



# Decision Notice Approval (amended)

Planning Act Form 5 (version 1.1 effective 22 June 2018) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s83 (change application) Planning Act 2016, and Section 3.5.15 of the Integrated Planning Act 1997

Application number:	<b>D-R/1571-2008</b>	Contact:	Kathy McDonald
Notice Date:	26 April 2023	Contact Number:	1300 22 55 77

## APPLICANT DETAILS

Name:	<b>Ergon Energy Corporation Limited</b>		
Postal address:	<b>26 Reddacliff Street NEWSTEAD QLD 4006</b>		
Phone no:	N/A	Mobile no:	0447 671 554 Email: Angela.cobcroft@energyq.com.au

I acknowledge receipt of the above change application on 14 March 2023 and confirm the following:

## DEVELOPMENT APPROVAL

**Development Permit for Material Change of Use for an Educational Establishment and Public Facility (extension to an Educational Establishment)**

## PROPERTY DESCRIPTION

Street address:	63 Glenmore Road, Park Avenue
Real property description:	Lot 341 on LN2124, Lot 17 on LN867 and Lot 10 on R26199, Parish of Murchison

## OWNER DETAILS

Name:	Ergon Energy Corporation Limited
Postal address:	C/- Ventia Utility Services Pty Ltd GPO Box 1461 BRISBANE QLD 4001
<b>Dear Ergon Energy Corporation Limited</b> I advise that on 18 April 2023 the above change application was: <input checked="" type="checkbox"/> approved in full with conditions* (refer to the conditions contained in <b>Attachment 1</b> )  *Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.	

## CHANGES TO CONDITIONS

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

1)	Condition 1.1	Changed	18 April 2023
2)	Condition 3.4	New	18 April 2023
3)	Condition 4.4	New	18 April 2023

## 1. DETAILS OF THE APPROVAL

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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material Change of use	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

## 2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

## 3. FURTHER DEVELOPMENT PERMITS REQUIRED

Please be advised that the following development permits are required to be obtained before the development can be carried out:

Type of development permit required	Subject of the required development permit
Operational Works	<i>Access and Parking Works;</i> <i>Stormwater Works;</i> <i>Roof and Allotment Drainage Works; and</i> <i>Landscaping Works</i>
Building Works	
Plumbing and Drainage Works	

## 4. REFERRAL AGENCIES

The following Referral Agencies were activated by this application.

For an application involving	Name of agency	Status	Address
If the lot shares a common boundary with a <b>protected area or registered place</b> under the <i>Queensland Heritage Act 1992</i>	Environmental Protection Agency	Advice	Ecoaccess Customer Service Unit  Environmental Protection Agency  PO Box 15155  CITY EAST QLD 4002

For an application involving	Name of agency	Status	Address
<p>On land involving the consideration of <b>contaminated land</b> matters if –</p> <p>(i) The land is on the environmental management register or contaminated land register under the <i>Environmental Protection Act 1994</i>; or</p> <p>(ii) The existing or most recent use of the land was a notifiable activity; or</p> <p>(iii) The proposed use of the land is for a child care, educational, recreational, residential or similar purpose and the existing or most recent use of the land was an industrial activity; or</p> <p>(iv) The land is wholly or partly within an area for which an area management advice for industrial activity or natural mineralisation has been issued and the proposed use of the land is for child care, education, recreation, residential or similar purpose</p>	Environmental Protection Agency	Concurrence	Contaminated Land Unit GPO Box 2771, BRISBANE QLD 4001
<p>An MCU not associated with reconfiguring a lot if –</p> <p>(i) any part of the premises is subject to an <b>electricity easement</b>, and any structure or work is located wholly or partly within the easement; or</p> <p>(ii) any part of the premises is situated within 100 metres of a substation site</p>	The Chief Executive of the entity	Advice	Ergon P O Box 1090 GARbutt QLD 4815
<p>For the purposes impacting on the provision of <b>public passenger transport</b> or <b>railway safety and efficiency</b> and listed in schedules 13C or 13D of the <i>Integrated Planning Regulation 1998</i> and exceeding the thresholds given in the schedules</p>	Queensland Transport	Concurrence	Principal Manager Transport Planning Branch GPO Box 213, BRISBANE QLD 4001

## 5. THE APPROVED PLANS

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

Plan/Document Name	Plan Number	Dated
Training – Plans, Elevations, Section & Details	1577-CD-A-04	24 June 2022

Proposed Site Plan	CD0-01-A	8 March 2023
Existing Site Plan	CD0-02-A	8 March 2023
New Workshop – Floor Plan	SD1-02-B	3 February 2023
New Workshop – Roof Plan	SD1-04-A	14 February 2023
New Workshop – Mez FFL	SD1-05-A	15 February 2023
Workshop Sections – 1	SD2-04-A	14 February 2023
Workshop Sections – 2	SD2-05-A	14 February 2023
Workshop Elevations	SD3-01-A	14 February 2023
Existing Usage	DA 4G 005A	August 2008
Proposed Usage	DA 4G 006A	August 2008
Proposed Ground Floor Plan	DA 4G 410A	August 2008
Proposed First Floor Plan	DA 4G 411A	August 2008
Proposed Elevations (N-W & N-E)	DA 4G 430B	August 2008
Proposed Elevations (S-W & S-E)	DA 4G 431B	August 2008
Proposed Sections (C & D)	DA 4G 450B	August 2008
Landscape Concept Plan	DA-4G 460A	August 2008
Planting Details	DA-4G 461A	August 2008
Landscape Details	DA-4G 462A	August 2008

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

The standard relevant periods stated in section 85 of *Planning Act 2016* apply to each aspect of development in this approval, if not stated in the conditions of approval attached.

## **7. RIGHTS OF APPEAL**

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

### Appeal by an applicant

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

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

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

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

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

#### **8. 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.

#### **9. ORIGINAL DECISION ASSESSMENT MANAGER**

Name:	<b>Henry Bezuidenhout</b> <b><u>MANAGER PLANNING ASSESSMENT</u></b> <b><u>OPERATIONS (ROCKHAMPTON)</u></b>	Date:	1 May 2009
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#### **10. ASSESSMENT MANAGER**

Name:	<b>Brendan Standen</b> <b><u>ACTING COORDINATOR</u></b> <b><u>DEVELOPMENT ASSESSMENT</u></b>	Signature:		Date:	26 April 2023
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C/C Department of State Development, Manufacturing, Infrastructure and Planning- [RockhamptonSARA@dsdmip.qld.gov.au](mailto:RockhamptonSARA@dsdmip.qld.gov.au)

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

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

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

**1.0 ADMINISTRATION**

- 1.1 The approved use and development must be completed and maintained generally in accordance with the approved drawings and documents, except where amended by the conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan Number</u>	<u>Dated</u>
Training – Plans, Elevations, Section & Details	1577-CD-A-04	24 June 2022
Proposed Site Plan	CD0-01-A	8 March 2023
Existing Site Plan	CD0-02-A	8 March 2023
New Workshop – Floor Plan	SD1-02-B	3 February 2023
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Proposed Elevations (S-W & S-E)	DA 4G 431B	August 2008
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Landscape Concept Plan	DA-4G 460A	August 2008
Planting Details	DA-4G 461A	August 2008
Landscape Details	DA-4G 462A	August 2008

- 1.2 Where there is any conflict between conditions of this decision notice and details shown on the approved plans, the conditions of approval must prevail.
- 1.3 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion,

that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.

- 1.4 The Developer is responsible for ensuring compliance with this Approval and the Conditions of the Approval by an employee, agent, contractor or invitee of the Developer.
- 1.5 All conditions, works, or requirements of this approval must be undertaken and completed to the satisfaction of Council.
- 1.6 The following further development permits are required prior to the commencement of any works on the site:
  - 1.6.1 Operational Works:
    - (i) Access and Parking;
    - (ii) Stormwater Works;
    - (iii) Roof and Allotment Drainage; and
    - (iv) Landscaping.
  - 1.6.2 Plumbing and Drainage Works; and
  - 1.6.3 Building Works.
- 1.7 All Development Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
- 1.8 This approval is valid for a period of four (4) years from the day the approval takes effect. If the use has not commenced in accordance with the approved conditions within four (4) years the approval will lapse.
- 1.9 Any outstanding rates, charges or expenses levied by the Council over the subject land must be paid prior to the issue of a Development Permit for Building Works.
- 1.10 All existing structures, buildings and bunded fuel tank areas identified on Proposed Site Plan DA 4G 004B to be demolished must be demolished and/or removed prior to the commencement of the use.
- 2.0 **ACCESS AND PARKING**
- 2.1 A Development Permit for Operational Works (access and parking) must be obtained prior to the commencement of any works on the site.
- 2.2 A minimum of seventy one (71) car parking spaces and six (6) motorcycle parks must be provided generally in accordance with the endorsed plans (refer to condition 1.1).
- 2.3 All car parking spaces must be clearly line marked to clearly distinguish between the small car parks, standard car parks and motorcycle parks, making provision for a minimum of two (2) parking spaces for vehicle occupants with disabilities and one (1) parking space for taxi/services in accordance with the endorsed plans (refer to condition 1.1).
- 2.4 All access points, car parking and access areas must be paved or sealed to the satisfaction of Council. Design and construction must be in accordance with the provisions of a Development Permit for Operational Works (access and parking). The layout must be generally in accordance with the endorsed plans (refer to condition 1.1).
- 2.5 All redundant vehicular crossings must be removed and replaced with the standard Council kerb and channel in accordance with Capricorn Municipal Development Guidelines.
- 2.6 All frontage works (including but not limited to public pathway, kerb and channel and the like) damaged as a result of the development must be repaired or replaced, to Council's satisfaction, prior to the commencement of the use. All works must be at no cost to Council.
- 2.7 All stormwater from the access and parking areas must be drained to the kerb and channel or an alternative lawful point of discharge, in accordance with Council's requirements.

### 3.0 SEWERAGE WORKS

- 3.1 The existing sewer connection points must be retained to service the proposed development. Council will not provide any additional or upgrade the sizes of any existing connection points unless requested by the applicant.
- 3.2 Any construction works proposed in the vicinity of Council's existing sewerage infrastructure must not adversely affect the integrity of the infrastructure. Any restoration works required on the existing sewerage infrastructure, caused by the construction of the proposed development, must be at no cost to Council.
- 3.3 All sanitary drainage works must be in accordance with regulated work under the Plumbing and Drainage Act.
- 3.4 The development must be connected to Council's reticulated sewerage network.

### 4.0 WATER WORKS

- 4.1 The existing water connection points must be retained to service the proposed development. Council will not provide any additional or upgrade the sizes of any existing connection points unless requested by the applicant.
- 4.2 Any construction works proposed in the vicinity of Council's existing water infrastructure must not adversely affect the integrity of the infrastructure. Any restoration works required on the existing water supply, caused by the construction of the proposed development, must be at no cost to Council.
- 4.3 All plumbing works must be in accordance with regulated work under the Plumbing and Drainage Act.
- 4.4 The development must be connected to Council's reticulated water supply network.

### 5.0 STORMWATER WORKS

- 5.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any works on the site.
- 5.2 All stormwater drainage must be collected on site and discharged via pipes to a Lawful Point of Discharge. All site drainage pipes must comply with the requirements of Australian Standard AS/NZS3500.3:2003 – Stormwater Drainage.
- 5.3 The development must not adversely affect any other land by way of blocking, altering or diverting existing stormwater runoff patterns or have the potential to cause damage to other infrastructure items.
- 5.4 Construction of piped roof water drainage to kerb and channel must be undertaken in accordance with Capricorn Municipal Development Guidelines Drawing SD-R-061.

### 6.0 ROOF AND ALLOTMENT DRAINAGE

- 6.1 A Development Permit for Operational Works (roof and allotment drainage) must be obtained prior to the commencement of any works on the site.
- 6.2 All roof water must be collected within the site and directed to a lawful point of discharge, in accordance with Council's requirements. Design and construction must be in accordance with a Development Permit for Operational Works (roof and allotment drainage).
- 6.3 All roof water drainage works must be designed and constructed in accordance with the Queensland Urban Drainage Manual and the Capricorn Municipal Design Guidelines, and sound Engineering practice.

### 7.0 BUILDING

- 7.1 Noise from any external elements, such as air conditioners, must not exceed 5dB(A) above the background ambient noise level, measured at the boundaries of the subject site.
- 7.2 A security fence with a minimum height of 1.8 metres must be constructed around the pole training area in accordance with the endorsed plans (refer to condition 1.1)



- 7.3 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the site and shielded so as not to cause glare or other nuisance to nearby residents and motorists. Night lighting must be designed, constructed and operated in accordance with '*Australian Standard AS4282 – Control of the obtrusive effects of outdoor lighting*'.
- 8.0 LANDSCAPING
- 8.1 A Development Permit for Operational Works (landscaping) must be obtained prior to the commencement of any works on the site.
- 8.2 Any application for a Development Permit for operational Works (landscaping) must be in accordance with the endorsed plans (refer to condition 1.1) and must include, but is not limited to, the following:
- 8.2.1 A plan documenting the "Extent of Works" and supporting documentation which includes:
- (i) location and name of existing trees, including those to be retained (the location of the trees shall be overlayed or be easily compared with the proposed development design);
  - (ii) the extent of soft and hard landscape proposed;
  - (iii) important spot levels and/or contours. The levels of the trees to be retained shall be provided in relation to the finished levels of the proposed buildings and works;
  - (iv) underground and overhead services;
  - (v) typical details of critical design elements (eg stabilisation of batters, retaining walls, podium/balcony planters, trees in car park areas, fences);
  - (vi) details of landscape structures including areas of deep planting; and
  - (vii) specification notes on mulching and soil preparation.
- 8.2.2 A "Planting Plan" and supporting documentation which includes:
- (i) trees, shrubs and groundcovers to all areas to be landscaped;
  - (ii) position and canopy spread of all trees and shrubs;
  - (iii) the extent and type of works (i.e. paving, fences, garden bed edging etc). All plants shall be located within an edged garden;
  - (iv) a plant schedule with the botanic and common names, total plant numbers and pot sizes at the time of planting; and
  - (v) mature screen planting to the eastern, western and southern boundaries.
- 8.3 The landscaped areas must be subject to an ongoing maintenance and replanting programme (if necessary).
- 9.0 ELECTRICITY AND TELECOMMUNICATIONS
- 9.1 Provide electricity and telecommunication connections to the proposed development to the requirements of the relevant authority.
- 10.0 CONTRIBUTIONS/COSTS
- 10.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be at no cost to Council.
- 11.0 ENVIRONMENTAL
- 11.1 Any application for a Development Permit for Operational Works or a Development Permit for Building Works must be accompanied by a detailed Environmental Management Plan, which addresses, but is not limited to, the following matters:
- (i) water quality and drainage;

- (ii) erosion and silt/sedimentation management;
- (iii) acid sulphate soils;
- (iv) fauna management;
- (v) vegetation management and clearing;
- (vi) top soil management;
- (vii) interim drainage plan during construction;
- (viii) construction programme;
- (ix) geotechnical issues;
- (x) weed control;
- (xi) bushfire management;
- (xii) emergency vehicle access;
- (xiii) noise and dust suppression; and
- (xiv) waste management.

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

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

The erosion and sediment control plan must incorporate detailed plans, control measures, monitoring programmes and maintenance procedures to ensure appropriate development and management practices within and adjacent to the site.

11.3 The Environmental Management Plan and the Erosion and Sediment Control Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.

11.4 No works can commence on the site unless and until an Environmental Management Plan and an Erosion and Sediment Control Plan has been approved by Council as part of Development Permit for Operational Works.

## 12.0 OPERATING PROCEDURES

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

12.2 The hours of operation for the use of the premises for training purposes must occur in accordance with the following requirements:

- 12.2.1 Monday to Friday 0600 to 1800 hours; and
- 12.2.2 No operation on weekends and Public Holidays.

12.3 Noise from the activity must not cause an environmental nuisance.

12.4 All waste must be stored within a waste bin compound. e.g. general waste, recyclable waste, pallet etc. The owner of the land is to ensure that the waste bin compound is:

- 12.4.1 Surrounded by at least a 1.8m high fence that obstructs from view the contents of the bin compound by any member of the public from any public place;
  - 12.4.2 Of a minimum size to accommodate two (2) commercial type bins of three (3) cubic metre each and
  - 12.4.3 Kept in a clean, tidy condition.
- 12.5 The owner of the land must ensure that the waste containers are:
- 12.5.1 Stored within the waste bin compound;
  - 12.5.2 Securely covered at all times; and
  - 12.5.3 Maintained in a clean condition and in good repair.

#### Advisory Notes

NOTE 1. Aboriginal Cultural Heritage Act, 2003

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 Natural Resources, Mines and Water’s website [www.nrm.qld.gov.au/cultural\\_heritage/index.html](http://www.nrm.qld.gov.au/cultural_heritage/index.html).

NOTE 2. Asbestos Removal

Any demolition and/or removal works involving asbestos materials must be undertaken in accordance with the requirements of the Workplace Health and Safety legislation.

NOTE 3. Dust Control

It is the developer’s responsibility to ensure compliance with Part 2A - Environmental Nuisance of the Environmental Protection Regulation 1998 which prohibits unlawful environmental nuisance caused by dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks and construction.

NOTE 4. Sedimentation Control

It is the developer’s responsibility to ensure compliance with Section 32 of the Environmental Protection (Water) Policy 1997 to prevent soil erosion and contamination of the stormwater drainage system and waterways.

NOTE 5. Noise During Construction and Noise In General

It is the developer’s responsibility to ensure compliance with Section 6S General Emission Criteria and Section 6T Noise Emission Criteria of the Environmental Protection Regulation 1998

NOTE 6. Public and Environmental Health

Should an activity licensable by Rockhampton Regional Council be proposed for the premises, Council’s Environment and Public Health Section should be consulted to determine whether any approvals are required. Such activities may include food preparation, storage of dangerous goods or Environmentally Relevant Activities. Approval for such activities is required before ‘fitout’ and operation.

NOTE 7. General Safety Of Public During Construction

It is the principal contractor’s responsibility to ensure compliance with Section 31 of the Workplace Health and Safety Act 1995. Section 31(1)(c) states that the principal contractor is obliged on a construction workplace to ensure that work activities at the workplace are safe and without risk of injury or illness to members of the public at or near the workplace.

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

<b>Table 1</b> <b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
		response—the concurrence agency	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
4. Infrastructure charges notices An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds a) The notice involved an error relating to – (i) The application of the relevant adopted charge; or Examples of errors in applying an adopted charge – <ul style="list-style-type: none"> <li>The incorrect application of gross floor area for a non-residential development</li> <li>Applying an incorrect 'use category', under a regulation, to the development <ul style="list-style-type: none"> <li>(i) The working out of extra demands, for section 120; or</li> <li>(ii) An offset or refund; or</li> </ul> </li> </ul> b) The was no decision about an offset or refund; or c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or d) The amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.			

<b>Table 1</b> <b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
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	-	-
<b>5. Conversion applications</b> 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	-	-
<b>6. Enforcement notices</b> 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

<b>Table 2</b> <b>Appeals to the P&amp;E Court only</b>			
<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— (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	-	-
<b>2. Eligible submitter appeals</b> 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	1 For a development application—the assessment manager 2 For a change	1 The applicant 2 If the appeal is about a concurrence agency's referral response—the	Another eligible submitter for the application

<b>Table 2</b> <b>Appeals to the P&amp;E Court only</b>			
2 For a change application—an eligible submitter for the change application	application—the responsible entity	concurrence agency	
<b>3. Eligible submitter and eligible advice agency appeals</b> An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to— (a) any part of the development application or the change application, for the development approval, that required impact assessment; or (b) a variation request.			
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
<b>4. Compensation claims</b> An appeal may be made against— (a) a decision under section 32 about a compensation claim; or (b) a decision under section 265 about a claim for compensation; or (c) a deemed refusal of a claim under paragraph (a) or (b).			
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	-	-
<b>5. Registered premises</b> 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	The Minister	-	If an owner or occupier starts the appeal – the owner of the registered premises



<b>Table 2</b> <b>Appeals to the P&amp;E Court only</b>			
registered premises who is dissatisfied with the decision			
<b>6. Local laws</b> 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	-	-

<b>Table 3</b> <b>Appeals to the tribunal only</b>			
<b>1. Building advisory agency appeals</b> 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
<b>3. Certain decisions under the Building Act and the Plumbing and Drainage Act</b> 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)
A person who received, or was entitled to receive, notice of the decision	The person who made the decision	-	-
<b>4. Local government failure to decide application under the Building Act</b> 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	-	-