



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/167-2025	Contact:	Kathy McDonald
Notice Date:	7 July 2026	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	Boutique Capital Pty Ltd Trustee		
Postal address:	Under Instrument 724159158 C/- Viva Property Group Pty Ltd PO BOX 419 INDOOROPILLY QLD 4068		
Phone no:	07 3831 5577	Mobile no:	N/A
Email:	info@vivapropertygroup.com.au		

I acknowledge receipt of the above application on 31 October 2025 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Reconfiguring a Lot for a Subdivision (one lot into two lots)

PROPERTY DESCRIPTION

Street address:	72 Lucas Street, Berserker
Real property description:	Lot 18 on RP600706

Dear Boutique Capital Pty Ltd Trustee

I advise that, on 30 June 2026 the above development application was:

☒ approved in full with conditions* (refer to the conditions contained in **Attachment 1**)

*Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.

1. DETAILS OF THE APPROVAL

The following approvals are given:

	Development Permit	Preliminary Approval
Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Reconfiguring a lot	☒	☐

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>Water Works</i> <i>Stormwater Works</i>
Building Works	<i>Demolition Works</i>
Plumbing and Drainage Works	

4. REFERRAL AGENCIES - NIL

5. THE APPROVED PLANS

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

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version/ Issue</u>
Flood hazard Overlay Code Assessment Report	Storm Water Consulting	14 May 2026	J12976	V1.0
General Arrangement	STP Consultants	16 December 2025	STP25-1642 / C103	1
Detail and DTM Survey	Trig Consulting	12 November 2025	0521/13-001	B
Plan of Proposed Reconfiguration of Land	Trig Consulting	6 August 2025	0521/13-002	A

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

In accordance with section 85(1)(b)(ii) of the *Planning Act 2016*, the development approval lapses if a plan for the reconfiguration that, under the Land Title Act, is required to be given to a local government for approval is not given to the local government within four (4) years after the approval starts to have effect, if not stated otherwise in the conditions of approval attached.

7. HUMAN RIGHTS ACT

The relevant provisions of the *Human Rights Act 2019* have been considered as part of the decision making process for this development permit.

8. STATEMENT OF REASONS

Description of the development
Reconfiguring a Lot for a Subdivision (one lot into two lots)
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: • Local Government Infrastructure Plan • Low-Medium Density Residential Zone Code • Access, Parking and Transport Code • Landscape Code • Stormwater Management Code • Water and Sewer Code • Filling and Excavation Code • Reconfiguring a Lot Code • Airport Environs Overlay Code • Flood Hazard Overlay Code	
Compliance with assessment benchmarks	
The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exceptions listed below.	
Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
Flood Hazard Overlay Code	Performance Outcome (PO) 14 The proposed development does not comply with Acceptable Outcome (AO) 14.1 (a) because the reconfiguration will create a new lot that is affected by the 1% Annual Exceedance Probability (AEP) local storm and overland flow flooding, specifically within the Creek Catchment Flood Overlay – Planning Area 1 and 2. Despite this, the developments alternative solution can achieve the requirements of PO 14, because a Flood Hazard Assessment Report was provided and demonstrates that: • The development does not involve the further intensification of land within the local catchment defined flood event (DFE) - planning area 1 or result in an increased risk to people and property (only one lot would be located in the local catchment DFE planning area 1 under both the pre-development and post-development site conditions). • The subdivided lots would achieve flood-free vehicular and pedestrian access onto Lucas Street during the 1% AEP flood event. • Lot 1 (western lot) would be generally flood-free during the 1% AEP flood event (maximum flood depth of 0.3 metres and maximum flow-velocity of 0.2 m²/s). The new dwelling would be constructed on a suspended floor (whilst achieving the required freeboard) to minimise property risk of damage during a flood event. • Lot 2 (eastern lot) would be inundated generally up to a maximum depth of 0.6 metres and a maximum velocity-depth of 0.6 m²/s. These flow conditions are generally considered to be tolerable on residential allotments. The new dwelling and garage would be constructed on suspended floors (whilst achieving the required freeboard) to minimise property risk of damage during a flood event. Therefore, the proposed development is considered to not result in the creation of additional lots that will be at risk in times of flood and is taken to comply with Performance Outcome 14.

Relevant Matters
Not applicable to an assessable development application subject to code assessment.
Matters prescribed by regulation
• The Rockhampton Region Planning Scheme 2015 (version 5); and • The common material, being the material submitted with the application.

9. APPEAL RIGHTS

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

Appeal by an applicant

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

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

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

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

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

10. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT

This development approval takes effect:

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

Or

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

Or

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

11. ASSESSMENT MANAGER

Name:	Amanda O'Mara COORDINATOR DEVELOPMENT ASSESSMENT	Signature:		Date:	7 July 2026
-------	---	------------	--	-------	-------------

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 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 with condition notice for any operational works required by this development approval:
- 1.3.1 to Council's satisfaction;
 - 1.3.2 at no cost to Council; and
 - 1.3.3 prior to the issue of the Survey Plan Approval Certificate, unless otherwise stated.
- 1.4 Infrastructure requirements of this development approval must be contributed to the relevant authorities, where applicable, at no cost to Council, prior to the issue of the Survey Plan Approval Certificate, unless otherwise stated.
- 1.5 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
- 1.5.1 Operational Works:
 - (i) Water Works;
 - (ii) Stormwater Works;
 - 1.5.2 Plumbing and Drainage Works; and
 - 1.5.3 Building Works:
 - (i) Demolition 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 Street numbering for the development must be in accordance with *Australian/New Zealand Standard for Rural and Urban Addressing (AS4819:2011)*. Council will allocate street numbering to the development in accordance with this standard at the time of issuing the Survey Plan Approval Certificate.
- 1.9 All development conditions contained in this development approval about infrastructure under Chapter 4 of the *Planning Act 2016* should be read as being non-trunk infrastructure conditioned under section 145 of the *Planning Act 2016*, unless otherwise stated.
- #### 2.0 APPROVED PLANS AND DOCUMENTS
- 2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by any condition of this development approval:

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version/ Issue</u>
Flood hazard Overlay Code Assessment Report	Storm Water Consulting	14 May 2026	J12976	V1.0
General Arrangement	STP Consultants	16 December 2025	STP25-1642 / C103	1
Detail and DTM Survey	Trig Consulting	12 November 2025	0521/13-001	B
Plan of Proposed Reconfiguration of Land	Trig Consulting	6 August 2025	0521/13-002	A

- 2.2 Where there is any conflict between the conditions of this development approval and the details shown on the approved plans and documents, the conditions of this development approval must prevail.

3.0 ACCESS WORKS

- 3.1 The existing access to the development from Lucas Street must be closed and removed.
- 3.2 The redundant vehicular crossovers must be replaced by Council standard kerb and channel.
- 3.3 The road reserve area must be restored with turf where the existing access has been removed. The restored road reserve area must match surrounding levels and be maintained in a healthy condition until established.

Note: Works in Road Reserve Permit must be obtained prior to the commencement of any works to be undertaken within the road reserve.

4.0 WATER WORKS

- 4.1 A Development Permit for Operational Works (water works) must be obtained prior to the commencement of any water works on the development site.
- 4.2 All water 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* and the provisions of a Development Permit for Operational Works (water works).
- 4.3 All lots within the development must be connected to Council's reticulated water supply network. Each lot must be provided with its own separate water supply connection point, located wholly within its respective property boundary.
- 4.4 The existing water connection point(s) located within the development site must be retained for proposed Lot 1. A new water connection point must be provided to proposed Lot 2, from the water supply infrastructure located within the northern side of Lucas Street.
- 4.5 A road crossing water conduits and associated water service pipe-works under Lucas Street must be constructed to service proposed Lot 2.

Note: If Fitzroy River Water (FRW) agrees to construct the water conduits and associated water service pipework under Lucas Street via a Private Works Quote arrangement, separate Operational Works approval for Water Works will not be required.

Note: Water service main along Lucas Street fronting proposed Lot 2 as shown on drawing **(General Arrangement, Job No: STP25-1642, C103, Rev 1, Dated 19/12/2025)** is not approved.

5.0 PLUMBING AND DRAINAGE WORKS

- 5.1 All internal plumbing and drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act, Plumbing and Drainage Act, Council's Plumbing and Drainage Policies* and the provisions of a Development Permit for Plumbing and Drainage Works.
- 5.2 All lots within the development must be connected to Council's reticulated sewerage network. Each lot must be provided with its own separate sewerage connection point, located wholly within its respective property boundary.

- 5.3 The existing sewerage connection point(s) located within the development site must be retained for proposed Lot 2. A new sewerage connection point must be provided to proposed Lot 1, from the sewerage infrastructure that traverses the development site.

Note: The location of sewerage connection point on proposed Lot 1 must be such that, any future development on proposed Lot 1 complies with the requirements of *Queensland Development Code, Mandatory Part 1.4 for building over or near relevant infrastructure*.

6.0 STORMWATER WORKS

- 6.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works required by this development approval.
- 6.2 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).
- 6.3 An access chamber must be installed on the existing stormwater main traversing the development site in accordance with approved plans (refer to condition 2.1).
- 6.4 A roof water stub must be constructed from the proposed access chamber to provide a connection point for roof-water drainage for each lot in accordance with approved plans (refer to condition 2.1).
- 6.5 A drainage easement must be provided on proposed Lot 2, in favour of proposed Lot 1, over the roof-water drainage stub servicing proposed Lot 1.
- 6.6 Allotment runoff from the development (each proposed Lot) must be directed to a lawful point of discharge and must not restrict, impair or change the natural flow of runoff water or cause an actionable nuisance or worsening to surrounding land or infrastructure.
- 6.7 The existing stormwater infrastructure (2 x 1050 millimetre reinforced concrete pipe) traversing the development site must be contained within a drainage easement. The easement width must provide a minimum setback of one and half (1.5) metres from the outermost projection of the stormwater main on both sides.

7.0 SITE WORKS

- 7.1 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"*.
- 7.2 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 surrounding land or infrastructure.

8.0 BUILDING WORKS

- 8.1 A Development Permit for Building Works must be obtained for the removal and/or demolition of any existing structure on the development site, prior to the issue of the Survey Plan Approval Certificate.

9.0 ELECTRICITY

- 9.1 Electricity services must be provided to each lot in accordance with the standards and requirements of the relevant service provider.
- 9.2 A *Certificate of Electricity Supply* from the relevant service provider must be provided to Council, prior to the issue of the Survey Plan Approval Certificate.

Note: The applicant can enter into a *Negotiated Connection Establishment Contract* with the Supplier for the provisioning of electrical services and/or street lighting. Provided the Applicant has undertaken all the conditions of the contract, including providing performance security, the Supplier will issue a *Certificate of Electricity Supply*.

10.0 TELECOMMUNICATIONS

- 10.1 Telecommunications services must be provided to each lot in accordance with the standards and requirements of the relevant service provider. Unless otherwise stipulated by telecommunications legislation at the time of installation, this includes all necessary pits, pipes and conduits that provide a connection to the telecommunications network.

Note: The Telecommunications Act 1997 (Commonwealth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required.

- 10.2 Evidence of acceptance of the works from the relevant service provider must be provided to Council, prior to the issue of the Survey Plan Approval Certificate.

Note: This will be a letter from either:

NBN a 'Certificate of Practical Completion';

Telstra a "Telecommunications Agreement/Provisioning Letter"; or

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

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.
- 11.3 '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 issue of the Survey Plan Approval Certificate. This information must be provided in accordance with the Asset Design and As Constructed Manual (ADAC).

12.0 ENVIRONMENTAL

- 12.1 The Erosion Control and Stormwater Control Management Plan prepared and certified by suitably qualified person (*Certified Professional in Erosion and Sediment Control or Registered Soil Practitioner – Erosion and Sediment Control or Registered Professional Engineer of Queensland*), with appropriate knowledge and experience in erosion and sediment control design and implementation, in accordance with the *State Planning Policy 2017, International Erosion Control Association Best Practice Guidelines* and *Capricorn Municipal Design Guidelines* requirements, must be:
- 12.1.1 implemented, monitored and maintained for the duration of the works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped); and
- 12.1.2 available on-site for inspection by Council Officers whilst all works are being carried out.

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 Lucas Street.

ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

It is advised that under section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal cultural heritage legislation. The information on Aboriginal cultural heritage is available on the Department of Women, Aboriginal and Torres Strait Islander Partnerships and Multiculturalism website <https://www.dwatsipm.qld.gov.au/>

NOTE 2. Asbestos Removal

Any demolition and/or removal works involving asbestos materials must be undertaken in accordance with the requirements of the *Work Health and Safety Act 2011* and *Public Health Act 2005*.

NOTE 3. General Environmental Duty

General environmental duty under the *Environmental Protection Act 1994* prohibits unlawful environmental nuisance caused by noise, aerosols, particles, dust, ash, fumes, light, odour or

smoke beyond the boundaries of the development site during all stages of the development including earthworks, construction and operation.

NOTE 4. 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 5. Stormwater / Flooding Works

The development site is located within the Moores Creek catchment and is subject to inundation from the 1% AEP Local Storm / Overland Flow flood event. The site is mapped within areas of H1 (Low), H2 (Medium), and H3 (High) flood hazard, with flood depths of up to 1.0 metre, and is therefore affected by the Flood Hazard Overlay.

A Flood Hazard Overlay Code Assessment Report (**J12976, Version 1, dated 14/05/2026**) was submitted in support of the proposed development on each lot. The proposal for Lot 2 comprises a suspended floor residential dwelling including a garage, excluding the driveway. The proposal for Lot 1 comprises a suspended floor residential dwelling, excluding the garage and driveway.

The portions of the building footprints located within the 1% AEP Local Storm / Overland Flow inundation extent are proposed to be elevated on stumps. Finished floor levels for all habitable rooms are to be constructed a minimum of 500 millimetres above the defined flood level, being 11.27 metres Australian Height Datum plus 500 millimetres.

The Flood Hazard Overlay Code Assessment Report demonstrates that the proposed development will not result in actionable nuisance or exacerbate flooding impacts on surrounding land or infrastructure. Upstream and downstream flood conditions are expected to remain comparable to existing conditions, and the conveyance of flows through the site will be managed to ensure no adverse impacts occur to adjoining properties or existing infrastructure.

NOTE 6. Future Development Earthworks / Site Works

A Flood Hazard Overlay Code Assessment Report (**J12976, Version 1, dated 14/05/2026**) has been submitted in support of the future development proposed on Lots 1 and 2. The proposal comprises a residential dwelling on each lot.

The post-development flood model incorporates minor earthworks associated with the construction of the proposed residential dwellings, noting that detailed earthworks plans have not been provided at this stage.

It is required that the earthworks adopted in the flood modelling are consistent with those developed as part of the detailed design at the Building Works stage. Any inconsistency between the approved earthworks and the flood model may result in inaccurate flood risk assessments, increased flood levels, and the potential invalidation of the overall flood assessment.

NOTE 7. Property Note (Future Development and Building Works)

All future buildings on proposed Lots 1 and 2:

The finished floor level for habitable areas must be a minimum of 500 millimetres above a one percent (1%) Annual Exceedance Probability flood inundation level.

All non-habitable areas subjected to flood inundation during a one percent (1%) Annual Exceedance Probability defined flood event, must be designed and constructed using suitable flood resilient materials.

Any application for Building Works must be accompanied by a detailed structural engineering report and a building certificate prepared by a suitably qualified *Registered Professional Engineer of Queensland*, which demonstrates that the building has been designed to withstand the forces created by floodwaters and debris loading.

All electrical and telecommunication services and utilities connected to the property, including electrical outlets, must be designed and installed at such a height that they are a minimum of 500 millimetres above a one percent (1%) Annual Exceedance Probability defined flood event.

NOTE 8. Infrastructure Charges Notice

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

NOTE 9. Access Works

For any future development proposed on Lots 1 and 2, the construction of access works must be in accordance with *Capricorn Municipal Development Guidelines*. Further, a Works in Road Reserve Permit must be obtained prior to the commencement of any works to be undertaken within the road reserve.

NOTE 10. Plumbing and Drainage Works

For any future development proposed on Lots 1 - 2, the construction of internal plumbing and sanitary drainage works must be in accordance with regulated work under the *Plumbing and Drainage Act* and Council's Plumbing and Drainage Policies.

All sanitary drainage works must comply with *Australian Plumbing and Drainage Standard AS3500 Part 2 section 3 and 4* for flood affected areas.

NOTE 11. Drainage Works

For any future development proposed on Lots 1 and 2, all roof water must be collected and drained to the roof-water drainage infrastructure to be provided within the Lot.

NOTE 12. Building Over Sewerage Infrastructure

Building over the existing sewerage infrastructure is proposed as part of the future development of proposed Lot 1. An application must be submitted to Council in accordance with *Council's Building Over/Adjacent to Local Government Sewerage Infrastructure Policy*. All building works must be carried out in accordance with the requirements of this policy and any approval issued under it.

NOTE 13. Building Adjacent to Stormwater Infrastructure

Building adjacent to existing stormwater infrastructure is proposed as part of the future development of proposed Lot 1. An application must be submitted to Council in accordance with Council's Building Over/Adjacent to Local Government Sewerage Infrastructure Policy for assessment of the proposed footing design at the Building Application stage. The existing stormwater main is greater than two (2) metres in depth, and pier footings may be required to comply with the requirements of Council's policy.

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 (i) The working out of extra demands, for section 120; or (ii) An offset or refund; or b) There 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	-	-