

17 April 2020

Our Reference: 55/20

Bruce Serisier
c/- J B Serisier Surveyors
58 Lyons Street
MUNDUBBERA QLD 4626
via email: jbs.surv@bigpond.net.au

Dear Bruce,

RE: DEVELOPMENT APPLICATION FOR RECONFIGURING A LOT—SUBDIVISION (1 LOT INTO 2 LOTS) AT 198 BENHAMS ROAD, MUNDUBBERA ON LAND DESCRIBED AS LOT 2 ON RP28439

Thank you for the above-mentioned development application for a development permit, lodged with Council and properly made on 2 April 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 when-

- If there is an appeal, after the appeal has ended;
- If there is no appeal but there was a submitter, all submitters have notified the council that they will not appeal the decision, or when the last appeal period ends.

Please quote Council's application number: 55/20 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 and Environment Manager

Enc: Decision notice
Approved plans
Appeal rights



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

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 2 April 2020. The North Burnett Regional Council has assessed your application and decided it as follows:

1. Applicant's details

Name: Bruce Serisier
 J B Serisier Surveyors
 Postal Address: 58 Lyons Street
 MUNDUBBERA QLD 4626
 Email: jbs.surv@bigpond.net.au

2. Location details

Street address: 198 Benhams Road
 MUNDUBBERA QLD 4626
 Real property description: Lot 2 on RP28439

3. Details of the proposed development

Application number: 55/20
 Approval sought: Development permit
 Nature of development: Reconfiguring a lot—Subdivision (1 lot into 2 lots)

4. Decision

Date of decision: 17 April 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.
Proposed Reconfiguration – Lots 18 & 19 Cancelling Lot 2 on RP28439	J B Serisier Surveyors	24/3/2020	Drawing No: 20014/01

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*).

A copy of the relevant appeal provisions is included in [Attachment 3](#).

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

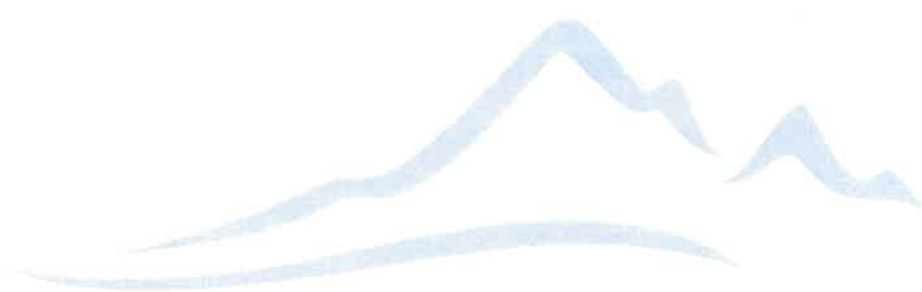
Yours faithfully,



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.
- 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 all the conditions of this development permit prior to the submission of the request for the approval of plan of subdivision, unless otherwise explicitly identified.

Survey

- 5) Lodge a Plan of Subdivision with Council in accordance with Schedule 18 of the *Planning Regulation 2017* on or before the end of the currency period.

Vehicle access

- 6) Construct a new vehicle access to proposed Lot 18 in accordance with North Burnett Regional Planning Scheme Policy SC6.2 *Design and construction standards for non-trunk infrastructure works*.

Electricity

- 7) Provide to Council evidence of a supply arrangement with Ergon for the new lot 18.
- 8) Provide to Council evidence of a new consent to enter provided to Ergon for the proposed lots.

Advice to the applicant

- 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.

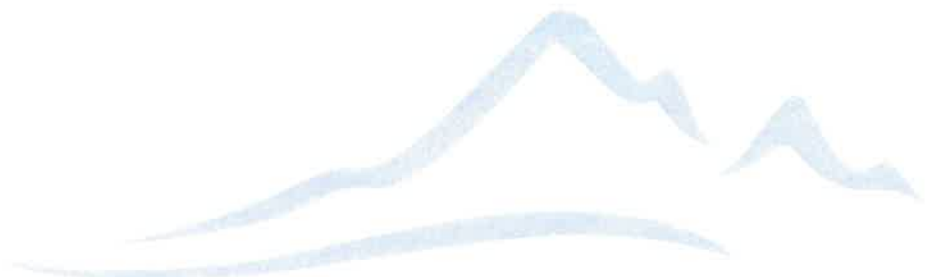


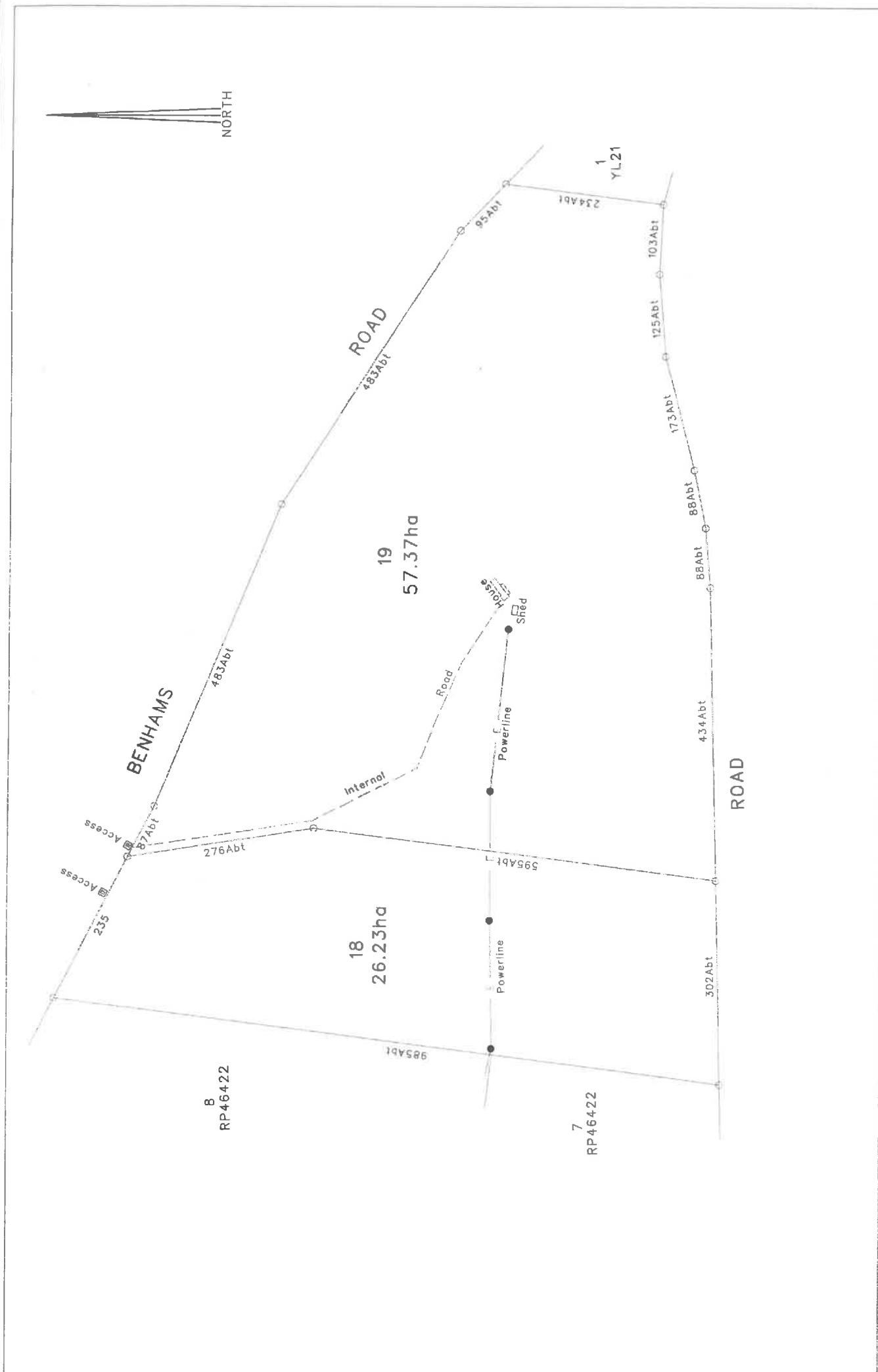
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ABN: 23 439 388 197

Attachment 2 – Approved Plans

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Please refer to the following pages for the approved plans





J B SERISIER SURVEYORS 58 LYONS STREET MUNDUBBERA Q4626 Ph: 41654468 Mob: 0428 769224 jbs.surv@bigpond.net.au	PROPOSED RECONFIGURATION LOTS 18 & 19 Cancelling Lot 2 on RP28439 Locality of Mundubbera North Burnett Regional Council		DISCLAIMER This plan has been prepared for a development application only, and should not be used for any other purpose. Dimensions and areas are approximate only and may differ from the final surveyed dimensions. This plan should not be altered in any way without the express permission of J B Serisier Surveyors.	CLIENT: R & K McGovern
	FILE No: 20014	DATE: 24/03/2020		Drawing No: 20014/01

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	—	—

