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PLANNING AND ENVIRONMENT COURT OF QUEENSLAND

CITATION: *Grunske v Fraser Coast Regional Council* [2026] QPEC 7

PARTIES: **MARK AND JULIANNE GRUNSKÉ**
(appellants)

v

FRASER COAST REGIONAL COUNCIL
(respondent)

FILE NO/S: 129/25

DIVISION: Planning and Environment

PROCEEDING: Application in pending proceeding

DELIVERED ON: 9 March 2026

DELIVERED AT: Maroochydore

HEARING DATES: Decided on the papers with an oral hearing

JUDGE: Cash DCJ

ORDERS: **The application filed 3 March 2026 is dismissed.**

REPRESENT-
ATIVES: W Bolton as agent for the appellants
A Storie (solicitor), Connor O'Meara, for the respondent

- [1] The appellants have appealed to the Planning and Environment Court ('P&E Court') against a decision of the Development Tribunal. Such an appeal lies to the P&E Court pursuant to the *Planning Act 2016* (Qld) ('PA'). The hearing of the appeal is set down before me on 26 March 2026. To facilitate the hearing of the appeal, orders were made on 30 January 2026 for the filing of material. The appellants were required to file and serve any further material upon which they relied, along with written submission to be relied upon at the appeal, on or before 27 February 2026. Material was filed by Mr Bolton, as agent for the appellants, on 20 February 2026. The respondent Council is to file its material in reply on or before 20 March 2026.
- [2] When the matter came on for review on 27 February 2026, Mr Bolton raised the prospect of the appeal hearing being decided 'on the papers', without an oral hearing. The respondent Council opposes such an order and wishes to make oral submissions at the hearing of the appeal. Mr Bolton filed an application in the pending proceeding seeking a direction, purportedly pursuant to section 14 of the *Planning and Environment Court Act 2016* (Qld) ('PECA') that 'the appeal be determined on the papers, without oral hearing, unless the Court otherwise directs.' The respondent Council is content for the application to be determined without an oral hearing. Dealing with the application in this way is both permissible and appropriate, having regard to rule 4 of the *Planning and Environment Court Rules 2016* (Qld) ('PECR') and rule 489 of the *Uniform Civil Procedure Rules 1999* (Qld).

- [3] For the reasons which follow, even if there was a power to order the appeal be decided without an oral hearing, I would not make such an order in this case.

Is there a power to order an appeal be determined with an oral hearing?

- [4] The appellants rely upon section 14 of PECA, which relevantly provides that the ‘P&E Court may make an order or direction about the conduct of a P&E Court proceeding.’ This is an obviously broad power, and it would be inappropriate to read into the power constraints not appearing in text of the provisions. But it is equally obvious that the power is to be exercised judicially and having regard to the principles for exercising the jurisdiction of the P&E Court found in section 10 of PECA.
- [5] Section 14 of PECA is supplemented by rule 20 of PECR. Rule 20 contains a non-exhaustive list of the types of orders or directions which might be made. These include orders about the conduct of the proceeding or directions about a procedural matter, such as limiting the duration of a hearing or the time to be taken by a party presenting their case.
- [6] The combination of section 14 of PECA and rule 20 of PECR may suggest it is within the power of the P&E Court to direct that an appeal be determined without an oral hearing. But it is unnecessary to analyse any further the possible existence of the power. If it exists, as I am content to assume for the present application, the power must necessarily be in the nature of a discretion. Its exercise would require the P&E Court to consider all relevant matters, including section 10 of PECA and the legislative scheme as a whole, to determine if it is appropriate to direct that an appeal be decided without an oral hearing.
- [7] For the following reasons it would not be appropriate to make the order sought in this case.

The appellants’ arguments

- [8] The appeal is brought to this court pursuant to section 229 and Schedule 1 of the PA. An appeal in a case such as this may only be on the ground of an error of law or jurisdictional error. Because it is a ‘Planning Act appeal’, section 45 of PECA means the appellants bear the onus of establishing the appeal should be upheld. Section 229(4) of the PA confers upon each respondent to an appeal a right to be heard.
- [9] The appellant’s notice of appeal asserts three errors. The first asserted error is that the Tribunal did not consider a matter it was necessary for them to consider, which if established may be a jurisdictional error. The second asserted error is that the Tribunal erred in its construction and application of section 119 of the PA, which if established would be an error of law. The third asserted error is that the Tribunal did not give sufficient weight to a relevant consideration. It is difficult to see how this would be either an error of law or jurisdictional error, but that does not matter for present purposes.
- [10] In support of the application for the appeal to be decided without an oral hearing, the appellant advances several contentions. I will deal with each in turn.
- [11] **First**, it is said that deciding the appeal without an oral hearing would be efficient and consistent with the purposes of PECA and PECR. While some efficiency for the parties may result from there being no oral hearing, it is unlikely that the P&E Court would find it efficient to deal with the appeal, which is said to turn on contested and technical legal matters, without the assistance of oral submissions. That is especially

so when the appellants have chosen to be represented by an agent who is not a trained lawyer. The just and expeditious determination of the issues in dispute is unlikely to be advanced by dispensing with an oral hearing of the appeal.

- [12] **Secondly**, the appellants contend that the appeal is confined to material which was before the Tribunal and the issues in dispute are confined to legal and jurisdictional issues. This is said to make the matter particularly suitable for determination without an oral hearing. Indeed, the appellants assert '[t]hese characteristics place the appeal squarely within the category of matters routinely determined on the papers in appellate courts.' No examples are cited of such dispositions, and I am unaware of any general practice in either the P&E Court or the Court of Appeal, to determine contested matters without an oral hearing. In any event, the apparent suitability of a matter for determination without an oral hearing does not weigh heavily compared to the countervailing considerations identified in these reasons.
- [13] **Thirdly**, the appellants contend that in *Brisbane City Council v YQ Property Pty Ltd* [2020] QCA 253 ('*YQ Property*'), the Court of Appeal set out that 'written determination is suitable' where there are no factual disputes, the issues concern statutory interpretation, the record is complete and oral submissions would not materially assist. I have read the decision in *YQ Property*, and I can find no reference to these matters at all. That case was a conventional application for leave to appeal from a decision of the P&E Court. It is apparent from the face of the judgment that the parties made oral submissions before the Court of Appeal reserved its decision. But even if there was authority for the propositions advanced by the appellants, that does not help them in the present application. For the reasons already touched upon, I am not persuaded that the court would not be materially assisted by oral submissions.
- [14] If anything, the appellant's reliance upon *YQ Property* provides a useful illustration of the benefits of oral submissions. If there had been an oral hearing of the present application the appellants' agent could have been queried as to the relevance of the decision in *YQ Property* and been given an opportunity to identify passages in the decision said to support his application.

Conclusion

- [15] The matters identified by the appellants in support of their application do not persuade me that this is an appropriate matter for determination without the benefit of oral submissions. In fact, some of the matters raised, such as the technical legal nature of the issues in dispute, compel to conclude that it is much more likely that the P&E Court will benefit from oral submissions and from the testing of those submissions at a hearing. As well, the respondent Council wishes to make oral submissions to assist the P&E Court in the determination of the appeal.
- [16] For these reasons, even if there is a power to give a direction of the kind sought by the appellant, I would not do so in this case.
- [17] I add by way of a coda that the submissions filed by Mr Bolton in support of this application also proposed an order that the 'parties file any written argument submissions addressing the legal issues in Appeal 129/25 by 4:00 pm on Tuesday, 24 March 2026'. Such an order was not foreshadowed by Mr Bolton. It is unnecessary and inappropriate for such an order to be made. The orders of 30 January 2026 provided for the filing of material for the hearing of the appeal. The appellants' material was filed on 20 February 2026. The deadline for the appellants' expired on

27 February 2026. No further material should be filed by the appellants without the leave of the P&E Court.