

25 February 2020

Our Reference: 04-20

Ben Halpenny
4 Mahoney Street
MUNDUBBERA QLD 4626

Dear Benjamin and Melvie,

RE: DEVELOPMENT APPLICATION FOR MATERIAL CHANGE OF USE—WAREHOUSE (22 MINI STORAGE UNITS) AT 7 KILLALA DRIVE, MUNDUBBERA ON LAND DESCRIBED AS LOT 5 ON SP228634

Thank you for the above-mentioned development application for a development permit, lodged with Council and deemed properly made on 30 January 2020. Council decided to approve the application in full subject to conditions. Please find attached the decision notice.

Sections 71 and 72 of the *Planning Act 2016* identifies when a development approval has effect and the development may start. In summary, a development approval generally has immediate effect, except if an appeal about the approval is started. If an appeal is started, a development approval starts to have effect when the appeal ends (subject to the outcome of the appeal).

Please quote Council's application number: 04-20 in all subsequent correspondence relating to this development application. Should you require any clarification regarding this matter or wish to schedule a meeting, please contact Council's Development Services Department on 1300 696 272.

Yours sincerely,



Jeff Miles
Planning & Environment Manager

Enc: Decision notice
Approved plans
Appeal rights

Decision notice — approval (with conditions)

(Given under section 63 of the Planning Act 2016)

Thank you for your development application detailed below which was properly made on 30 January 2020. The North Burnett Regional Council has assessed your application and decided it as follows:

1. Applicant's details

Name: Benjamin and Melvie Halfpenny

Postal Address: 4 Mahoney Street
MUNDUBBERA QLD 4626

Email:

2. Location details

Street address: 7 Killala Drive
MUNDUBBERA QLD 4626

Real property description: Lot 5 on SP228634

3. Details of the proposed development

Application number: 04-20

Approval sought: Development permit

Nature of development: Material change of use—Warehouse (22 Mini storage units)

4. Decision

Date of decision: 25 February 2020

Decision details: Approved in full subject to conditions. These conditions are set out in [Attachment 1](#) and are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

	Planning Regulation 2017 reference	Development Permit	Preliminary Approval
Development assessable under the 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"/>

5. Approved plans

Copies of the following plans are enclosed in Attachment 2.

Document title	Prepared by	Date	Reference no.
SITE PLAN	Michael Russell Building Design	26/03/18	Drawing No: 03J16.01
SHED E – FLOOR PLAN	Michael Russell Building Design	26/03/18	Drawing No: 03J16.02
SHED E - ELEVATIONS	Michael Russell Building Design	26/03/18	Drawing No: 03J16.03

6. Conditions

This approval is subject to the conditions in Attachment 1. These conditions are clearly identified to indicate whether the assessment manager or concurrence agency imposed them.

7. Further development permits

Nil.

8. Properly made submissions

Not applicable.

9. Referral agencies for the application

Not applicable.

10. Currency period for the approval

This development approval will lapse at the end of the period set out in section 85 of *Planning Act 2016*.

- (1) A part of a development approval lapses at the end of the following period (the **currency period**)—
 - (a) for any part of the development approval relating to a material change of use—if the first change of use does not happen within—
 - (i) the period stated for that part of the approval; or
 - (ii) if no period is stated—6 years after the approval starts to have effect;
 - (b) for any part of the development approval relating to reconfiguring a lot—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—
 - (i) the period stated for that part of the approval; or
 - (ii) if no period is stated—4 years after the approval starts to have effect;
 - (c) for any other part of the development approval—if the development does not substantially start within—
 - (i) the period stated for that part of the approval; or
 - (ii) if no period is stated—2 years after the approval starts to take effect.

11. Rights of appeal

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions 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.

Appeal by an eligible submitter

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

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

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

A copy of the relevant appeal provisions is included in Attachment 3.

To stay informed about any appeal proceedings which may relate to this decision visit:

<https://planning.dsdmip.qld.gov.au/planning/our-planning-system/dispute-resolution/pe-court-database>.

Should you require any further assistance in process, please contact Council's Development Services Department on 1300 696 272.

Yours faithfully,



Jeff Miles

Planning & Environment Manager

Enc: Attachment 1 – Conditions imposed by the assessment manager
Attachment 2 – Approved plans
Attachment 3 – Appeal rights

Attachment 1 – Conditions Imposed by the Assessment Manager

General

- 1) Carry out the approved development in accordance with the approved plans and documents identified in section 5 “Approved plans” of the decision notice approval, except as modified by the conditions of this approval as relevant. See amendments to plans marked in red.
- 2) Where there is any conflict between conditions of this approval and details shown on the approved plans and documents, the conditions prevail.
- 3) Exercise the approval and complete all associated works, including any relocation or installation of services, at no cost to Council.
- 4) Comply with the conditions of approval prior commencing the use and maintain compliance while the use continues.

Use

- 5) The hours of operation are to be between 7:00am and 7:00pm, Monday to Saturday only.
- 6) Undertake all loading and unloading activities within the boundaries of the site.
- 7) Maintain the site in a clean and orderly state at all times.

Landscaping

- 8) Maintain the existing 3m wide landscape buffer along the full frontage of the subject land. Narrow the proposed concrete driveway, if necessary, to retain landscaping as outlined in red on the Site Plan.

Stormwater

- 9) Connect all new impervious surfaces to a lawful point of discharge for stormwater.
- 10) Design and construct works in accordance with SC6.2 Design and construction standards for non-trunk infrastructure works.
- 11) Design, install, construct, operate, monitor and maintain erosion and sediment control practices in accordance with the *Urban Stormwater Quality Planning Guidelines 2010*.

Lighting

- 12) Any vertical illumination resulting from direct or indirect light from Shed E is eight lux or less when measured at ground level at any point 1.5 metres outside the site.

Parking, access and movement

- 13) Design manoeuvring and circulation areas within the site to meet the standards in Austroads Design Vehicle and Turning Path Templates; AS2890.1 Parking facilities—Off—street car parking; and AS2890.1 Parking facilities—Off-street commercial vehicle facilities.
- 14) Construct and surface all vehicle manoeuvring and parking areas with concrete or asphaltic concrete in those locations indicated on the approved plan.

Advice to the applicant

Address all correspondence to the Chief Executive Officer

- This development approval does not represent a development approval for Building Works under the *Building Act 1975*.
- This development approval does not authorise any activity that may harm Aboriginal cultural heritage. Under the Aboriginal Cultural Heritage Act 2003 you have a duty of care in relation to such heritage. Section 23(1) provides that "A person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage." Council does not warrant that the approved development avoids affecting Aboriginal cultural heritage. It may therefore be prudent for you to carry out searches, consultation, or a cultural heritage assessment to ascertain the presence or otherwise of Aboriginal cultural heritage. The Act and the associated duty of care guidelines explain your obligations in more detail and should be consulted before proceeding.
- Stormwater discharging from the site to the adjacent Lot 2 on RP180638 may result in a nuisance if it is a substantial and unreasonable interference with the private right to the use and enjoyment of that adjacent land. Council advises that you should consider whether the proposed development would alter the site's stormwater discharge characteristics in a manner that may substantially damage a third-party property. You should consider matters such as concentration, diversion, frequency, duration, velocity, volume and quality. It is your responsibility to not cause a stormwater discharge nuisance and Council has not assessed or conditioned any works to prevent such a nuisance.





Mailing Address: PO Box 390, Gayndah Qld 4625
Street Address: 34-36 Capper Street, Gayndah Qld 4625
Telephone: 1300 696 272
Facsimile: (07) 4161 1425
Email: admin@northburnett.qld.gov.au
Web: www.northburnett.qld.gov.au
ABN: 23 439 388 197

Attachment 2 – Approved Plans

Intentionally left blank

Please refer to the following pages for the approved plans



STEEL & WIRE SECURITY FENCING TO PERIMETER OF SITE

SITE AREAS	
TOTAL SITE AREA	3185 sqm
TOTAL BUILDING AREA	1242.4 sqm
BUILDING SITE COVER	39 %

PROPERTY DESCRIPTION
 LOT 5 on SP 228934
 COUNTY of YARROL
 PARISH of MUNDOWIRAN

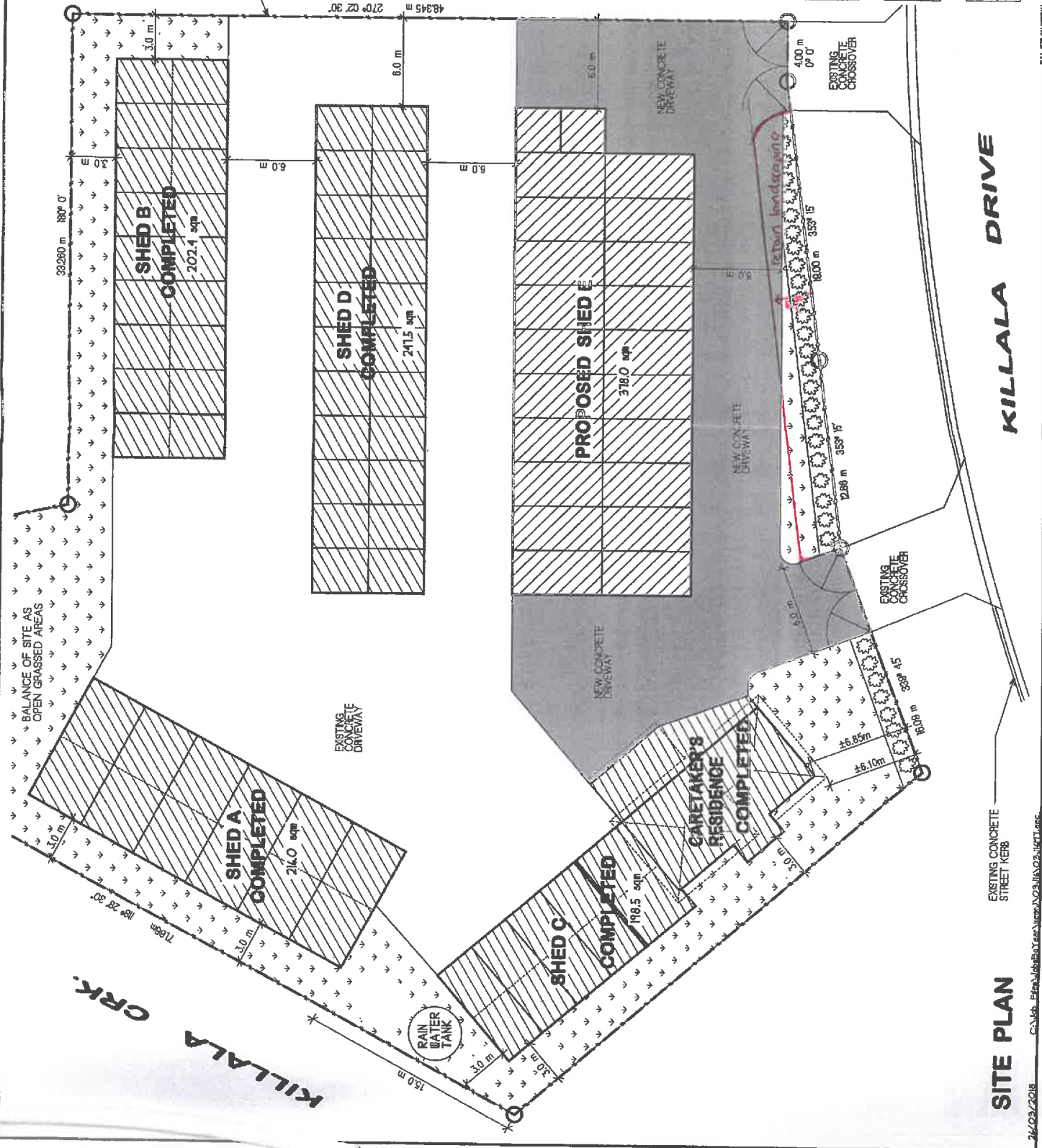
The Designer shall not be responsible for the structural design of the building. The Designer shall not be responsible for the design of the building's foundation, walls, roof, or other structural elements. The Designer shall not be responsible for the design of the building's exterior finish, landscaping, or other non-structural elements. These drawings are prepared on the condition that the client is responsible for the structural design of the building. The Designer shall not be responsible for the design of the building's exterior finish, landscaping, or other non-structural elements. Verify all dimensions on site prior to construction. DO NOT SCALE off these drawings. The Designer shall not be responsible for the design of the building's exterior finish, landscaping, or other non-structural elements. The Designer shall not be responsible for the design of the building's exterior finish, landscaping, or other non-structural elements.

Michael Russell Building Design
 11 Macaulay Blvd.
 Northcote, QLD 4051
 Ph: (07) 4223 8854
 Fax: (07) 4223 5554
 www.michaelrussell.com.au

NO.	DATE	DESCRIPTION
1	22/09/18	ISSUE FOR PLANNING - SHED E
2	17/10/18	RE-USE FOR CONSTRUCTION - STAGE 2
3	29/09/18	ISSUE FOR PLANNING - SHED E
4	06/03/20	ISSUE FOR PLANNING - STAGE 2
5	01/04/20	ISSUE FOR PLANNING

CLIENT: MR. BEN HALFPENNY
 PROPOSED STORAGE SHEDS
 at LOT 5 on KILLALA DRIVE
 MUNDUBBERA
 NORTH BURNETT REGIONAL COUNCIL

DRAWING TITLE		
SITE PLAN		
SCALE	DRAWING NO.	NO. IN SET
1 : 250	A3	03/16 .01
		3



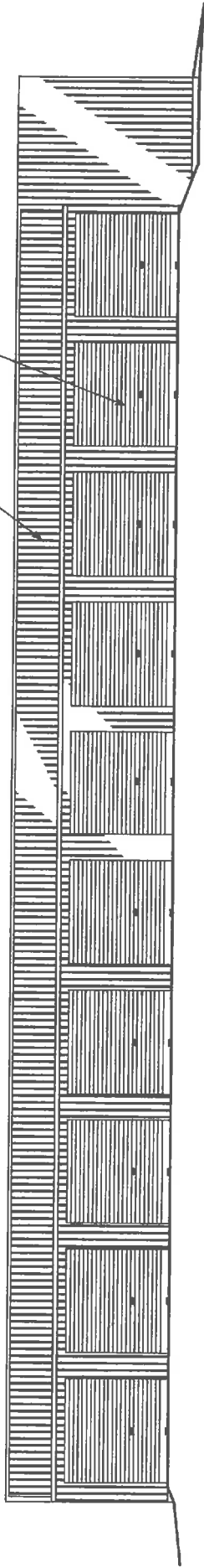
SITE PLAN

KILLALA DRIVE

EXISTING CONCRETE STREET KERB

SELECTED ZINCALUME
PROFILED ROOF SHEETING

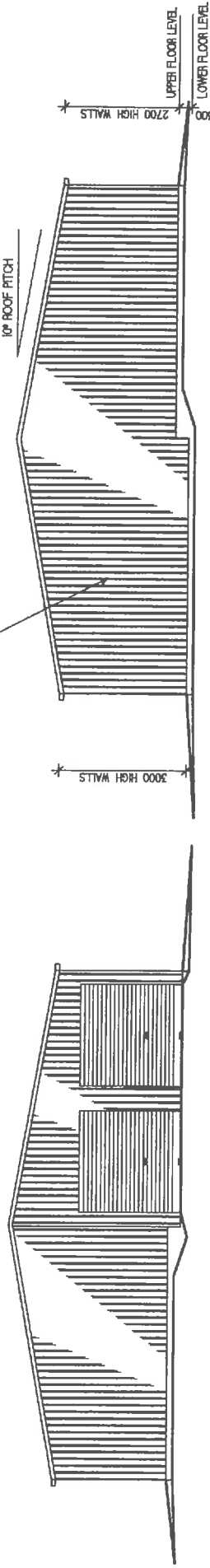
PRE-PAINTED METAL
ROLLER DOOR



ELEVATION A - SHED E

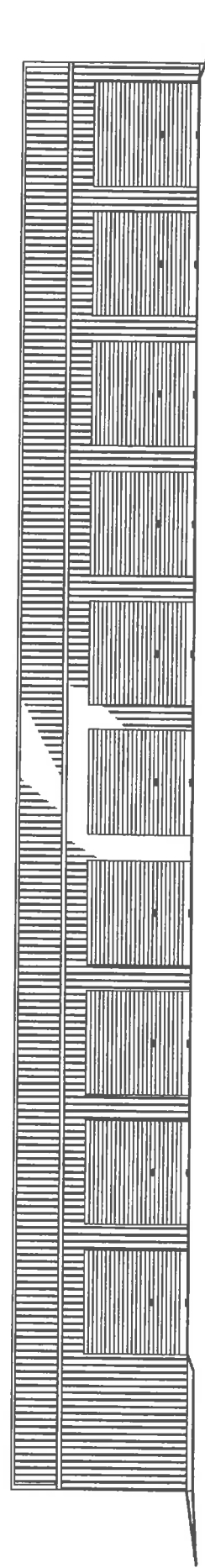
SELECTED COLORBOND WALL
CLADDING FIXED VERTICALLY
TO MANUFACTURERS DETAILS

10° ROOF PITCH



ELEVATION B - SHED E

ELEVATION D - SHED E



ELEVATION C - SHED E

The designer shall not be responsible for the structural design of the building.
These drawings have been prepared in accordance with all relevant building codes and standards.
Professional liability and all construction shall be in accordance with the relevant Council Authority.
Responsibility is limited to the work of professional design, in the event of error, Michael Russell Building Design
is not liable for any other work or construction. DO NOT SCALE. All items are subject
to change. All drawings and details are the property of Michael Russell Building Design
and shall not be reproduced in any manner without prior written approval from the designer.

Michael Russell Building Design
Architectural Building Design & CAD Drafting
18 Nevada Road,
Maryborough QLD, 4650,
Ph: (07) 4122 0304
www.michaelrusselldesign.com.au

OSHA: 722021

ISSUE DATE	22/03/18	DESCRIPTION	ISSUE FOR PLANNING - SHED E
ISSUE DATE		DESCRIPTION	PROJECT STAGE

CLIENT: MR. BEN HALFPENNY
PROJECT: PROPOSED STORAGE SHEDS
86 LOT 5 on KILLALA DRIVE
HUNDUBBERA
NORTH BURNETT REGIONAL COUNCIL

DRAWING TITLE		SHED E - ELEVATIONS	
SCALE	1:100	DRAWING No	03/16 .03
NO. IN SET	3		

Attachment 3 – Appeal Rights Planning Act 2016

CHAPTER 6, PART 1 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) ...
 - (g) 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).

- (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.

SCHEDULE 1 APPEALS

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—
 - (i) a matter under paragraphs (a) to (g); or
 - (ii) under the *Plumbing and Drainage Act 2018*; 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.
- (8) In this section—
- storey** see the Building Code, part A1.1.

Extract of Schedule 1 of the Planning Act 2016

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

Table 2			
Appeals to the P&E Court only			
<p>1. Appeals from tribunal An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of—</p> <ul style="list-style-type: none"> (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	—	—