

File: 11/12G
Date: 20 December 2018

Ian Benson
PO Box 997
GOONDIWINDI QLD 4390

Dear Mr Benson

**Decision Notice – change application – minor change
(Given under section 83 of the *Planning Act 2016*)
Material Change of Use
Lot 4 on RP64441, 40 Russell Street, Goondiwindi**

Goondiwindi Regional Council received your change application made under section 78 of the *Planning Act 2016* on 21 November 2018 for the developed approval dated 25 July 2011.

Decision for change application

Date of decision: 20 December 2018

Decision details: Make the change and amend existing conditions.

The changes agreed to are:

1. Condition 1 – to allow two (2) busses to be stored in the shed; and
2. Schedule of Approved Plans, Drawings and Reports – to reflect the amended site plan.

If you require any further information, please contact Council's Manager of Planning Services, Mrs Ronnie McMahon, on (07) 4671 7400 or rmcmahon@grc.qld.gov.au, who will be pleased to assist.

Yours faithfully



Ronnie McMahon
Manager of Planning Services
Goondiwindi Regional Council



Decision Notice approval

Planning Act 2016 section 63

Council File Reference: 11/12G
Council Contact: Mrs Ronnie McMahon: LMM
Council Contact Phone: (07) 4671 7400

20 December 2018

Applicant Details: Ian Benson
PO Box 997
GOONDIWINDI QLD 4390

Attention: Ian Benson

The development application described below was properly made to Goondiwindi Regional Council on 21 November 2018.

Applicant details

Applicant name: Ian Benson
Applicant contact details: PO Box 997, Goondiwindi, QLD, 4390
weipabeno@yahoo.com.au
0439 770 056

Application details

Application number: 11/12G
Approval sought: Development Permit – Minor Change
Details of proposed development: Material Change of Use – “Industrial activities” - :Storage facility”

Location details

Street address: 40 Russell Street, Goondiwindi
Real property description: Lot 4 on RP64441

Decision

Date of decision: 20 December 2018
Decision details: Approved in full. A copy of the amended conditions for the application are included in Attachment 1, showing the approved changes.

Details of the approval

Development permit Material Change of Use

Description of requested changes

Existing Condition 1

Complete and maintain the approved development as follows:

- (i) Generally in accordance with development approval documents;
- (ii) This approval is only for the storage of one (1) school bus in accordance with the application submitted. Should the future use of the storage facility (shed change or proposed to be changed, a further development approval may be required; and
- (iii) Strictly in accordance with those parts of the approved development which have been specified in detail by the Council or Referral Agency unless the Council or Referral Agency agrees in writing that those parts will be adequately complied with by amended specifications.

Requested Changes – Condition 1

Complete and maintain the approved development as follows:

- (i) Generally in accordance with development approval documents;
- (ii) This approval is only for the storage of ~~one (1)~~ two (2) school buses in accordance with the application submitted. Should the future use of the storage facility (shed change or proposed to be changed, a further development approval may be required; and
- (iii) Strictly in accordance with those parts of the approved development which have been specified in detail by the Council or Referral Agency unless the Council or Referral Agency agrees in writing that those parts will be adequately complied with by amended specifications.

Recommendation:

Agree

Existing Schedule of Approved Plans, Drawings and Reports

Requested Changes to Schedule

This is a list of plans, drawings and reports that are specifically approved to remove doubt. The plans listed here supersede any earlier versions of the same document included elsewhere in the approval document.

This is a list of plans, drawings and reports that are specifically approved to remove doubt. The plans listed here supersede any earlier versions of the same document included elsewhere in the approval document.

Plan/Document name
Site Plan Drawing No 1 of Proposed New Shed
Planning Assessment Letter
Elevations Drawings of Proposed Shed

Plan/Document name
Site Plan Drawing No 1 of Proposed New Shed
Site Plan – Hand drawn – Proposed new section to extend exiting shed
Planning Assessment Letter
Elevations Drawings of Proposed Shed

Recommendation:

Agree

Conditions

This approval is subject to the conditions in Attachment 1. The changed conditions are highlighted for clarification in **Attachment 1**.

All conditions other than those approved to be changed from the original Decision Notice remain relevant and enforceable.

All other parts of the original Decision Notice not amended by this Notice remain relevant and enforceable.

Further development permits

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

1. Approval for building work under the *Building Act 1975*

Properly made submissions

Not applicable—No part of the application required public notification.

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 are attached.

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*

- [For material change of use] This approval lapses if the first change of use does not happen within (six (6) years).

Approved plans and specifications

Copies of the following plans are enclosed.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Aspect of development: [material change of use]				
Site Plan – Hand drawn – Proposed new section to extend exiting shed	Hand drawn by applicant	Not specified	Not specified	Not specified

Attachment 4 is a Notice about decision - Statement of reasons, in accordance with section 63 (5) of the *Planning Act 2016*.

Attachment 5 is an extract from the *Planning Act 2016*, which details the applicant's appeal rights regarding this decision

If you wish to discuss this matter further, please contact Council's Manager of Planning Services, Mrs Ronnie McMahon, on 07 4671 7400.

Yours Sincerely

A handwritten signature in dark ink, appearing to read 'RM McMahon', with a long horizontal flourish extending to the right.

Ronnie McMahon
Manager of Planning Services
Goondiwindi Regional Council

enc Attachment 1—Amended Assessment manager conditions
 Attachment 2—Approved plan
 Attachment 3—Infrastructure Charges Notice
 Attachment 4—Notice about decision – Statement of reasons
 Attachment 5—Planning Act extracts



ATTACHMENTS

Attachment 1 – Amended Assessment Manager’s Conditions

Attachment 2 – Approved Plans

Attachment 3 – Infrastructure Charges Notice

Attachment 4 – Notice about decision - Statement of reasons

Attachment 5 – *Planning Act 2016* Extracts

Planning Act 2016 appeal provisions

Planning Act 2016 lapse dates



**Attachment 1 – Amended Assessment Manager's
Conditions**



Assessment Manager's Conditions

Proposed Use:	"Industrial activities" • "Storage facility"
Development:	Material Change of Use – Development Permit
Applicant:	Ian Benson
Address:	40 Russell Street, Goondiwindi
Real Property Description:	Lot 4 on RP64441
Council File Reference:	11/12G

	COMPLETE AND MAINTAIN
1.	Complete and maintain the approved development as follows: (iv) Generally in accordance with development approval documents; (v) This approval is only for the storage of one (1) two (2) school buses in accordance with the application submitted. Should the future use of the storage facility (shed change or proposed to be changed, a further development approval may be required; and (vi) Strictly in accordance with those parts of the approved development which have been specified in detail by the Council or Referral Agency unless the Council or Referral Agency agrees in writing that those parts will be adequately complied with by amended specifications.
2.	The development approval documents are the material contained in the development application, approved plan(s) and supporting documentation including all information requests and responses and any written and electronic correspondence between application, Council or Referral Agencies during all stages of the development application assessment processes.
3.	Approved plans are the plans which have been stamped as approved by Council, or listed in the Schedule of Approved Plans and Drawings attached to these conditions or, where any necessary plans have not been stamped as approved nor listed, the versions of the plans submitted by the applicant and endorsed by the Council, subject to any changes notified by the Council in writing during all stages of the development application assessment processes and as amended by the conditions of approval.
	STORMWATER AND DRAINAGE
4.	The site shall be adequately drained and a stormwater drainage system constructed so that stormwater can be disposed of to a legal discharge point – refer to Schedule of Design and Construction Standards (item 7)

5.	All work associated with the development must be carried out in a manner that minimises erosion and controls sediment. Control measures must be approved by Council and in place prior to work commencing and remain until work is completed – refer to Schedule of Design and Construction Standards (Item 7)
FILLING PARTS OF SITE & EXCAVATIONS	
6.	An operational works approval may be required for filling the site above natural ground level.
7.	Any filling or excavation necessary to meet the conditions of this approval shall be carried out in accordance with the relevant standards.
ACCESS, ROADS AND LANDSCAPING	
8.	All landscaping, streetscaping, vehicular access, parking, roads, bikeways, footpaths, street lighting, parks, street plantings, street furniture and related items must comply with: (i) The development approval conditions (ii) Any relevant provisions in the planning scheme for the area (iii) Council's standard designs for such work where such designs exist (iv) Any relevant Australian Standard that applies to that type of work and (v) Any alternative specifications that Council has agreed to in writing and which the developer must ensure do not conflict with any requirements imposed by any applicable laws and standards.
9.	The applicant must construct a vehicular access to the site to the satisfaction of the Director of Engineering & Planning. The access must be constructed along Elizabeth Drive at a location which provides adequate sight distance in either direction. The vehicular access shall be constructed in accordance with Schedule 1, Division 2: Standards for Roads, Carparking, Manoeuvring Areas and Accesses, Section 2.3 or in accordance with other appropriate engineering standards to the satisfaction of the Director Engineering & Planning.
10.	The applicant must reinstate any footpaths, kerbing and channelling, roadworks and drainage works damaged during construction of the development, to the satisfaction of the Director Engineering & Planning.
AVOIDING NUISANCE	
11.	Lighting of the site, including any security lighting, shall be such that the lighting intensity does not exceed 8.0 lux at a distance of 1.5 metres from the site at any property boundary.
12.	All lighting shall be directed or shielded so as to ensure that no glare directly affects nearby properties or nearby motorists.

13.	During the establishment and continued use of the approved development, no nuisance is to be caused to adjoining properties and occupiers by the way of smoke, dust, rubbish, contaminant, stormwater discharge or siltation at any time, including non-working hours.
14.	Operation of the use shall occur only between 6am and 6pm.
	BUILDINGS
15.	All building are to comply with the approval documents and the Schedule of Requirements.
	NO COST TO COUNCIL
16.	The cost of carrying out works and providing services to the site, as required by conditions of approval, shall be at no cost to Council.
	USE
17.	All development approval conditions related to the establishment of the approved development must be fulfilled prior to any approved use commencing.
	GENERAL
18.	All rates and charges of any description and all arrears of such rates and charges, together with interest outstanding thereon, on the land, due to Council, shall be paid prior to the Council sealing the Plan of Survey.
19.	All development approval conditions related to the establishment of the approved development must be fulfilled prior to any Plans of Survey being sealed.
20.	At its discretion, Council may accept binds or other securities to ensure completion of specified development approval conditions or Council may accept cash payments for Council to undertake the necessary work to ensure completion of specified development approval conditions.
21.	A letter outlining and demonstrating that conditions have been complied with shall be submitted prior to the commencement of the use. Council officers may require a physical inspection to confirm that all conditions have been satisfied to relevant standards.

SCHEDULE OF APPROVED PLANS, DRAWINGS AND REPORTS						
22.	This is a list of plans, drawings and reports that are specifically approved to remove doubt. The plans listed here supersede any earlier versions of the same document included elsewhere in the approval documents. <table><tr><td>Plan/Document name</td></tr><tr><td>Site Plan Drawing No 1 of Proposed New Shed</td></tr><tr><td>Site Plan – Hand drawn – Proposed new section to extend exiting shed</td></tr><tr><td>Planning Assessment Letter</td></tr><tr><td>Elevations Drawings of Proposed Shed</td></tr></table>	Plan/Document name	Site Plan Drawing No 1 of Proposed New Shed	Site Plan – Hand drawn – Proposed new section to extend exiting shed	Planning Assessment Letter	Elevations Drawings of Proposed Shed
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Planning Assessment Letter						
Elevations Drawings of Proposed Shed						
SCHEULDE OF DESIGN AND CONSTRUCTION STANDARDS						
23.	1. Schedule 1, Division 1: Standards for Construction Activities, Section 1.1 of the Goondiwindi Town Planning Scheme or to other relevant engineering standards to the satisfaction of Council. 2. Schedule 1, Division 2: Standards for Roads, Carparking, Manoeuvring Areas and Access, Section 2.1(1), 2.2(1)(b) of the Goondiwindi Town Planning Scheme or in accordance with other relevant engineering standards to the satisfaction of Council. 3. Schedule 1, Division 2: Standards for Roads, Carparking, Manoeuvring Areas and Access, Section 2.3(1), (2a), (2b) of the Goondiwindi Town Planning Scheme or in accordance with other relevant engineering standards to the satisfaction of Council. 4. Schedule 1, Division 3: Standards for Water Supply of the Goondiwindi Town Planning Scheme or in accordance with other relevant engineering standards to the satisfaction of Council. 5. Schedule 1, Division 4: Standards for Sewerage, Section 4.1 of the Goondiwindi Town Planning Scheme or in accordance with other relevant engineering standards to the satisfaction of Council. 6. Schedule 1, Division 4: Standards for Sewerage, Section 4.2 of the Goondiwindi Town Planning Scheme or in accordance with other relevant engineering standards to the satisfaction of Council. 7. Schedule 1, Division 5: Standards for Stormwater Drainage, Section 5.1 of the Goondiwindi Town Planning Scheme or in accordance with other engineering standards. 8. Schedule 3, Landscaping Requirements, Section 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7 and 3.8 of the Goondiwindi Town Planning Scheme.					



Attachment 2 – Approved Plan



SCALE: 1:125

TOTAL AREA OF THE SITE

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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15

EXISTING
SHRUBS →

Proposed $\sqrt{30}$
NEW SECTION over old one

EXISTING
GARAGE

450 mm

WHEELIE BIN

average weight = 5
100g
150 g/m

Doc 2000

CONCRETE TRACKS

$$\begin{array}{r} 10 \\ 10 \\ \hline 20 \end{array}$$

55.0 m

A horizontal beam of length 9.0 m is shown. A uniformly distributed load of 10 kN/m is applied downwards along the entire length of the beam. The beam is supported at both ends by vertical reaction forces.

Council Reference: 11/125
Dated: 20 December 2018
Signed: RM M S
Print Name: Mrs Ronnie McNahan
(Under Delegation) ASSESSMENT MANAGER



Attachment 3 – Infrastructure Charges Notice





Goondiwindi Customer Service
Centre
4 McLean Street
Goondiwindi
Inglewood Customer Service
Centre
18 Elizabeth Street
Inglewood

Locked Mail Bag 7
Inglewood QLD 4387

Telephone: 07 4671 7400
Fax: 07 4671 7433

Email: mail@grc.qld.gov.au

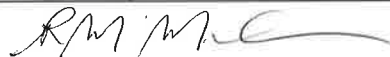
Infrastructure Charges Notice

Address	40 Russell Street, Goondiwindi
Owner	Ian James Scott Benson
Applicant	Ian Benson
Application No.	11/12G
Lot and Survey Plan	Lot 4 on RP64441
Date	20 December 2018
Approval	Development Permit – Material Change of Use

Development Application Details
<i>"Industrial activities" – "Storage facility"</i>

Type of Charge	Charge Area (A, B, C, D or E)	Type of Charge	Charge Amount (\$)	Unit	Total Charge (\$)
Low impact industry	A	Water, sewerage, transport and parks	8.00 per m ² of GFA	67.95m ²	543.60
		Stormwater	1.00 per m ² for all impervious area	67.95m ²	67.95

Due Date	When the change of use happens	Total Charge (\$)	611.55
Charge to be paid to	Goondiwindi Regional Council		
Lapse Date	20 December 2024		

Authorised by: 

Print Name: **Mrs Ronnie McMahon**
Manager of Planning Services

In accordance with the Planning Act 2016

Office Use – Receipt Number

Charges – 1250-1150-0000

Drainage – 1250-1151-0000

An offset has been applied to this notice for existing areas, at the rate of \$8 per m² of GFA and \$1 per m² for all impervious areas.





Attachment 4 – Notice about decision - Statement of reasons



Notice about decision - Statement of reasons

The following information is provided in accordance with section 63 (5) of the *Planning Act 2016* and must be published on the assessment managers website.

The development application for "*Industrial activities*" – "*Storage facility*"

11/12G

40 Russell Street, Goondiwindi

Lot 4 on RP64441

On 20 December 2018, the above development application was:

- ☒ approved in full or
☐ approved in part for _____ or
☐ approved in full with conditions or
☐ approved in part for _____
with conditions or
☐ refused.

1. Reasons for the decision

The reasons for this decision are:

- Having regard to the relevant criteria in the General Residential Zone Code of the *Goondiwindi Region Planning Scheme 2018*, the proposed development satisfied all relevant criteria, and was approved subject to appropriate, relevant and reasonable conditions.

2. Assessment benchmarks

The following are the benchmarks applying for this development:

Benchmarks applying for the development	Benchmark reference
<i>General Residential Zone Code</i>	<i>Goondiwindi Region Planning Scheme 2018:</i> <i>AO1, AO2.1, AO3.1 and AO3.2</i>

3. Compliance with benchmarks

Not applicable, as the proposed development complied with all applicable benchmarks.

4. Relevant matters for impact assessable development

Not required for this minor change application.

5. Matters raised in submissions for impact assessable development

Not required for this minor change application.

6. Matters prescribed by Regulation

Not required for this minor change application.



Attachment 5 – *Planning Act 2016* Extracts



EXTRACT FROM *PLANNING ACT 2016* RELATING TO APPEAL RIGHTS

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*
- (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).
- (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.

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.

(2) The appointer may—

(a) appoint a referee for the term, of not more
than 3 years, stated in the appointment notice;
and

(b) reappoint a referee, by notice, for further
terms of not more than 3 years.

(3) If an appointer appoints a public service officer as
a referee, the officer holds the appointment
concurrently with any other appointment that the
officer holds in the public service.

(4) A referee must not sit on a tribunal unless the
referee has given a declaration, in the approved
form and signed by the referee, to the chief
executive.

(5) The appointer may cancel a referee's
appointment at any time by giving a notice,
signed by the appointer, to the referee.

(6) A referee may resign the referee's appointment
at any time by giving a notice, signed by the
referee, to the appointer.

(7) In this section—

appointment notice means—

(a) if the Minister gives the notice—a gazette
notice; or

(b) if the chief executive gives the notice—a
notice given to the person appointed as a referee.

234 Referee with conflict of interest

(1) This section applies if the chief executive informs
a referee that the chief executive proposes to
appoint the referee as a tribunal member, and
either or both of the following apply—

(a) the tribunal is to hear a matter about
premises—

(i) the referee owns; or

(ii) for which the referee was, is, or is to be,
an architect, builder, drainer, engineer,
planner, plumber, plumbing inspector,
certifier, site evaluator or soil assessor; or

(iii) for which the referee has been, is, or will
be, engaged by any party in the referee's
capacity as an accountant, lawyer or other
professional; or

(iv) situated or to be situated in the area of
a local government of which the referee is
an officer, employee or councillor;

(b) the referee has a direct or indirect personal
interest in a matter to be considered by the
tribunal, and the interest could conflict with the
proper performance of the referee's functions for
the tribunal's consideration of the matter.

(2) However, this section does not apply to a referee
only because the referee previously acted in
relation to the preparation of a relevant local
planning instrument.

(3) The referee must notify the chief executive that
this section applies to the referee, and on doing
so, the chief executive must not appoint the
referee to the tribunal.

(4) If a tribunal member is, or becomes, aware the
member should not have been appointed to the
tribunal, the member must not act, or continue to
act, as a member of the tribunal.

235 Establishing development tribunal

(1) The chief executive may at any time establish a
tribunal, consisting of up to 5 referees, for tribunal
proceedings.

(2) The chief executive may appoint a referee for
tribunal proceedings if the chief executive
considers the referee has the qualifications or
experience for the proceedings.

(3) The chief executive must appoint a referee as the
chairperson for each tribunal.

(4) A regulation may specify the qualifications or
experience required for particular proceedings.

(5) After a tribunal is established, the tribunal's
membership must not be changed.

236 Remuneration

A tribunal member must be paid the remuneration the Governor in Council decides.

237 Tribunal proceedings

- (1) A tribunal must ensure all persons before the tribunal are afforded natural justice.*
- (2) A tribunal must make its decisions in a timely way.*
- (3) A tribunal may—*
 - (a) conduct its business as the tribunal considers appropriate, subject to a regulation made for this section; and*
 - (b) sit at the times and places the tribunal decides; and*
 - (c) hear an appeal and application for a declaration together; and*
 - (d) hear 2 or more appeals or applications for a declaration together.*
- (4) A regulation may provide for—*
 - (a) the way in which a tribunal is to operate, including the qualifications of the chairperson of the tribunal for particular proceedings; or*
 - (b) the required fee for tribunal proceedings.*

238 Registrar and other officers

- (1) The chief executive may, by gazette notice, appoint—*
 - (a) a registrar; and*
 - (b) other officers (including persons who are public service officers) as the chief executive considers appropriate to help a tribunal perform its functions.*
- (2) A person may hold the appointment or assist concurrently with any other public service appointment that the person holds.*

Division 2 Applications for declarations

239 Starting proceedings for declarations

- (1) A person may start proceedings for a declaration by a tribunal by filing an application, in the approved form, with the registrar.*
- (2) The application must be accompanied by the required fee.*

240 Application for declaration about making of development application

- (1) The following persons may start proceedings for a declaration about whether a development application is properly made—*
 - (a) the applicant;*
 - (b) the assessment manager.*
- (2) However, a person may not seek a declaration under this section about whether a development application is accompanied by the written consent of the owner of the premises to the application.*
- (3) The proceedings must be started by—*
 - (a) the applicant within 20 business days after receiving notice from the assessment manager, under the development assessment rules, that the development application is not properly made; or*
 - (b) the assessment manager within 10 business days after receiving the development application.*
- (4) The registrar must, within 10 business days after the proceedings start, give notice of the proceedings to the respondent as a party to the proceedings.*
- (5) In this section—*

respondent means—

- (a) if the applicant started the proceedings—the assessment manager; or*
- (b) if the assessment manager started the proceedings—the applicant.*

241 Application for declaration about change to development approval

- (1) This section applies to a change application for a development approval if—*
 - (a) the approval is for a material change of use of premises that involves the use of a classified building; and*
 - (b) the responsible entity for the change application is not the P&E Court.*
- (2) The applicant, or responsible entity, for the change application may start proceedings for a*

declaration about whether the proposed change to the approval is a minor change.

- (3) The registrar must, within 10 business days after the proceedings start, give notice of the proceedings to the respondent as a party to the proceedings.

- (4) In this section—

respondent means—

- (a) if the applicant started the proceedings—the responsible entity; or
- (b) if the responsible entity started the proceedings—the applicant.

Division 3 Tribunal proceedings for appeals and declarations

242 Action when proceedings start

If a document starting tribunal proceedings is filed with the registrar within the period required under this Act, and is accompanied by the required fee, the chief executive must—

- (a) establish a tribunal for the proceedings; and
- (b) appoint 1 of the referees for the tribunal as the tribunal's chairperson, in the way required under a regulation; and
- (c) give notice of the establishment of the tribunal to each party to the proceedings.

243 Chief executive excusing noncompliance

- (1) This section applies if—

- (a) the registrar receives a document purporting to start tribunal proceedings, accompanied by the required fee; and
- (b) the document does not comply with any requirement under this Act for validly starting the proceedings.

- (2) The chief executive must consider the document and decide whether or not it is reasonable in the circumstances to excuse the noncompliance (because it would not cause substantial injustice in the proceedings, for example).

- (3) If the chief executive decides not to excuse the noncompliance, the chief executive must give a notice stating that the document is of no effect,

because of the noncompliance, to the person who filed the document.

- (4) The chief executive must give the notice within 10 business days after the document is given to the chief executive.

- (5) If the chief executive does excuse the noncompliance, the chief executive may act under section 242 as if the noncompliance had not happened.

244 Ending tribunal proceedings or establishing new tribunal

- (1) The chief executive may decide not to establish a tribunal when a document starting tribunal proceedings is filed, if the chief executive considers it is not reasonably practicable to establish a tribunal.

Examples of when it is not reasonably practicable to establish a tribunal—

- there are no qualified referees or insufficient qualified referees because of a conflict of interest
- the referees who are available will not be able to decide the proceedings in a timely way

- (2) If the chief executive considers a tribunal established for tribunal proceedings—

(a) does not have the expertise to hear or decide the proceedings; or

(b) is not able to make a decision for proceedings (because of a tribunal member's conflict of interest, for example); the chief executive may decide to suspend the proceedings and establish another tribunal, complying with section 242(c), to hear or re-hear the proceedings.

- (3) However, the chief executive may instead decide to end the proceedings if the chief executive considers it is not reasonably practicable to establish another tribunal to hear or re-hear the proceedings.

- (4) If the chief executive makes a decision under subsection (1) or (3), the chief executive must give a decision notice about the decision to the parties to the proceedings.

- (5) Any period for starting proceedings in the P&E Court, for the matter that is the subject of the tribunal proceedings, starts again when the chief

executive gives the decision notice to the party who started the proceedings.

- (6) The decision notice must state the effect of subsection (5).

245 Refunding fees

The chief executive may, but need not, refund all or part of the fee paid to start proceedings if the chief executive decides under section 244—

- (a) not to establish a tribunal; or
- (b) to end the proceedings.

246 Further material for tribunal proceedings

- (1) The registrar may, at any time, ask a person to give the registrar any information that the registrar reasonably requires for the proceedings.

Examples of information that the registrar may require—

- material about the proceedings (plans, for example)
- information to help the chief executive decide whether to excuse noncompliance under section 243
- for a deemed refusal—a statement of the reasons why the entity responsible for deciding the application had not decided the application during the period for deciding the application.

- (2) The person must give the information to the registrar within 10 business days after the registrar asks for the information.

247 Representation of Minister if State interest involved

If, before tribunal proceedings are decided, the Minister decides the proceedings involve a State interest, the Minister may be represented in the proceedings.

248 Representation of parties at hearing

A party to tribunal proceedings may appear—

- (a) in person; or
- (b) by an agent who is not a lawyer.

249 Conduct of tribunal proceedings

- (1) Subject to section 237, the chairperson of a tribunal must decide how tribunal proceedings are to be conducted.

- (2) The tribunal may decide the proceedings on submissions if the parties agree.

- (3) If the proceedings are to be decided on submissions, the tribunal must give all parties a notice asking for the submissions to be made to the tribunal within a stated reasonable period.

- (4) Otherwise, the tribunal must give notice of the time and place of the hearing to all parties.

- (5) The tribunal may decide the proceedings without a party's submission (written or oral) if—

- (a) for proceedings to be decided on submissions—the party's submission is not received within the time stated in the notice given under subsection (3); or

- (b) for proceedings to be decided by hearing—the person, or the person's agent, does not appear at the hearing.

- (6) When hearing proceedings, the tribunal—

- (a) need not proceed in a formal way; and
- (b) is not bound by the rules of evidence; and
- (c) may inform itself in the way it considers appropriate; and
- (d) may seek the views of any person; and
- (e) must ensure all persons appearing before the tribunal have a reasonable opportunity to be heard; and
- (f) may prohibit or regulate questioning in the hearing.

- (7) If, because of the time available for the proceedings, a person does not have an opportunity to be heard, or fully heard, the person may make a submission to the tribunal.

250 Tribunal directions or orders

A tribunal may, at any time during tribunal proceedings, make any direction or order that the tribunal considers appropriate.

Examples of directions—

- a direction to an applicant about how to make their development application comply with this Act
- a direction to an assessment manager to assess a development application, even though the referral agency's response to the assessment manager was to refuse the application

251 Matters tribunal may consider

- (1) This section applies to tribunal proceedings about—
 - (a) a development application or change application; or
 - (b) an application or request (however called) under the Building Act or the Plumbing and Drainage Act.
- (2) The tribunal must decide the proceedings based on the laws in effect when—
 - (a) the application or request was properly made; or
 - (b) if the application or request was not required to be properly made—the application or request was made.
- (3) However, the tribunal may give the weight that the tribunal considers appropriate, in the circumstances, to any new laws.

252 Deciding no jurisdiction for tribunal proceedings

- (1) A tribunal may decide that the tribunal has no jurisdiction for tribunal proceedings, at any time before the proceedings are decided—
 - (a) on the tribunal's initiative; or
 - (b) on the application of a party.
- (2) If the tribunal decides that the tribunal has no jurisdiction, the tribunal must give a decision notice about the decision to all parties to the proceedings.
- (3) Any period for starting proceedings in the P&E Court, for the matter that is the subject of the tribunal proceedings, starts again when the tribunal gives the decision notice to the party who started the proceedings.

- (4) The decision notice must state the effect of subsection (3).
- (5) If the tribunal decides to end the proceedings, the fee paid to start the proceedings is not refundable.

253 Conduct of appeals

- (1) This section applies to an appeal to a tribunal.
- (2) Generally, the appellant must establish the appeal should be upheld.
- (3) However, for an appeal by the recipient of an enforcement notice, the enforcement authority that gave the notice must establish the appeal should be dismissed.
- (4) The tribunal must hear and decide the appeal by way of a reconsideration of the evidence that was before the person who made the decision appealed against.
- (5) However, the tribunal may, but need not, consider—
 - (a) other evidence presented by a party to the appeal with leave of the tribunal; or
 - (b) any information provided under section 246.

254 Deciding appeals to tribunal

- (1) This section applies to an appeal to a tribunal against a decision.
- (2) The tribunal must decide the appeal by—
 - (a) confirming the decision; or
 - (b) changing the decision; or
 - (c) replacing the decision with another decision; or
 - (d) setting the decision aside, and ordering the person who made the decision to remake the decision by a stated time; or
 - (e) for a deemed refusal of an application—
 - (i) ordering the entity responsible for deciding the application to decide the application by a stated time and, if the entity does not comply with the order, deciding the application; or
 - (ii) deciding the application.

(3) However, the tribunal must not make a change, other than a minor change, to a development application.

(4) The tribunal's decision takes the place of the decision appealed against.

(5) The tribunal's decision starts to have effect—

(a) if a party does not appeal the decision—at the end of the appeal period for the decision; or

(b) if a party appeals against the decision to the P&E Court—subject to the decision of the court, when the appeal ends.

255 Notice of tribunal's decision

A tribunal must give a decision notice about the tribunal's decision for tribunal proceedings, other than for any directions or interim orders given by the tribunal, to all parties to proceedings.

256 No costs orders

A tribunal must not make any order as to costs.

257 Recipient's notice of compliance with direction or order

If a tribunal directs or orders a party to do something, the party must notify the registrar when the thing is done.

258 Tribunal may extend period to take action

(1) This section applies if, under this chapter, an action for tribunal proceedings must be taken within a stated period or before a stated time, even if the period has ended or the time has passed.

(2) The tribunal may allow a longer period or a different time to take the action if the tribunal considers there are sufficient grounds for the extension.

259 Publication of tribunal decisions

The registrar must publish tribunal decisions under the arrangements, and in the way, that the chief executive decides.

Schedule 1 Appeals

section 229

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 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; 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

1. Development applications

For a development application other than a development application called in by the

Minister, an appeal may be made against—

(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.

**EXTRACT FROM THE PLANNING ACT 2016
RELATING TO LAPSE DATES**

***Division 4 Lapsing of and extending
development approvals***

85 Lapsing of approval at end of current period

*(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.

(2) If part of a development approval lapses, any monetary security given for that part of the approval must be released.