

In the Planning and Environment
Court
Held at: Maroochydore

Appeal No. 129 of 2025

Between: **MARK AND JULIANNE GRUNSKÉ** Appellants
And: **FRASER COAST REGIONAL COUNCIL** Respondent

APPLICATION IN PENDING PROCEEDING

Filed on 05/05/2026

Filed by: Connor O'Meara Solicitors
Service Address: Level 22, 69 Ann Street, Brisbane 4000
Telephone: (07) 3221 3033
Email: mail@connoromeara.com.au

FRASER COAST REGIONAL COUNCIL of c/- Connor O'Meara Solicitors, Level 22, 69 Ann Street, Brisbane applies to the Planning and Environment Court at Maroochydore, for the following orders:

1. an order, pursuant to sections 60(1)(b), (f) and (i) of the *Planning and Environment Court Act 2016* ("*PECA*") that the Appellants pay the Respondent's costs of and incidental to the proceeding on a standard basis; and
2. such other or additional orders as the Court deems necessary.

APPLICATION IN PENDING
PROCEEDING
Filed on behalf of the Respondent
Form PEC-3

CONNOR O'MEARA
Solicitors
Level 22, 69 Ann Street
BRISBANE 4000
Phone: 3221 3033
Email: mail@connoromeara.com.au
01036959.DOCX

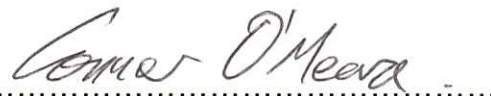
The grounds relied on are:

1. The proceeding, commenced by the Appellants on 1 December 2025, is an appeal against the decision of the Development Tribunal dated 3 November 2025, on an appeal to it against an infrastructure charges notice given by the Respondent to the Appellants.
2. On 5 May 2026, Judge Cash dismissed the appeal.
3. The Respondent seeks an order that the Appellants pay the Respondent's costs of and incidental to the proceeding on a standard basis for the reasons set out below.
4. In the present case, the Court's discretion to award costs is enlivened by each of subsections 60(1)(b), (f) and (i) of the PECA, as set out below.
5. Section 60(1)(b) of the PECA, which requires that the proceeding be "*frivolous or vexatious*", is satisfied, as:
 - (a) from the outset of the appeal, the Appellants raised issues outside the limited jurisdiction the Planning and Environment Court has to entertain appeals against decisions of the Development Tribunal; and
 - (b) whilst during the hearing of the appeal it was possible to discern three grounds of appeal for the Appellants, each of those grounds was "*so lacking in merit or substance as to be not fairly arguable*" and was "*bound to fail*".

6. Section 60(1)(f) of the PECA, which requires a default in the Court's procedural requirements, is satisfied, as the Appellants failed to comply with the requirement in section 230(1)(b) of the *Planning Act 2016* ("PA") that the Appellants' notice of appeal "*succinctly states the grounds of appeal*".
7. Section 60(1)(i) of the PECA, which requires a failure by the Appellants to properly discharge their responsibilities in the proceeding, is satisfied, as the Appellants failed to discharge the following responsibilities in the proceeding:
 - (a) the responsibility imposed on the Appellants by section 10(2) of the PECA to proceed in an expeditious way, which includes proceeding in a way which involves the litigation of only the real issues in dispute, without undue delay, expense and technicality, which requires that a party properly assess the merits of its case and properly acknowledge and address shortcomings in its case; and
 - (b) the responsibility imposed on the Appellants by section 230(1)(b) of the PA to succinctly state the grounds of the appeal in the notice of appeal.
8. The Court's discretion to award costs against the Appellants should be exercised in the present case, as:
 - (a) the proceeding was entirely without merit;

- (b) the serious deficiencies in the Appellants' articulation of its case significantly hindered the Respondent in its preparation for the case, resulting in additional time and expense and is likely to have also hindered the Court's ability to exercise its jurisdiction;
- (c) it is no excuse that the Appellants chose to be represented by an agent who is not a lawyer; and
- (d) the Respondent is a public, tax payer funded entity which was to put to significant expense to defend the (unmeritorious) appeal in circumstances where the amount of infrastructure charges in dispute was only \$54,720 and is not appropriate that the taxpayer be required to shoulder those costs.

9. In the premises, the Court ought order that the Appellants pay the Respondent's costs of and incidental to the appeal, on a standard basis.



CONNOR O'MEARA
Solicitors for the Respondent
Dated: 04/05/2026

This application is to be heard by the Court at Maroochydore on 5 May 2026 at 9:30am. The Respondent estimates the hearing will take 30 minutes.

.....
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.