



# 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/17-2025	Contact:	Kathy McDonald
Notice Date:	4 November 2025	Contact Number:	07 4936 8099

## APPLICANT DETAILS

Name:	L F Moloney		
Postal address:	C/- GSPC PO BOX 379 GRACEMERE QLD 4702		
Phone no:	07 4922 7044	Mobile no:	n/a
Email:	<a href="mailto:admin@gspc.com.au">admin@gspc.com.au</a>		

I acknowledge receipt of the above application on 20 February 2025 and confirm the following:

## DEVELOPMENT APPROVAL

<b>Development Permit for Reconfiguring a Lot for a Subdivision (one lot into two lots)</b>
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## PROPERTY DESCRIPTION

Street address:	103 Morgan Street, Kabra
Real property description:	Lot 10 on LN51

<p><b>Dear L F Moloney</b></p> <p>I advise that, on 28 October 2025 the above development application was:</p> <p><input checked="" type="checkbox"/> approved in full with conditions* (refer to the conditions contained in <b>Attachment 1</b>)</p> <p>*Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.</p>
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## 1. DETAILS OF THE APPROVAL

The following approvals are given:

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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Reconfiguring a lot	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

## 2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

## 3. FURTHER DEVELOPMENT PERMITS REQUIRED – NIL

## 4. REFERRAL AGENCIES – NIL

## 5. THE APPROVED PLANS

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

Plan/Document Name	Prepared by	Date	Reference No.	Version/ Issue
Reconfiguring a Lot Plan	GSPC	7 February 2025	231278-01 Sheet 1 of 1	-
Service Location Diagram	GSPC	27 March 2025	231278-02	-
Soil Assessment Report	Elders	04 September 2025	103 Morgan Street, Kabra	1

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

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

## 7. STATEMENT OF REASONS

<b>Description of the development</b>
Reconfiguring a Lot for a Subdivision (one lot into two lots)
<b>Reasons for Decision</b>
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.
<b>Assessment Benchmarks</b>
The development was assessed against the following assessment benchmarks: <ul style="list-style-type: none"><li>• Local Government Infrastructure Plan;</li><li>• Strategic Framework;</li><li>• Rural Zone Code;</li><li>• Access, Parking and Transport Code;</li><li>• Landscape Code;</li><li>• Stormwater Management Code;</li><li>• Water and Sewer Code;</li><li>• Filling and Excavation Code;</li><li>• Reconfiguring a Lot Code;</li><li>• Flood Hazard Overlay Code;</li><li>• Steep Land Overlay Code; and</li><li>• Special Management Area Overlay Code.</li></ul>
<b>Compliance with assessment benchmarks</b>
The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exceptions listed below.

Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
<p><b>Strategic Framework</b></p>	<p><b>3.3 Settlement Pattern</b></p> <p><b>3.8.2 Element – Rural</b></p> <p><b>3.3.6.1 Specific Outcomes (3 in part), (6) and (7)</b></p> <p>The proposed development conflicts with Specific Outcomes (3 in part), (6) and (7) of the Rural designation because the development is for a subdivision (one lot into two lots) of land located within the Rural Zone and not of the minimum lot size requirement of 100 hectares; and partially affected by the Special Management Area Overlay.</p> <p>Despite this, the proposed development can comply on balance with the remaining relevant overall Specific Outcomes of the Rural Settlement Pattern which state:</p> <p>Specific Outcomes:</p> <ol style="list-style-type: none"> <li>(1) Rural land has important economic, environmental and scenic values and provides for uses including primary production, mining and tourism.</li> <li>(2) Rural land is not used for urban development and is to be protected for its productive, landscape and natural resource values.</li> <li>(3) Within this overlay (Special Management Area) no further subdivision or the establishment of new sensitive land uses is supported.</li> <li>(4) Development will not alienate or impact on the productive agricultural capacity of rural areas.</li> <li>(5) Separation areas from existing and future planned residential land uses are provided to maximise, preserve and protect agricultural production capacity and amenity values.</li> </ol> <p><u>Response to above Specific Outcomes:</u></p> <ol style="list-style-type: none"> <li>1. The subject site with a total land area of 4.763 hectares is currently not of a land mass size for a large scale primary production, mining or tourism land use. The site is currently improved by a single dwelling house with ancillary structures and not developed in this capacity.</li> <li>2. The proposed development is for a subdivision only (one lot into two lots), no changes to the sites productive, landscape and natural resource values will be compromised as a result of the subdivision. Any future land use on the proposed new Lot 2 would be subject to Council’s standard assessment process and the categories of development and assessment.</li> <li>3. The subject site is only partially affected by the Special Management Area Overlay and proposed new Lot 2 has sufficient area that is unaffected by this overlay (approximately 4,275 square metres) that can be suitably developed.</li> <li>4. The proposed subdivision proposes no structures or external impacts to agriculture land. The proposed two (2) lots will be of a sufficient size to appropriately accommodate small rural land uses (hobby farms). Furthermore, a Soil Assessment Report was submitted to assess the suitability and productivity for pasture production and grazing on the subject site and determined to be deficient in essential elements for agricultural purposes and limited in grazing capacity due to the composition and fodder quality of the currently established grass species. <i>A further response to the developments compliance with this element is provided below under 3.8 Natural Resources and Economic Development.</i></li> <li>5. The proposed subdivision will result in two (2) lots with site areas of 2.215 and 2.554 hectares respectively. This area provides the dimensions required to meet the minimum 20 metre setback from all site boundaries and will provide the required separation distance buffer from any intensive animal industry, extractive industry, or a similar potential use on neighbouring rural land.</li> </ol> <p>Furthermore, the development complies with the remaining Strategic Framework themes:</p>

	<p><b>3.4 Natural environment and hazards</b> - the development does not create unsustainable impacts from natural hazards. The site is insignificantly affected by Planning Area 1 and 2 local creek catchment from an overland flow path, however both proposed lots have optimal developable land outside of this hazard.</p> <p><b>3.5 Community identity and diversity</b> – The Kabra locality has seen eight (8) new dwelling house applications since July 2017. The development will contribute to the provision of one (1) new lot for development to facilitate the limited residential growth of the rural community sought by the provisions of, and in line with the estimated resident population growth of Kabra from 2017 to 2031 which predicts a total of 12 new dwelling houses within that period as per <i>Schedule 3 - Local government infrastructure plan (LGIP) mapping and tables, SC3.1 Planning assumption tables and Table SC3.1.1.1 Existing and projected population</i>.</p> <p>Furthermore, historic features on the subject site reflect the identity of the existing Kabra community and will contribute to and enhance the character of the area in line with <i>3.5.4 Element – Heritage and Character – 3.5.4.1 Specific Outcome (1) and (2). Refer to Relevant Matters</i>.</p> <p><b>3.6 Access and mobility</b> – the development proposes no changes to the road network.</p> <p><b>3.7 Infrastructure and services</b> – the Kabra locality (including the subject site) is not connected to Councils sewer or water. The site has an existing dwelling house with on-site services; and the new proposed Lot 2 is of sufficient size to accommodate the requirements of on-site services. The development will not conflict with future infrastructure and services identified on <i>SFM-11 Strategic Framework Map – Infrastructure – Gracemere</i> as no changes to access arrangements are required and each proposed lot will retain existing access arrangements to Morgan Street.</p> <p><b>3.8 Natural resources and economic development</b> – the development will not impact on the nearby major industrial area at Gracemere which is considered to be a key economic asset. The existing dwelling house on proposed Lot 1 maintains a 140 metre setback to the nearest Medium Impact Industry Zone to the South and 455 metres from the nearest High Impact Industry Zone to the East. The proposed new Lot 2 will have an increased setback of 250 metres to the South and 500 metres to the East.</p> <p>Furthermore, the subject site is partially affected by the Agricultural Land Classification Overlay with approximately 8,000 square metres affected to the south of proposed new Lot 2 and proposed Lot 1 (existing dwelling) is fully encumbered. However, the subject site is located within the urban development area shown on the <i>Strategic Framework map SFM-1</i> and complies with 3.8.4.1 Specific Outcome (2) which states: The loss of productive rural land is minimised by limiting urban development to the areas as shown on the <i>Strategic Framework maps (SFM-1 to SFM-4)</i>. A Soil Assessment Report was submitted to assess the suitability and productivity for pasture production and grazing on the subject site and determined to be unproductive.</p> <p>Therefore, on balance the proposed development is not anticipated to compromise the Strategic Framework of the <i>Rockhampton Region Planning Scheme 2015</i>. To the extent any conflicts are identified with these assessment benchmarks, regard to relevant matters is considered to outweigh those conflicts.</p>
<p><b>Rural Zone Code</b></p>	<p><b>6.7.4.2 Purpose</b> <b>(2), (f); and</b> <b>Performance Outcome (PO) 34</b></p> <p>The proposed development does not comply with the following Overall Outcome (2), (f) of the Rural Zone Code Purpose:</p> <p>f) which states: “all rural land is maintained in large land holdings to protect the agricultural production capacity. In this regard, the reconfiguration of land only occurs when lot size is 100 hectares unless otherwise stated in a precinct”.</p> <p>The proposed development is for a subdivision (one lot into two lots) over land with a total site area of 4.763 hectares. At present, the site does not comply with the minimum</p>

	<p>lot size requirement for a lot located within the Rural Zone and is unable to achieve compliance with the overall outcome.</p> <p>Furthermore, the proposed development does not comply with Acceptable Outcome (AO) 34.1 which states: “Unless otherwise stated in a precinct the minimum lot size is 100 hectares”.</p> <p>Despite this, the overarching PO of 34 states: “the further subdivision of land is limited to reflect the suitability of the land for primarily grazing purposes and to protect water quality, environmental and landscape values”.</p> <ul style="list-style-type: none"> <li>• The subject site is not suitable for large rural uses for grazing purposes given its relatively small size. The subdivision will not modify the landscape values, agricultural or environmental aspects of the land and will result in two (2) lots of sufficient size to appropriately accommodate small rural land uses, eg hobby farms and cropping that are not large scale and designed to complement rather than compete with traditional large scale rural activities like farming or agriculture.</li> </ul> <p>Therefore, the proposed development is taken to comply with PO 34; and</p> <p>To the extent any conflicts are identified with the purpose of the Rural Zone Code, regard to relevant matters is considered to outweigh those conflicts.</p>
<p><b>Reconfiguring a Lot Code</b></p>	<p><b>Performance Outcome (PO) 7</b></p> <p>The proposed development does not comply with Acceptable Outcome (AO) 7.1 as it does not meet the dimensions or minimum area for lots located within the Rural Zone in accordance with Table 9.3.5.3.2.</p> <p>Despite this, the development can comply with the overarching Performance Outcome as the proposed subdivision will result in two (2) lots with site areas of 2.215 and 2.554 hectares respectively. This area provides the dimensions required to facilitate the efficient development of the land for its intended purpose and will have sufficient area to provide for:</p> <ul style="list-style-type: none"> <li>(a) appropriate buildings and structures;</li> <li>(b) adequate usable open space and landscaping;</li> <li>(c) ventilation and sunlight;</li> <li>(d) privacy for residents;</li> <li>(e) suitable vehicle access and on-site parking where required; and</li> <li>(f) any required on-site services and infrastructure such as effluent disposal areas.</li> </ul> <p>Therefore, the proposed development is taken to comply with PO 7.</p>
<p><b>Special Management Area Overlay Code</b></p>	<p><b>Performance Outcome (PO) 4</b></p> <p>The proposed development does not comply with Acceptable Outcome (AO) 4.1 which states: No additional lots are created.</p> <p>The subdivision (one lot into two lots) is proposed on land partially identified as an area that may be impacted upon by industrial or landfill activities, specifically the Gracemere Industrial estate.</p> <p>Strategic Framework theme 3.8 Natural resources and economic development of the Strategic Framework under 3.8.8 Element – Protection of key assets and 3.8.2.1 Specific outcome (1) states that key economic assets are protected from encroachment of incompatible development and supported to continue and grow their primary function.</p> <p>The subdivision is not considered to encroach on the ability or primary function of the Gracemere Industrial estate because:</p> <ul style="list-style-type: none"> <li>• The new lot created will be located approximately 400 metres west of a lot zoned industrial, which is a sufficient separation distance that will provide an effective natural buffer to mitigate any potential air, light, noise or odour emissions that may be generated from a future industrial land use; and</li> <li>• The site is only partially affected by the Special Management Area Overlay with an</li> </ul>

	<p>area size of one (1) acre unencumbered within proposed new Lot 2.</p> <p>Therefore, the development is not anticipated to be detrimental to the continued protection of the Gracemere Industrial estate and will not compromise the Strategic Framework of the <i>Rockhampton Region Planning Scheme 2015</i>.</p>
<p><b>Flood Hazard Overlay Code</b></p>	<p><b>Performance Outcome (PO) 14</b></p> <p>The proposed development does not comply with Acceptable Outcome (AO) 14.1 or the corresponding Performance Outcome because the development (subdivision) will result in an additional lot that is affected by the Flood Hazard Overlay.</p> <p>Since this development application was lodged, changes to the <i>Rockhampton Region Planning Scheme 2015</i> version 5 have been adopted 28 March 2025. These changes included the reduced level of assessment for Reconfiguring a Lot (subdivisions) affected by the Flood Hazard Overlay from Impact to Code and specific changes to AO14.1 and PO14 that the application now complies with.</p> <p>There is an existing overland flowpath through proposed Lot 2 that contains some small, isolated areas of Planning Areas 1 and 2 however the majority of the flowpath is less than 300 millimetres deep and will not cause any issues with access or future house siting.</p> <p>Therefore, the proposed development is taken to comply with PO 14 of the Flood Hazard Overlay Code under the <i>Rockhampton Region Planning Scheme 2015</i> version 5; and complies with the overall purpose of the Flood Hazard Overlay Code under the <i>Rockhampton Region Planning Scheme 2015</i> version 4.4 as the development is resilient to flood hazard and does not expose people and property to unacceptable risk in all flood hazard events.</p>
<p><b>Relevant Matters</b></p>	
<p>The proposed development was assessed against the following relevant matters:</p> <ul style="list-style-type: none"> <li>• Under the <i>Fitzroy Shire Planning Scheme 2005</i>, the subject site Lot 10 on LN51 was included in the Village Zone of Kabra which is the equivalent to the current Township Zone under the <i>Rockhampton Region Planning Scheme 2015</i>. This would indicate that the subject site was considered to be integrated within the Kabra township.</li> <li>• The historic values of the subject site indicate that the property holds a significance cultural heritage to the township of Kabra because: <ul style="list-style-type: none"> <li>○ The subject site Lot 10 on LN51 was the location of the Kabra Provisional School which opened on 29 October 1902. On 1 January 1909 it became Kabra State School. Due to falling enrolment numbers, the school closed on 23 February 1941. <i>Reference "NEW RESERVES". The Queenslander. National Library of Australia. 26 July 1902. p. 223.</i> The records indicate the property changed from 'School Reserve' to 'Freehold' in 1963 and the only remaining building left from the Kabra State School was an old shed that unfortunately was structurally damaged in the Kabra fire of 2018, since replaced.</li> </ul> </li> <li>• If the site had remained in the Township Zone (Kabra Precinct), the proposed subdivision would exceed the minimum lot size and dimension requirements set out under Table 9.3.5.3.2 of the Reconfiguring a Lot Code.</li> <li>• The proposed lots are a community need as they provide rural residential living on large lots and are identified on State Mapping to be located within a Priority Living Area (PLA) under the <i>Regional Planning Interests Regulation 2014</i>. They cater to a desire for a semi-rural lifestyle, including the potential for hobby farming or animal keeping within the limits of the zone.</li> </ul>	
<p><b>Matters raised in submissions</b></p>	
<p>The proposal was the subject of public notification between 8 April 2025 and 2 May 2025, in accordance with the requirements of the Planning Act 2016 and the Development Assessment Rules, and no submissions were received.</p>	
<p><b>Matters prescribed by regulation</b></p>	

- The Rockhampton Region Planning Scheme 2015 (version 4.4 and version 5).
- Central Queensland Regional Plan 2013; and
- The common material, being the material submitted with the application.

## 8. APPEAL RIGHTS

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

### Appeal by an applicant

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

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

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

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

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

## 9. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT

This development approval takes effect:

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

Or

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

Or

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

## 10. ASSESSMENT MANAGER

Name: **Kathy McDonald**  
**PRINCIPAL PLANNING**  
**OFFICER**

Signature:



Date: 4 November 2025

### **Attachment 1 – Conditions of the approval**

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

### **Attachment 2—Extract on appeal rights**

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 must be undertaken and completed:
- 1.3.1 to Council’s satisfaction;
  - 1.3.2 at no cost to Council; and
  - 1.3.3 prior to the issue of the Survey Plan Approval Certificate, unless otherwise stated.
- 1.4 All works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.
- 1.5 A 25 metre wide strip of land, along the southern boundary of proposed Lot 1, must be dedicated to Council for road reserve to appropriately accommodate a future Industrial Collector Road hierarchy. This trunk infrastructure has been identified as T-57 in the Local Government Infrastructure Plan and is conditioned under section 128 of the Planning Act 2016.

2.0 APPROVED PLANS AND DOCUMENTS

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

Plan/Document Name	Prepared by	Date	Reference No.	Version/ Issue
Reconfiguring a Lot Plan	GSPC	7 February 2025	231278-01 Sheet 1 of 1	-
Service Location Diagram	GSPC	27 March 2025	231278-02	-
Soil Assessment Report	Elders	04 September 2025	103 Morgan Street, Kabra	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 PLUMBING AND DRAINAGE WORKS

- 3.1 On-site sewerage and internal sanitary drainage infrastructure must be located wholly within the respective property boundaries of the lot in which it serves.
- 3.2 Each lot must be provided with on-site sewerage treatment and disposal systems. All systems must comply with the Queensland Plumbing and Wastewater Code, Australian Standard AS1547:2012 “On-site domestic wastewater management” and Council Plumbing and Drainage Policies.
- 3.3 Sustainable Water sources including rainwater tanks, and a bore or small dam must be provided and located wholly within the respective property boundaries of the lot in which it serves.
- 3.4 The existing bore water line for Lot 1 must be relocated outside of proposed Lot 2 boundaries.

Note: It is advised that a Works in Road Reserve Permit must be obtained from Council for the works.

#### 4.0 SITE WORKS

4.1 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to surrounding land or infrastructure.

#### 5.0 ELECTRICITY

5.1 Electricity services must be provided to each lot in accordance with the standards and requirements of the relevant service provider.

#### 6.0 TELECOMMUNICATIONS

7.0 Telecommunications services can be provided to each lot in accordance with the standards and requirements of the relevant service provider.

#### 8.0 ASSET MANAGEMENT

8.1 Any alteration necessary to electricity, telephone, 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.

#### 9.0 OPERATING PROCEDURES

9.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the development site. Storage of materials, or parking of construction machinery or contractors' vehicles must not occur within Morgan 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.tatsipca.qld.gov.au/>

#### NOTE 2. General Environmental Duty

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

#### NOTE 3. General Safety of Public During Construction

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

#### NOTE 4. 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 5. Rural Addressing

All Rural addressing must be provided to each lot in accordance with Council's rural addressing procedures and must be in accordance with *Australian/New Zealand Standard for Rural and Urban Addressing (AS4819:2011)*.

#### NOTE 6. Property Note (Building)

Any future habitable structures (Dwelling House) located on proposed Lot 2 will require a Material Change in Use application and assessment against the *Rockhampton Region Planning Scheme 2015*.

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

### Appeal rights

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

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

#### 230 Notice of appeal

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

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

#### 231 Other appeals

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

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

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

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

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

**Schedule 1**

**Appeals section 229**

**1 Appeal rights and parties to appeals**

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

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

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

<b>Table 1</b> <b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
		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
<b>2. Change applications</b> 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
<b>3. Extension applications</b> An appeal may be made against— (a) the assessment manager's decision about an extension application; or (b) a deemed refusal of an extension application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 The applicant 2 For a matter other than a deemed refusal of an extension application – a concurrence agency, other than the chief executive, for the application	The assessment manager	If a concurrence agency starts the appeal – the applicant	If a chosen assessment manager is the respondent – the prescribed assessment manager

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

<p><b>4. Infrastructure charges notices</b> An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds</p> <p>a) The notice involved an error relating to –</p> <p>(i) The application of the relevant adopted charge; or</p> <p>Examples of errors in applying an adopted charge –</p> <ul style="list-style-type: none"> <li>• The incorrect application of gross floor area for a non-residential development</li> <li>• Applying an incorrect ‘use category’, under a regulation, to the development</li> </ul> <p>(i) The working out of extra demands, for section 120; or</p> <p>(ii) An offset or refund; or</p> <p>b) The was no decision about an offset or refund; or</p> <p>c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or</p> <p>d) The amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the Infrastructure charges notice	The local government that gave the infrastructure charges notice	-	-
<p><b>5. Conversion applications</b> An appeal may be made against—</p> <p>(a) the refusal of a conversion application; or</p> <p>(b) a deemed refusal of a conversion application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The local government to which the conversion application was made	-	-
<p><b>6. Enforcement notices</b> An appeal may be made against the decision to give an enforcement notice.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the enforcement notice	The enforcement authority	-	If the enforcement authority is not the local government for the premises in relation to which the offence is alleged to have happened—the local government

**Table 2  
Appeals to the P&E Court only**

<p><b>1. Appeals from tribunal</b> An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of—</p> <p>(a) an error or mistake in law on the part of the tribunal; or</p> <p>(b) jurisdictional error.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A party to the proceedings for the decision	The other party to the proceedings for the decision	-	-

**Table 2  
Appeals to the P&E Court only**

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

**Table 2  
Appeals to the P&E Court only**

An appeal may be made against a decision of the Minister under chapter 7, part 4.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 A person given a decision notice about the decision 2 If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the affected area for the registered premises who is dissatisfied with the decision	The Minister	-	If an owner or occupier starts the appeal – the owner of the registered premises
6. Local laws An appeal may be made against a decision of a local government, or conditions applied, under a local law about— (a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or (b) the erection of a building or other structure.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who— (a) applied for the decision; and (b) is dissatisfied with the decision or conditions.	The local government	-	-

**Table 3  
Appeals to the tribunal only**

1. Building advisory agency appeals An appeal may be made against giving a development approval for building work to the extent the building work required code assessment against the building assessment provisions.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A building advisory agency for the development application related to the approval	The assessment manager	The applicant	1 A concurrence agency for the development application related to the approval 2 A private certifier for the development application related to the approval
3. Certain decisions under the Building Act and the Plumbing and Drainage Act An appeal may be made against a decision under— (a) the Building Act, other than a decision made by the Queensland Building and Construction Commission; or (b) the Plumbing and Drainage Act, part 4 or 5.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)

<b>Table 3</b>			
<b>Appeals to the tribunal only</b>			
A person who received, or was entitled to receive, notice of the decision	The person who made the decision	-	-
<p>4. Local government failure to decide application under the Building Act            An appeal may be made against a local government's failure to decide an application under the Building Act within the period required under that Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who was entitled to receive, notice of the decision	The local government to which the application was made	-	-