (MSES) being Category C regrowth vegetation. The proposed clearing of the mapped Category C vegetation is accepted development under Schedule 7, Part 3, Section 12 of the Planning Regulation, being clearing pursuant to an accepted development vegetation clearing code. As such, referral for operational work for clearing native vegetation under Part 3 of Schedule 10 of the Planning Regulation is not triggered. Furthermore, as accepted development the clearing cannot be further regulated by Council. Furthermore, no vegetation is to be cleared outside the resource/processing area or haulage routes. Any additional vegetation clearing on the subject site must be in accordance with the requirements of the <i>Vegetation Management Act 1999</i> and the planning scheme current at the time of the proposed clearing.
Potential impacts to surface water and groundwater	The Environmental Authority P-EA-100380307 permit confirms that the operational areas of the Malchi Supply Site do not interfere with or impact on mapped waterways under the <i>Water Act 2000</i>. Nevertheless, drainage features from the site do drain to the Fitzroy River floodplain and associated wetlands and groundwater areas. The Environmental Authority permit, and Environmental Management Plan confirm that impacts to groundwater will be avoided by setting a maximum

	depth of extraction of 16 metres Australian Height Datum (AHD) in Lot 3 and 22 metres AHD in Lot 951 which is two (2) metres above the depth of investigative drilling at the site which did not encounter any groundwater. The activities on site will be operated in a way that protects the environmental values of groundwater and any associated surface ecological systems. The Environmental Management Plan sets out the Water Quality objectives to manage and control potential environmental impacts occurring as a result of land disturbance necessary for the site operation. The objective of site water management is to ensure all prescribed water contaminants (including sand, suspended solids, turbid waters, chemicals, lubricants, or fuels) are not released from the site. Stormwater runoff from disturbed areas of the site must be retained on site or managed to remove contaminants prior to release. The only waters to be released are settled stormwater which has been allowed to stand for a period of time to maximise sediment fallout.
Reduction of property values of the local surrounding residents	Submitters raised concerns that the development would devalue their properties. Property value is not a matter Council may or must have regard to under the <i>Planning Act 2016</i> when assessing and deciding a development application.
Matters prescribed by regulation	
• The <i>Rockhampton Region Planning Scheme 2015</i> (version 2.2); and • The common material, being the material submitted with the application.	

10. 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*.

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

- any part of the development application that required impact assessment
- a variation request.

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

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

11. 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.

12. ASSESSMENT MANAGER

Name:	Amanda O'Mara <u>COORDINATOR</u> <u>DEVELOPMENT ASSESSMENT</u>	Signature:		Date:	18 July 2023
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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.]

Part 2 – Conditions required by the referral agency response

Attachment 2—Extract on appeal rights

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 commencement of the use,
- unless otherwise stated.
- 1.4 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
- 1.4.1 Operational Works:
 - (i) Access Works;
 - (ii) Roadworks;
 - 1.4.2 Plumbing and Drainage Works; and
 - 1.4.3 Building Works.
- 1.5 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.
- 1.6 All works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.
- 1.7 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.
- 1.8 The extractive industry is limited to extracting in a year a maximum of 400,000 tonnes of material.

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>
Supply Site Plan	Groundwork Plus	25 January 2023	2613.DRG.015	4
Transport and Pavement Impact Assessment	McMurtrie Consulting Engineers	6 February 2023	R030-22-23	1

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version/ Issue</u>
Stormwater Management Plan	Groundwork Plus	6 February 2023	2613.DRG.024	5
Environmental Management Plan	Groundwork Plus	December 2022	2613_610_001	1

- 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 ROAD WORKS

- 3.1 Line-marking and raised retroreflective pavement markers (RRPMs) must be installed to the section of Malchi-Nine-Mile Road between chainages 400 metres and 1500 metres to better delineate this narrow section of the roadway.
- 3.2 A road maintenance levy, being 46.25 cents per tonne, must be paid on a six-monthly basis for the duration of the activity, calculated by the owner / operator of the development. Details are to be provided to Council every six months which includes the tonnage hauled from the site over the preceding six month period and the calculation of the levy payable. The calculation must be based on the above rate and increased by Consumer Price Index (CPI) as appropriate. The amount shown below is relevant for the September 2022 value and will be calculated in future years adjusted each year by the CPI (All Groups Brisbane).

Note: CPI of September 2022 – 130.2

- 3.3 A bridge levy, being three (3) cents per tonne, must be paid on a six-monthly basis for the duration of the activity, calculated by the owner / operator of the development. Details are to be provided to Council every six months which includes the tonnage hauled from the site over the preceding six month period and the calculation of the levy payable. The calculation must be based on the below rate and increased by Consumer Price Index (CPI) as appropriate. The amount shown below is relevant for the September 2022 value and will be calculated in future years adjusted each year by the CPI (All Groups Brisbane).

Note: CPI of September 2022 – 130.2

4.0 ACCESS WORKS

- 4.1 A Development Permit for Operational Works (access works) must be obtained prior to the commencement of any access and parking works on the development site.
- 4.2 All access 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).
- 4.3 The proposed northern access from Malchi-Nine-Mile Road is not approved due to sight visibility issues with this location. The access to Lot 3 on RP868380 must be via an internal access from Lot 951 on LIV40270.
- 4.4 All vehicles must ingress and egress the development in a forward gear.
- 4.5 Adequate sight distances must be provided for all ingress and egress movements at the access driveways in accordance with Australian Standard AS2890.2 "Parking facilities - Off street commercial vehicle facilities".
- 4.6 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".

5.0 PLUMBING AND DRAINAGE WORKS

- 5.1 All internal plumbing and drainage works must be designed and constructed in accordance with the 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.

- 5.2 On-site water supply for domestic, dust control and fire-fighting purposes must be provided and may include the provision of a bore, dams, water storage tanks or a combination of each. The water storage must be easily accessible having regard to pedestrian and vehicular access.

Note: Fire-fighting protection, if required, must be certified by an hydraulic engineer or other suitably qualified person.

- 5.3 Any on-site sewerage treatment and disposal areas must not be located within any water course or conflict with the separation distance as detailed within the Queensland Plumbing and Wastewater Code.

Note: If the proposal is to use portable toilet facilities for on-site sewerage facilities. All waste from the portable toilet facilities must be disposed at Council's sewage treatment plant by regulated waste disposal contractor. The regulated waste disposal contractor must be licensed and must have an Agreement with Council.

6.0 STORMWATER WORKS

- 6.1 All stormwater must drain to a demonstrated lawful point of discharge and must not adversely affect surrounding land or infrastructure in comparison to the pre-development conditions, including but not limited to blocking, altering or diverting existing stormwater runoff patterns or having the potential to cause damage to other infrastructure.

7.0 SITE WORKS

- 7.1 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 to surrounding land or infrastructure.

8.0 BUILDING WORKS

- 8.1 Structures must not be located within the on-site sewerage treatment and disposal area or conflict with the separation distances, in accordance with the Queensland Plumbing and Wastewater Code.

- 8.2 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".

9.0 LANDSCAPING WORKS

- 9.1 The existing vegetation along the full road frontage of Lot 3 on RP868380 and Lot 951 on LIV40270, with a minimum width of thirty (30) metres, must be retained.

- 9.2 A grassed visual amenity bund with a maximum height of two (2) metres within the eastern boundary of each operational area must be established.

- 9.3 The visual amenity bund areas must be subject to:

9.3.1 a watering and maintenance plan during the establishment moment; and

9.3.2 ongoing maintenance and replanting programme (if required).

10.0 ELECTRICITY

- 10.1 Electricity services must be provided to the development in accordance with the standards and requirements of the relevant service provider.

Alternatively, the development may be provided with an on-site energy supply installed in accordance with all laws and regulations and current best practice. An on-site energy supply must be installed prior to the commencement of the use and at no cost to Council.

11.0 ASSET MANAGEMENT

- 11.1 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.

- 11.2 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.

12.0 ENVIRONMENTAL

- 12.1 No vegetation is to be cleared outside the resource/processing area or haulage routes. Any additional vegetation clearing on the subject site must be in accordance with the requirements of the *Vegetation Management Act 1999* and the planning scheme current at the time of the proposed clearing.

13.0 OPERATING PROCEDURES

- 13.1 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 Malchi-Nine Mile Road.
- 13.2 Excavation must only occur within the supply site area and in accordance with the approved plans (refer to condition 2.1).
- 13.3 Extraction, crushing, blending, screening, loading, operation of plant equipment, ancillary activities and haulage operations for the development site must be limited to 0700 hours to 1700 hours on Monday to Saturday, with no operations on Sundays or Public Holidays.
- 13.4 Maintenance of equipment and vehicles outside of normal operating hours is carried out so as not to cause nuisance to nearby sensitive land use(s).
- 13.5 Blasting operations (when required) are limited to Monday to Friday between the hours of 09:00 to 15:00, and from 09:00 to 13:00 on Saturdays. Operations do not occur on Sunday or public holidays.
- 13.6 All heavy vehicles associated with the extractive industry use are only permitted to use the section of Malchi-Nine Mile Road between the access to the subject site(s) and the Capricorn Highway in accordance with the recommendations in the approved Transport and Pavement Impact Assessment (refer to condition 2.1). No quarry material may be hauled on the section of Malchi-Nine Mile Road to the north of the site access.
- 13.7 Limit the height of any stockpiles to less than six (6) metres, where practical and in accordance with the recommendations in the approved Environmental Management Plan (refer to condition 2.1).
- 13.8 All waste materials and consumables generated by the operation must be immediately removed from site and disposed of at a licensed waste receiver.
- 13.9 All waste storage areas must be:
- 13.9.1 kept in a clean and tidy condition; and
 - 13.9.2 maintained in accordance with *Environmental Protection Regulation 2019*.
- 13.10 All surface treatments must be operated and maintained in accordance with the recommendations in the approved Environmental Management Plan (refer to condition 2.1) and in a manner so that there is no significant impact on the amenity of adjoining premises, or the surrounding area being caused due to the emission of dust or resulting in sediment laden water.

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. Duty to Notify of Environmental Harm

If a person becomes aware that serious or material environmental harm is caused or threatened by an activity or an associated activity, that person has a duty to notify Rockhampton Regional Council.

NOTE 4. Environmental Nuisance

Emissions from the activity must not cause an environmental nuisance.

NOTE 5. Licensable Activities

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

NOTE 6. 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 7. Clearing within Road Reserve

It is a requirement under the *Nature Conservation Act 1992* that an approved Tree Clearing Permit is obtained from the Department of Environment and Science, prior to any tree clearing activities that are to occur within a road reserve that is under Council control.

NOTE 8. Building Works

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.

NOTE 9. Plumbing and Drainage Works

A Development Permit for Plumbing and Drainage Works must be obtained for the proposed demountable structures on the development site requiring sanitary drainage.

On-site sewerage treatment and disposal must be provided in accordance with the Queensland Plumbing and Wastewater Code and Council's Plumbing and Drainage Policies.

NOTE 10. Operational Works

A Development Permit for Operational Works for Earthworks must be obtained for any proposed bund walls, when required under Council's Planning Scheme.



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— (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	-	-