



Blackall-Tambo Regional Council

Blackall-Tambo Regional Council

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DECISION NOTICE APPROVAL

PLANNING ACT 2016, SECTION 63

I refer to your application and advise that on 17 November 2021, Blackall-Tambo Regional Council decided to approve the application in full, subject to conditions. Details of the decision are as follows:

1. APPLICATION DETAILS

Application Number: DA 09-2021-2022
Properly Made Date: 21 September 2021
Decision Date: 17 November 2021
Planning Scheme: Blackall-Tambo Region Planning Scheme 2020

2. APPLICANT DETAILS

Name: Blackall Tambo Regional Council
Postal Address: C/- Andrew Bell
Murray & Associates (QLD) Pty Ltd
PO Box 665
EMERALD QLD 4720
Email Address: andrewb@mursurv.com

3. PROPERTY DETAILS

Street Address: 10 Star Street and 18, 20 and 22 Arthur Street, Tambo
Real Property Description: Lot 2 on RP605624, Lot 2 on SP293537, Lot 1 on SP293537 and Lot 1 on SP197795
Local Government Area: Blackall-Tambo Regional Council

4. DECISION DETAILS

The following type of approval has been issued:

- Development Permit for Reconfiguring a Lot (Subdivision of four (4) lots into five (5) lots, new access easement and new road)

5. CURRENCY PERIOD

This development approval will lapse at the end of the period set out in section 85(1)(b) of the *Planning Act 2016*.

6. ASSESSMENT MANAGER CONDITIONS

1.0 ENDORSEMENT OF SURVEY PLAN

1.1 Council will not endorse or release the survey plan for this development until such time as:

- All conditions attached to this development approval for Reconfiguring a Lot have been fully satisfied;
- A statement demonstrating compliance with all conditions attached to this development approval has been submitted to Council; and
- All outstanding rates and charges relating to the site have been paid.

2.0 APPROVED PLANS AND DOCUMENTS

2.1 The approved development must be completed and maintained generally in accordance with the approved plan of development *Plan of Lot 1-5 and Emt B in Lot 3* prepared by Anthony Scott Morcom and dated 9-09-2021.

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

3.0 ACCESS

3.1 The proposed new road must be constructed to Council's satisfaction, involving a six (6) metre width and at a minimum, a gravel service treatment.

3.2 A non-piped crossover must be installed to Council's satisfaction for each new access point between the new road and approved lots.

4.0 SERVICES

4.1 Maintain existing services and utility connections (reticulated water and sewerage, electricity and telecommunications) to approved lots 1, 4 and 5, where applicable.

4.2 Approved lots 2 and 3 must provide and maintain separate connections to reticulated water and sewerage networks (to Council's satisfaction) and electricity and telecommunication services (in accordance with the standards of the relevant service provider). Each connection point must be wholly contained within the respective lot boundary.

4.3 Any service connection to an existing building that traverses a lot boundary is to be:

- 4.3.1 removed; or
- 4.3.2 relocated so that it does not traverse a lot boundary; or
- 4.3.3 covered by an easement.

5.0 PUBLIC UTILITIES

- 5.1 The applicant is responsible for the cost of any alteration to public utilities as a result of complying with conditions of this Development Permit.
- 5.2 Any alteration of any public utility or other facilities necessitated by the development of the land or associated construction works external to the site shall be at no cost to Council.
- 5.3 Any damage caused to any public utility during the course of construction shall be repaired to the satisfaction of Council's Delegated Officer and at no cost to Council prior to the sealing of the Survey Plan.

7. ADVISORY NOTES

- A. The Developer and his employee, agent, contractor or invitee is responsible for ensuring compliance with the conditions of this development approval.
- B. 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.
- C. Prior to commencing any construction activities, the applicant/developer will be required to obtain further development permits for building work, and plumbing and drainage work, as required under relevant legislation for this work.
- D. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements. Any provisions contained in this approval relating to the enforcement of any of the conditions shall be in addition to all other rights, powers and privileges that the Council may possess or obtain, and nothing contained in these conditions shall be construed so as to prejudice, affect or otherwise derogate or limit these rights, powers and privileges of the Council.
- E. 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.

8. STATEMENT OF REASONS

8.1 Description of Development

The development application is for a Development Permit for Reconfiguring a Lot (Subdivision of four (4) lots into five (5) lots, new access easement and new road) approved as per Decision Notice 09-2021-2022.

8.2 Assessment Benchmarks

The following are the benchmarks that are applicable to this development:

Benchmark applying for the development	Benchmark reference
<ul style="list-style-type: none">• Reconfiguring a Lot Code• Rural Zone Code	<i>Blackall-Tambo Region Planning Scheme 2020</i>

8.3 Relevant Matters

Nil.

8.4 Matters Raised in Submission

The development application did not require public notification.

8.5 Reason for Decision

The development application is approved and the reasons for the decision are based on findings on material questions of fact:

- The proposal creates lots that are functional, suitable and consistent with the existing zone and precinct intent. While the proposal results in one (1) lot (proposed Lot 4) that does not comply with the 600m² minimum lot size requirement for the Township zone (Commercial precinct), the proposal can be justified on account of the long-standing use of the land for passive tourism purposes, for which a standard lot size is not required;
- The subdivided lots will continue to be consistent with the subdivision pattern of the locality and have sufficient area to accommodate the existing buildings and structures on the premises;
- The subdivided lots will continue to be serviced by all necessary infrastructure services;
- There are no flood impacts or environmental values mapped over or near the subject site that would be compromised by the proposal; and
- The proposal does not conflict with the needs of the local community or the reasonable development expectations for the subject site and land within the Township zone (Commercial precinct).

9. PROPERLY MADE SUBMISSIONS

The development application did not require public notification.

10. REFERRAL AGENCIES

PLANNING REGULATION 2017	FOR AN APPLICATION INVOLVING	NAME OF AGENCY	STATUS	ADDRESS
Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1	State transport corridors and future State transport corridors	The Chief Executive Department of State Development, Infrastructure, Local Government and Planning	Referral agency	Department of State Development, Infrastructure, Local Government and Planning Central Queensland Region Office PO Box 113 ROCKHAMPTON QLD 4700 Ph: (07) 4924 2913 Email: Rockhampton@dsgmip.qld.gov.au MyDAS2 online referrals:

				https://prod2.dev-assess.qld.gov.au/suite/
Schedule 10, Part 9, Division 4, Subdivision 2, Table 3, Item 1	State transport corridors and future State transport corridors	The Chief Executive Department of State Development, Infrastructure, Local Government and Planning	Referral agency	Department of State Development, Infrastructure, Local Government and Planning Central Queensland Region Office PO Box 113 ROCKHAMPTON QLD 4700 Ph: (07) 4924 2913 Email: Rockhampton@dsgdmp.qld.gov.au MyDAS2 online referrals: https://prod2.dev-assess.qld.gov.au/suite/

11. FURTHER DEVELOPMENT PERMITS REQUIRED

No further development permits required.

12. 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* (included in the attachment to this decision notice). 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*).

13. DELEGATED PERSON


DA Howard
CHIEF EXECUTIVE OFFICER

22 November 2021

Encl: **Attachment 1** – Stamped Approved Plan
Attachment 2 – SARA Response with Conditions
Attachment 3 – Extract of Appeal Provisions (Chapter 6, Part 1 and Schedule 1 of the *Planning Act 2016*)

Attachment 1 – Stamped Approved Plan

Attached under separate cover. This page has been intentionally left blank.

SURVEY PLAN



Req. placed at all new corners, unless otherwise stated.

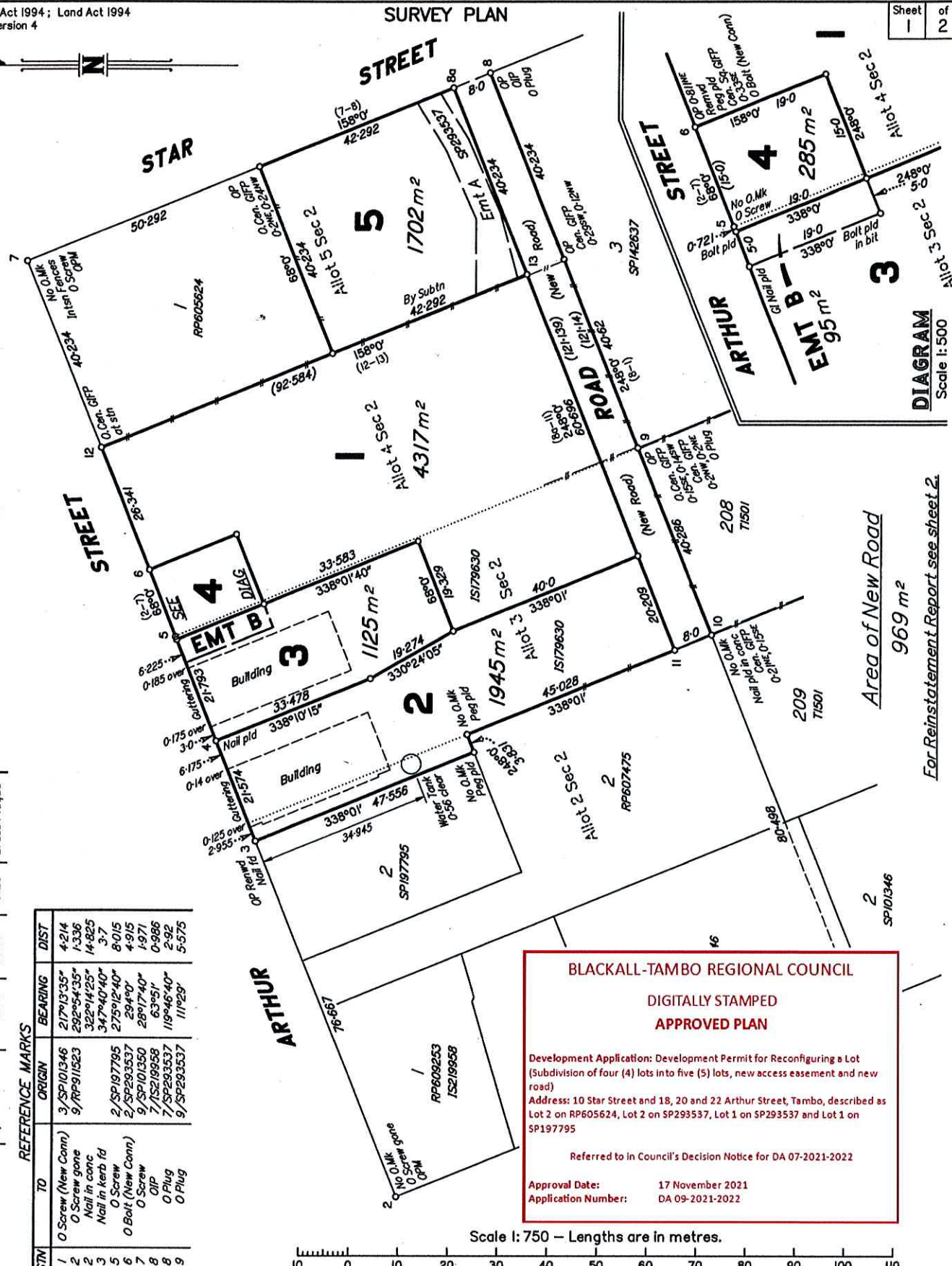


DIAGRAM
Scale 1:500

For Reinstatement Report see sheet 2.

PM	ORIGIN	BEARING	DIST	NO	TYPE
2-OPM	7/SP197795	254°33'15"	0-643	68460	Star Picket
7-OPM	1/SP197795	43°22'15"	79-97	10120	Brass Plaque

STM	TO	ORIGIN	BEARING	DIST
1	O Screw (New Conn)	3/SP101346	217°13'35"	4-214
2	O Screw gone	9/RP91523	292°04'35"	1-336
3	Nail in conc		322°14'25"	14-825
4	Nail in kerb fd		347°40'40"	3-7
5	O Screw (New Conn)	2/SP197795	275°12'40"	8-015
6	O Screw	2/SP293537	294°10'	4-915
7	O Plug	9/SP101350	28°17'40"	1-971
8	O Plug	7/SP19958	63°51'	0-986
9	O Plug	7/SP293537	119°46'40"	2-92
		9/SP293537	111°29'	5-575

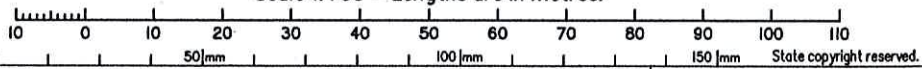
BLACKALL-TAMBO REGIONAL COUNCIL
DIGITALLY STAMPED
APPROVED PLAN

Development Application: Development Permit for Reconfiguring a Lot (Subdivision of four (4) lots into five (5) lots, new access easement and new road)
Address: 10 Star Street and 18, 20 and 22 Arthur Street, Tambo, described as Lot 2 on RP605624, Lot 2 on SP293537, Lot 1 on SP293537 and Lot 1 on SP197795

Referred to in Council's Decision Notice for DA 07-2021-2022

Approval Date: 17 November 2021
Application Number: DA 09-2021-2022

Scale 1: 750 - Lengths are in metres.



I, Anthony Scott Morcom hereby certify that the land comprised in this plan was surveyed by me personally and that the plan is accurate, that the said survey was performed in accordance with the Survey and Mapping Infrastructure Act 2003 and Surveyors Act 2003 and associated Regulations and Standards and that the said survey was completed on 13/08/2021.

Anthony Scott Morcom
Cadastral Surveyor
Date 9-09-2021

Plan of Lots 1-5 and Emt B in Lot 3

Cancelling Lot 1 on SP197795, Lots 1 & 2 on SP293537 and Lot 2 on RP605624

LOCAL: BLACKALL TAMBO
GOVERNMENT: REGIONAL COUNCIL
LOCALITY: TAMBO

Meridian: SP293537

Survey Records: No

Scale: 1: 750
Format: STANDARD

SP327551

Attachment 2 – SARA Response with Conditions

Attached under separate cover. This page has been intentionally left blank.



SARA reference: 2109-24901 SRA
 Council reference: DA09-2021-2022
 Applicant reference: 400282

29 October 2021

Chief Executive Officer
 Blackall Tambo Regional Council
 PO Box 21
 Blackall QLD 4472
 admin@btrc.qld.gov.au

Dear Sir/Madam

SARA response—22 Arthur Street, Tambo; 20 Arthur Street, Tambo; 10 Star Street, Tambo; 18 Arthur Street, Tambo

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 28 September 2021.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	29 October 2021
Conditions:	The conditions in Attachment 1 must be attached to any development approval.
Advice:	Advice to the applicant is in Attachment 2 .
Reasons:	The reasons for the referral agency response are in Attachment 3 .

Development details

Description:	Development permit	Reconfiguring a Lot by Subdivision (4 Lots into 5 Lots), New Road and Access Easement
SARA role:	Referral Agency	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1 (Planning Regulation 2017)	Development application for reconfiguring a lot within 25m of a state-controlled road

Schedule 10, Part 9, Division 4, Subdivision 2, Table 3, Item 1
(Planning Regulation 2017)
Development application for reconfiguring a lot within 100m of a state-controlled road intersection

SARA reference: 2109-24901 SRA

Assessment Manager: Blackall Tambo Regional Council

Street address: 22 Arthur Street, Tambo; 20 Arthur Street, Tambo; 10 Star Street, Tambo; 18 Arthur Street, Tambo

Real property description: 1SP197795; 1SP293537; 2RP605624; 2SP293537

Applicant name: Blackall-Tambo Regional Council

Applicant contact details: PO Box 665
Emerald QLD 4720
andrewb@mursurv.com

State-controlled road access permit: This referral included an application for a road access location, under section 62A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Approved
- Reference: TMR21-034284
- Date: 26 October 2021

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at Central.Queensland.IDAS@tmr.qld.gov.au

Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules) Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Jacklyn Neyenhuis, Planning Officer, on 4924 2907 or via email RockhamptonSARA@dSDLGP.qld.gov.au who will be pleased to assist.

Yours sincerely



Anthony Walsh
Manager Planning

cc Blackall-Tambo Regional Council, andrewb@mursurv.com

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations provisions

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application)

No.	Conditions	Condition timing
Reconfiguring a lot		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1; Schedule 10, Part 9, Division 4, Subdivision 2, Table 3, Item 1 (Planning Regulation 2017)—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	<p>The existing road access locations are to be maintained:</p> <p>(a) Proposed Lot 1:</p> <ul style="list-style-type: none"> • Latitude: -24.882927; Longitude: 146.255127 <p>(b) Proposed Lot 3 and Lot 4 (via an access easement):</p> <ul style="list-style-type: none"> • Latitude: -24.883005; Longitude: 146.254808 	At all times
2.	Direct access is not permitted between Road 13C Landsborough Highway (also known as Arthur Street), the state-controlled road, and the subject site at any location other than the permitted access locations as per Condition 1.	At all times
3.	<p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road.</p> <p>(b) Any works on the land must not:</p> <ol style="list-style-type: none"> i. create any new discharge points for stormwater runoff onto the state-controlled road; ii. interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road; iii. surcharge any existing culvert or drain on the state-controlled road; iv. reduce the quality of stormwater discharge onto the state-controlled road. 	(a) At all times (b) At all times

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) [v2.6]. If a word remains undefined it has its ordinary meaning.

Attachment 3—Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

The reasons for SARA's decision are:

- The proposed development is reconfiguring a lot (4 into 5 lots) and construction of an access easement and road.
- Direct access is permitted between the state-controlled road being Road 13C Landsborough Highway (also known as Arthur Street) and proposed Lot 1 and proposed Lots 3 and 4 (via proposed access easement B).
- The remaining proposed lots will have no direct access to the state-controlled (Road 13C Landsborough Highway, also known as Arthur Street) as access will be via local roads (being Star Road and a proposed new road).
- The maintenance of stormwater discharge will minimise impacts of worsening to the state-controlled road as part of the application.
- The development complies with the relevant provisions of State code 1 of the State Development Assessment Provisions, version 2.6, subject to the implementation of conditions

Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version [2.6]), as published by SARA
- The Development Assessment Rules
- SARA DA Mapping system

Attachment 3 – Extract of Appeal Provisions (Chapter 6, Part 1 and Schedule 1 of the *Planning Act 2016*)

Attached under separate cover. This page has been intentionally left blank.

Attachment 3 - Extract of Appeal Provisions

Chapter 6 Dispute resolution

[s 229]

- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.
- (3) In this section—
 - conduct** means an act or omission.
 - representative** means—
 - (a) of a corporation—an executive officer, employee or agent of the corporation; or
 - (b) of an individual—an employee or agent of the individual.
 - state of mind**, of a person, includes the person's—
 - (a) knowledge, intention, opinion, belief or purpose; and
 - (b) reasons for the intention, opinion, belief or purpose.

Chapter 6 Dispute resolution

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

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- (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 an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or

- (iii) otherwise—20 business days after the day the notice is given; or
- (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—

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- (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, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
 - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; 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 to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.

- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (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, any tribunal or another entity; and

- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any 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.

Part 2 Development tribunal

Division 1 General

233 Appointment of referees

- (1) The Minister, or chief executive, (the *appointer*) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—
 - (a) has the qualifications or experience prescribed by regulation; and
 - (b) has demonstrated an ability—
 - (i) to negotiate and mediate outcomes between parties to a proceeding; and
 - (ii) to apply the principles of natural justice; and
 - (iii) to analyse complex technical issues; and
 - (iv) to communicate effectively, including, for example, to write informed succinct and well-organised decisions, reports, submissions or other documents.

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

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- (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 the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
 - (h) a decision to give an enforcement notice—
 - (i) in relation to a matter under paragraphs (a) to (g); or
 - (ii) under the *Plumbing and Drainage Act 2018*; or
 - (i) an infrastructure charges notice; or
 - (j) the refusal, or deemed refusal, of a conversion application; 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.

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal
<p>1. Development applications</p> <p>For a development application other than an excluded application, 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.

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
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	<p>1 A concurrence agency that is not a co-respondent</p> <p>2 If a chosen assessment manager is the respondent—the prescribed assessment manager</p> <p>3 Any eligible advice agency for the application</p> <p>4 Any eligible submitter for the application</p>
<p>2. Change applications</p> <p>For a change application other than an excluded application, an appeal may be made against—</p> <p>(a) the responsible entity's decision on the change application; or</p> <p>(b) a deemed refusal of the change application.</p>			

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 The applicant</p> <p>2 If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice</p>	<p>The responsible entity</p>	<p>If an affected entity starts the appeal—the applicant</p>	<p>1 A concurrence agency for the development application</p> <p>2 If a chosen assessment manager is the respondent—the prescribed assessment manager</p> <p>3 A private certifier for the development application</p> <p>4 Any eligible advice agency for the change application</p> <p>5 Any eligible submitter for the change application</p>
<p>3. Extension applications</p> <p>For an extension application other than an extension application called in by the Minister, an appeal may be made against—</p> <p>(a) the assessment manager’s decision on the extension application; or</p> <p>(b) a deemed refusal of the extension application.</p>			

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 The applicant</p> <p>2 For a matter other than a deemed refusal of an extension application—a concurrence agency, other than the chief executive, for the application</p>	<p>The assessment manager</p>	<p>If a concurrence agency starts the appeal—the applicant</p>	<p>If a chosen assessment manager is the respondent—the prescribed assessment manager</p>
<p>4. Infrastructure charges notices</p> <p>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 style="padding-left: 20px;">(i) the application of the relevant adopted charge; or</p> <p><i>Examples of errors in applying an adopted charge—</i></p> <ul style="list-style-type: none"> • the incorrect application of gross floor area for a non-residential development • applying an incorrect ‘use category’, under a regulation, to the development <p style="padding-left: 20px;">(ii) the working out of extra demand, for section 120; or</p> <p style="padding-left: 20px;">(iii) an offset or refund; or</p> <p>(b) there 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) for an appeal to the P&E Court—the amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</p>			

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
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>5. Conversion applications</p> <p>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>6. Enforcement notices</p> <p>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>1. Appeals from tribunal</p> <p>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	—	—
<p>2. Eligible submitter appeals</p> <p>For a development application or change application other than an excluded application, an appeal may be made against the decision to approve the application, to the extent the decision relates to—</p> <p>(a) any part of the development application or change application that required impact assessment; or</p> <p>(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</p> <p>2 For a change application—an eligible submitter for the change application</p>	<p>1 For a development application—the assessment manager</p> <p>2 For a change application—the responsible entity</p>	<p>1 The applicant</p> <p>2 If the appeal is about a concurrence agency’s referral response—the concurrence agency</p>	<p>Another eligible submitter for the application</p>

Table 2
Appeals to the P&E Court only

3. Eligible submitter and eligible advice agency appeals

For a development application or change application other than an excluded application, an appeal may be made against a provision of the development approval, or a failure to include a provision in the development approval, to the extent the matter relates to—

(a) any part of the development application or change application 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)
<p>1 For a development application—an eligible submitter for the development application</p> <p>2 For a change application—an eligible submitter for the change application</p> <p>3 An eligible advice agency for the development application or change application</p>	<p>1 For a development application—the assessment manager</p> <p>2 For a change application—the responsible entity</p>	<p>1 The applicant</p> <p>2 If the appeal is about a concurrence agency’s referral response—the concurrence agency</p>	<p>Another eligible submitter for the application</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).

Table 2 Appeals to the P&E Court only			
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	—	—
<p>5. Registered premises</p> <p>An appeal may be made against a decision of the Minister under chapter 7, part 4.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 A person given a decision notice about the decision</p> <p>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</p>	The Minister	—	If an owner or occupier starts the appeal—the owner of the registered premises
<p>6. Local laws</p> <p>An appeal may be made against a decision of a local government, or conditions applied, under a local law about—</p> <p>(a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or</p> <p>(b) the erection of a building or other structure.</p>			

Table 2 Appeals to the P&E Court only			
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 a tribunal only			
<p>1. Building advisory agency appeals</p> <p>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.</p>			
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	<p>1 A concurrence agency for the development application related to the approval</p> <p>2 A private certifier for the development application related to the approval</p>

Table 3 Appeals to a tribunal only			
<p>2. Inspection of building work</p> <p>An appeal may be made against a decision of a building certifier or referral agency about the inspection of building work that is the subject of a building development approval under the Building Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant for the development approval	The person who made the decision	—	—
<p>3. Certain decisions under the Building Act and the <i>Plumbing and Drainage Act 2018</i></p> <p>An appeal may be made against—</p> <p>(a) a decision under the Building Act, other than a decision made by the Queensland Building and Construction Commission, if an information notice about the decision was given or required to be given under that Act; or</p> <p>(b) a decision under the <i>Plumbing and Drainage Act 2018</i>, other than a decision made by the Queensland Building and Construction Commission, if an information notice about the decision was given or required to be given 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 received, or was entitled to receive, an information notice about the decision	The entity that made the decision	—	—
<p>4. Local government failure to decide application under the Building Act</p> <p>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>			

Table 3 Appeals to a tribunal only			
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	—	—
<p>5. Failure to make a decision about an application or other matter under the <i>Plumbing and Drainage Act 2018</i></p> <p>An appeal may be made against a failure to make a decision under the <i>Plumbing and Drainage Act 2018</i>, other than a failure by the Queensland Building and Construction Commission to make a decision, within the period required under that Act, if an information notice about the decision was required to be given 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 an information notice about the decision	The entity that failed to make the decision	—	—

Attachment 4—Change representation provisions

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Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules¹ regarding **representations about a referral agency response**

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

Part 7: Miscellaneous

30 Representations about a referral agency response

30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.³

³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.