

- 3 MAR 2026

FILED
MAROOCHYDORE

IN THE PLANNING AND ENVIRONMENT COURT

No 129/25

Held at: **Maroochydore**

Between: **Mark and Julianne Grunske** — Appellants

And: **Fraser Coast Regional Council** — Respondent

APPLICATION IN PENDING PROCEEDING

Filed on 3 March 2026
Filed by: Warren Bolton [Agent]
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DETERMINATION of ON THE PAPERS REQUEST

The Appellant applies to the Planning and Environment Court at Maroochydore for the following orders:

1. Pursuant to s 14 of the *Planning and Environment Court Act 2016* and r 20 of the *Planning and Environment Court Rules 2018*, the appeal be determined on the papers, without oral hearing, unless the Court otherwise directs.
2. The parties file any written argument submissions addressing the legal issues in Appeal 129/25 by 4:00pm on Tuesday, 24 March 2026
3. The hearing listed for 26 March 2026 proceed as agreed by both parties.

The grounds relied on are:

Introduction

1. At the review on 27 February 2026, the Court requested that the Appellant identify the lawful basis upon which Appeal 129/25 (Appeal) may be determined without an oral hearing ("on the papers"), together with the Appellant's reasons for electing that format.

This application addresses that request.

APPLICATION
Filed on behalf of:- Mark and Julianne Grunske

Form PEC-3

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2. The Appellant submit that the Planning and Environment Court has clear statutory power to determine this Appeal on the papers, and that this Appeal is an appropriate matter for the exercise of that discretion.
3. The statutory basis for such a determination, and the reasons why this Appeal is suitable for that course, are set out below.

Statutory Power to Determine a Proceeding Without Oral Hearing

Planning and Environment Court Act 2016 (Qld)

4. **Section 14** provides facility for the Court to **hear and decide a P&E Court proceeding in the way it considers appropriate.**

This facility includes the discretion to:

- determine a proceeding **without an oral hearing**;
- decide the matter **entirely on written submissions**; and
- give directions about the conduct of the proceeding that depart from ordinary procedure where appropriate.

This is the primary statutory authority for a written-only determination.

Planning and Environment Court Rules 2018 (Qld)

5. **Rule 20** provides that the Court with flexibility to decide a matter **without an oral hearing** where the issues can be resolved on the material before it.

Rule 5 (the overriding purpose) requires that proceedings be conducted **justly, efficiently, inexpensively or appropriately**. This provides facility for written-only determination which accords with those purposes and particularly where:

- the issues are legal rather than factual;
- the evidentiary record is closed;
- no factual disputes arise; and
- oral evidence is unnecessary.

Appellate - Nature of Proceeding 129/25

6. This appeal is confined to the material that was before the Development Tribunal.
No new evidence may be adduced.

The issues concern the correct interpretation and application of ss 112, 114 and 119 of the *Planning Act 2016* and s 52 of the *Planning Regulation 2017*, the Respondents *Charge Resolution* and court determined precedent.

These characteristics place the appeal squarely within the category of matters routinely determined on the papers in appellate courts.

Appellate - Authority Supporting Determination on the Papers

7. Queensland appellate courts have confirmed that where an appeal turns solely on questions of law and the record is complete, the matter may appropriately be determined on the papers.

In **Brisbane City Council v YQ Property Pty Ltd [2020] QCA 253**, the Court of Appeal accepted that written determination is suitable where:

- no factual disputes arise;
- the issues concern statutory interpretation;
- the record is complete; and
- oral submissions would not materially assist.

8. Similar observations were made in **QCA 191 (2020)** regarding the efficiency and appropriateness of written determination of legal issues within the development assessment framework.
9. These authorities confirm that the Court's procedural discretion under s 14 of the *Planning and Environment Court Act 2016* and the Rules is broad and flexible, extending comfortably to determining an appeal without an oral hearing where the issues are legal, the record is complete, and oral submissions would not materially assist. Such an exercise of discretion is well-recognised and is rarely disturbed on review

Reasons Supporting a Written-Only Determination

10. **The appeal is confined to the Tribunal record**

The Court is restricted to the material that was before the Development Tribunal. No additional evidence may be adduced. The record is complete and already before the Court.

11. The issues are purely legal

The appeal concerns statutory interpretation, including:

- whether RAL21/0138 is prescribed development under s 112 PA16 and s 52 PR17;
- whether a reconfiguration of a lot is capable of generating demand on infrastructure;
- whether the Tribunal failed to consider mandatory relevant matters; and
- whether the Tribunal applied the correct statutory test.

These are legal questions, not factual disputes.

12. No oral or expert evidence is required

The legal issues can be resolved without expert evidence, factual clarification, or oral testimony from decision-makers. The Court's task is to determine the lawfulness of the Tribunal's decision based on the existing record.

13. Oral submissions would not materially assist

The relevant statutory provisions, the Tribunal's reasoning, and the parties' arguments can be fully addressed in writing. Given the confined nature of the appeal, oral submissions would not materially advance the Court's understanding of the issues.

14. Procedural fairness is preserved

Both parties retain the opportunity to file written submissions addressing the legal issues. A written-only determination does not prejudice the Respondent.

15. Simultaneous filing is appropriate

Given the confined appellate nature of the proceeding, simultaneous filing of submissions is efficient and avoids unnecessary procedural complexity. Submissions should be limited to legal argument based on the Tribunal record.

16. Consistency with appellate practice

Appellate courts routinely determine matters on the papers where the issues are confined to questions of law and the record is complete. This appeal falls within that category.



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Applicant

**This application is to be heard by the Court at Maroochydore on the _____ day
of March 2026 at _____ am.**

THE APPLICANT ESTIMATES THE HEARING WILL TAKE 10 Minutes

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Registrar

If you wish to oppose the application or to argue that any different order should be made, you must appear before the court in person or by your lawyer or agent and you shall be heard. If you do not appear at the hearing the orders sought may be made without further notice to you.