



Notice of development application decision

Sections 3.5.11 and 3.5.15 Integrated Planning Act 1997

This notice is issued by the administering authority pursuant to sections 3.5.11 and 3.5.15 of the Integrated Planning Act 1997, to advise you of a decision or action.

Enquiries to : Damon Newling
Telephone : (07) 4722 5353
Your reference :
Our reference : TSV2667

Aqua United (Cardwell) Pty Ltd
2 Nicholson Road
CARDWELL QLD 4849

Entered/Validated in Ecotrack

Project Reference

Development Approval #

Registration Certificate #

This version amended on

Cancelled/Surrendered/Transferred Date:

Continuing Registration #

Attention: Mr Salvatore G Sciacca,

Re: Application (No. NR0463DA) for development approval by Aqua United (Cardwell) Pty Ltd for assessable activity to be carried out at a place situated at 2 Nicholson Road Carwell QLD

Pursuant to part 1 and 2 of Schedule 1A of the *Integrated Planning Regulation 1998*, the Environmental Protection Agency is the assessment manager for the development application.

Assessment Manager information

Assessment Manager office: Environmental Protection Agency
Northern Regional Office (Townsville)
Postal address: PO Box 5391 TOWNSVILLE MC QLD 4810
Telephone: 47225353
Fax: 47225351

The Environmental Protection Agency, acting as assessment manager under the *Integrated Planning Act 1997* for your application, advises that the development application decision notice about development prescribed under a regulation under the *Environmental Protection Act 1994* for schedule 8 part 1 item 6 of the *Integrated Planning Act 1997* is attached.



COPY

Should you require any further information please do not hesitate to contact Damon Newling on either phone (07) 4722 5353 or e-mail: damon.newling@epa.qld.gov.au

Signed

17 October 2002

Date

Gordon Ewers
District Manager
Delegate of Administering Authority
Environmental Protection Act 1994

CE
17/10/02



Development application decision notice

Section 3.5.11 and 3.5.15 *Integrated Planning Act 1997*

Applicant:	Aqua United (Cardwell) Pty Ltd
EPA Development Application number:	NR0463DA
Date application received by EPA:	5 September 2002
Date of decision:	16 October 2002
Relevant Laws and Policies:	<i>Environmental Protection Act 1994</i> and subordinate legislation
Jurisdiction:	Item 5 of Schedule 2 of the <i>Integrated Planning Regulation 1998</i>

Development Description:

Carrying out of Environmentally Relevant Activity (ERA):

34 Seafood processing - Commercially processing seafood, including removing the scales, gills, intestines or shells, filleting, chilling, freezing or packaging seafood in works having a design production capacity of more than 100 t per year.

at the following place(s):

Lot 2 on Plan SP124000

located at:

2 Nicholson Road Carwell QLD

Type of development

Material change of use of premises is:

- the start of a new use of the premises

Decision on Development Application

In deciding the application, the Environmental Protection Agency, as assessment manager approves all of the application subject to conditions decided by the assessment manager and includes in the approval any concurrence agency conditions as a development permit.

Further development permits required

Nil

Referral agencies

Concurrence Agencies: Nil
Advice Agencies: Nil
Referral Agencies: Nil

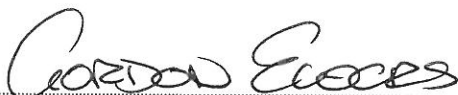
Additional information for applicants

This approval pursuant to the *Environmental Protection Act 1994* does not remove the need to obtain any further approval for this development which might be required by other State and/or Commonwealth legislation. Applicants are advised to check with all relevant statutory authorities. Applicants also should comply with all relevant legislation.

It is a requirement of the *Environmental Protection Act 1994* that if the owner or occupier of this site becomes aware a Notifiable Activity (as defined under schedule 2 of the *Environmental Protection Act 1994*) is being carried out on this land or that the land has been affected by a hazardous contaminant, they must, within 30 days after becoming aware the activity is being carried out, give notice to the Environmental Protection Agency. A list of Notifiable Activities is provided within Schedule 2 of the *Environmental Protection Act 1994*.

Appeal

When issuing a decision notice under the *Integrated Planning Act 1997*, the assessment manager must state the rights of appeal for the applicant (section 3.5.15(2)(j)). The rights of appeal are attached to the back of this notice.



Signed

17 October 2002

Date

Gordon Ewers
District Manager
Delegate of Administering Authority
Environmental Protection Act 1994

Conditions of the development approval

This development approval consists of the following schedules of conditions relevant to various issues:

The aforementioned description of the environmentally relevant activity (ERA) for which this development approval is issued is simply a restatement of the activity as prescribed in the legislation at the time of issuing this development approval. Where there is any conflict between the above description of the ERA for which this development approval is issued and the conditions as specified in this development approval as to the scale, intensity or manner of carrying out of the ERA, then such conditions prevail to the extent of the inconsistency.

This development approval authorises the ERA. It does not authorise environmental harm unless a concurrence agency condition within this development approval explicitly authorises that harm. Where there is no condition or the development approval is silent on a matter, the lack of a condition or silence shall not be construed as authorising harm.

- Schedule A - Activity
- Schedule B - Air
- Schedule C - Water
- Schedule D - Noise
- Schedule E - Waste
- Schedule F - Land
- Schedule G - Community
- Schedule H - Definitions
- Schedule I - Maps / Plans

Schedule A - Activity

Prevent and /or minimise likelihood of environmental harm

- (A1-1) In carrying out the environmentally relevant activities, you must take all reasonable and practicable measures to prevent and / or to minimise the likelihood of environmental harm being caused. Any environmentally relevant activity, that, if carried out incompetently, or negligently, may cause environmental harm, in a manner that could have been prevented, shall be carried out in a proper manner in accordance with the conditions of this approval.

NOTE: This approval authorises the environmentally relevant activity. It does not authorise environmental harm unless a condition contained within this approval explicitly authorises that harm. Where there is no condition or the approval is silent on a matter, the lack of a condition or silence shall not be construed as authorising harm.

Maintenance of measures, plant and equipment

- (A2-1) The holder must:
- install all measures, plant and equipment necessary to ensure compliance with the conditions of this environmental authority; and
 - maintain such measures, plant and equipment in a proper and efficient condition; and
 - operate such measures, plant and equipment in a proper and efficient manner.



Records

- (A5-1) Record, compile and keep all monitoring results required by this document and present this information to the administering authority when requested, in a specified format.
- (A5-2) Records must be kept for five years, and must include the following information:
- date of pickup of waste;
 - description of waste;
 - cross reference to relevant waste transport documentation;
 - quantity of waste;
 - origin of the waste;
 - destination of the waste; and
 - intended fate of the waste, for example, type of waste treatment, reprocessing or disposal.

NOTE: Records of documents maintained in compliance with a waste tracking system established under the *Environmental Protection Act 1994* or any other law for regulated waste will be deemed to satisfy this condition.

END OF CONDITIONS FOR SCHEDULE A

Schedule B - Air

Nuisance

- (B1-2) The release of noxious or offensive odours or any other noxious or offensive airborne contaminants resulting from the activity must not cause a nuisance at any odour sensitive place.

END OF CONDITIONS FOR SCHEDULE B

Schedule C - Water

Wastewater discharge

- (C8-1) All wastewaters discharged from the seafood processing facility must be directed through a grease trap prior to being discharged into the aquaculture farm's discharge channel.
- (C8-2) All wastewaters discharged into the discharge channel must be free of litter, visible oil slicks, and any other objectionable material.

END OF CONDITIONS FOR SCHEDULE C

Schedule D - Noise and vibration

There are no conditions prescribed for this Schedule.

END OF CONDITIONS FOR SCHEDULE D



Schedule E - Waste

Waste handling

- (E5-1) All regulated waste removed from the site must be removed by a person who holds a current approval to transport such waste under the provisions of the *Environmental Protection Act 1994*.

END OF CONDITIONS FOR SCHEDULE E

Schedule F - Land

There are no conditions prescribed for this Schedule.

END OF CONDITIONS FOR SCHEDULE F

Schedule G - Community

Complaint response

- (G1-1) All complaints received must be recorded including investigations undertaken, conclusions formed and action taken. This information must be made available to the administering authority on request.

END OF CONDITIONS FOR SCHEDULE G

Schedule H - Definitions

Words and phrases used throughout this licence or development approval are defined below:
Where a definition for a term used in this approval is sought and the term is not defined within this approval the definitions provided in the *Environmental Protection Act 1994*, its regulations, and Environmental Protection Policies shall be used.

Word Definitions

"administering authority" means the Environmental Protection Agency or its successor.

"you" means the holder of this Environmental Authority or owner / occupier of the land which is the subject of this Development Approval.

"site" means the place to which this environmental authority relates or the premises to which this development approval relates.

"authorised place" means the place authorised under this environmental authority/development approval for the carrying out of the specified environmentally relevant activities.

"this authority" means this environmental authority/development approval.

"authority" means level 1 licence (without development approval), or level 1 approval (without development approval), or level 2 approval (without development approval) under the *Environmental Protection Act 1994*.

"approval" means 'notice of development application decision' or 'notice of concurrence agency response' under the *Integrated Planning Act 1997*

"dust sensitive place" means -

- a dwelling, mobile home or caravan park, residential marina or other residential place;
- a motel, hotel or hostel;
- a kindergarten, school, university or other educational institution;



- a medical centre or hospital;
 - a protected area;
 - a park or gardens; or
 - a place used as an office or for business or commercial purposes.
- and includes the curtilage of any such place.

"odour sensitive place" has the same meaning as a "dust sensitive place"

"dwelling" means any of the following structures or vehicles that is principally used as a residence-

- a house, unit, motel, nursing home or other building or part of a building;
- a caravan, mobile home or other vehicle or structure on land;
- a water craft in a marina.

"noxious" means harmful or injurious to health or physical well being.

"offensive" means causing offence or displeasure; is disagreeable to the sense; disgusting, nauseous or repulsive.

"nuisance sensitive place" includes -

- a dwelling, residential allotment, mobile home or caravan park, residential marina or other residential premises; or
 - a motel, hotel or hostel; or
 - a kindergarten, school, university or other educational institution; or
 - a medical centre or hospital; or
 - a protected area under the Nature Conservation Act 1992, the Marine Parks Act 1992 or a World Heritage Area; or
 - a public thoroughfare, park or gardens; or
 - a place used as a workplace, an office or for business or commercial purposes.
- and includes a place within the curtilage of such a place reasonably used by persons at that place.

"noise affected premises" means a "noise sensitive place" or a "commercial place"

"noise sensitive place" means -

- a dwelling, mobile home or caravan park, residential marina or other residential premises; or
 - a motel, hotel or hostel; or
 - a kindergarten, school, university or other educational institution; or
 - a medical centre or hospital; or
 - a protected area; or
 - a park or gardens.
- and includes the curtilage of such place.

"commercial place" means a place used as an office or for business or commercial purposes.

"intrusive noise" means noise that, because of its frequency, duration, level, tonal characteristics, impulsiveness or vibration -

- is clearly audible to, or can be felt by, an individual; and
- annoys the individual.

In determining whether a noise annoys an individual and is unreasonably intrusive, regard must be given to Australian Standard 1055.2 - 1997 Acoustics - Description and Measurement of Environmental Noise Part 2 - Application to Specific Situations.

"protected area" means -

- a protected area under the Nature Conservation Act 1992; or
- a marine park under the Marine Parks Act 1992; or
- a World Heritage Area.

"waters" includes river, stream, lake, lagoon, pond, swamp, wetland, unconfined surface water, unconfined water natural or artificial watercourse, bed and bank of any waters, dams, non-tidal or tidal waters (including the sea), stormwater channel, stormwater drain, roadside gutter, stormwater run-off, and groundwater and any part thereof.

"land" in the "land schedule" of this document means land excluding waters and the atmosphere.

"regulated waste" means non-domestic waste mentioned in Schedule 7 of the Environmental Protection Regulation 1998 (whether or not it has been treated or immobilised), and includes:

- for an element - any chemical compound containing the element; and
- anything that has contained the waste.

"annual return" means the return required by the annual notice (under section 316 of the Environment Protection Act, 1994) for the section 86(2) licence that applies to the development approval.

END OF DEFINITIONS FOR SCHEDULE H

Schedule I - Maps / Plans

There are no attachments to this schedule.

END OF CONDITIONS FOR SCHEDULE I

END OF DEVELOPMENT APPROVAL

CE 17/10/02

Extract from the *Integrated Planning Act 1997*

Division 8—Appeals to court relating to development applications

Appeals by applicants

- 4.1.27 (1) An applicant for a development application may appeal to the court against any of the following -
- (a) the refusal, or the refusal in part, of a development application;
 - (b) a matter stated in a development approval, including any condition applying to the development, and the identification of a code under section 3.1.6;
 - (c) the decision to give a preliminary approval when a development permit was applied for;
 - (d) the length of a currency period;
 - (e) a deemed refusal.
- (2) An appeal under subsection (1)(a) to (d) must be started within 20 business days (the “**applicant’s appeal period**”) after the day the decision notice or negotiated decision notice is given to the applicant.
- (3) An appeal under subsection (1)(e) may be started at any time after the last day a decision on the matter should have been made.

Appeals by submitters

- 4.1.28 (1) A submitter for a development application may appeal to the court about -
- (a) the giving of a development approval, including any conditions (or lack of conditions) or other provisions of the approval; or
 - (b) the length of a currency period for the approval.
- (2) The appeal must be started within 20 business days (the “**submitter’s appeal period**”) after the day the decision notice or negotiated decision notice is given to the submitter.
- (3) If a person withdraws a submission before the application is decided, the person may not appeal the decision.
- (4) If an application involves both impact assessment and code assessment, appeal rights for submitters are available only for the part of the application involving impact assessment.

Appeals by advice agency submitters

- 4.1.29 (1) An advice agency may, within the limits of its jurisdiction, appeal to the court about the giving of a development approval for a development application if -
- (a) the development application involves impact assessment; and
 - (b) the advice agency told the applicant and the assessment manager to treat its response to the application as a submission for an appeal.
- (2) The appeal must be started within 20 business days after the day the decision notice or negotiated notice is given to the advice agency as a submitter.

Appeals for matters arising after approval given (co-respondents)

- 4.1.30 (1) For a development approval given for a development application, a person to whom any of the following notices have been given may appeal to the court against the decision in the notice -
- (a) a notice giving a decision on a request for an extension of the currency period for an approval;
 - (b) a notice giving a decision on a request to make a minor change to an approval.
- (2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.
- (3) Subsection (1)(a) does not apply if the approval resulted from a development application (superseded planning scheme) that was assessed as if it were an application made under a superseded planning scheme.

Division 9 - Appeals to court about other matters

Appeals for matters arising after approval given (no co-respondents)

- 4.1.31 (1) A person to whom any of the following notices have been given may appeal to the court against the decision in the notice -
- (a) a notice giving a decision on a request to change or cancel a condition of a development approval;
 - (b) a notice under section 6.1.44 giving a decision to change or cancel a condition of a development approval.
- (2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.

Appeals against enforcement notices

- 4.1.32 (1) A person who is given an enforcement notice may appeal to the court against the giving of the notice.
- (2) The appeal must be started within 20 business days after the day notice is given to the person.

Stay of operation of enforcement notice

- 4.1.33 (1) The lodging of a notice of appeal about an enforcement notice stays the operation of the enforcement notice until -
- (a) the court, on the application of the entity issuing the notice, decides otherwise; or
 - (b) the appeal is withdrawn; or
 - (c) the appeal is dismissed.
- (2) However, subsection (1) does not apply if the enforcement notice is about -
- (a) a work, if the enforcement notice states the entity believes the work is a danger to persons or a risk to public health; or
 - (b) carrying out development that is the demolition of a work.

Appeals against decisions on compensation claims

- 4.1.34 (1) A person who is dissatisfied with a decision under section 5.4.8 or 5.5.3 for the payment of compensation may appeal to the court against -
- (a) the decision; or
 - (b) a deemed refusal of the claim.
- (2) An appeal under subsection (1)(a) must be started with 20 business days after the day notice of the decision is given to the person.
- (3) An appeal under subsection (1)(b) may be started at any time after the last day a decision on the matter should have been made.

Appeals against decisions on requests to acquire designated land under hardship

- 4.1.35 (1) A person who is dissatisfied with a designator's decision to refuse a request made by the person under section 2.6.19, may appeal to the court against -
- (a) the decision; or
 - (b) a deemed refusal of the request.
- (2) An appeal under subsection (1)(a) must be started within 20 business days after the day notice of the decision is given to the person.
- (3) An appeal under subsection (1)(b) may be started at any time after the last day a decision on the matter should have been made.

Appeals from tribunals

- 4.1.37 (1) A party to a proceeding decided by a tribunal may appeal to the court against the tribunal's decision, but only on the ground -
- (a) of error or mistake in law on the part of the tribunal; or
 - (b) that the tribunal had no jurisdiction to make the decision or exceeded its jurisdiction in making the decision.
- (2) An appeal against a tribunal's decision must be started within 20 business days after the day notice of the tribunal's decision is given to the party.

Court may remit matter to tribunal

- 4.1.38 If an appeal includes a matter within the jurisdiction of a tribunal and the court is satisfied the matter should be dealt with by a tribunal, the court must remit the matter to the tribunal for decision.

Division 10 - Making an appeal to court

How appeals to the court are started

- 4.1.39 (1) An appeal is started by lodging written notice of appeal with the registrar of the court.
- (2) The notice of appeal must state the grounds of the appeal.
 - (3) The person starting the appeal must also comply with the rules of the court applying to the appeal.
 - (4) However, the court may hear and decide an appeal even if the person has not complied with subsection (3).

Certain appellants must obtain information about submitters

- 4.1.40 (1) If the applicant or a submitter for a development application appeals about the part of the application involving impact assessment, the appellant must ask the assessment manager to give the appellant the name and address of each principal submitter who made a properly made submission about the application and has not withdrawn the submission.
- (2) The assessment manager must give the information requested under subsection (1) as soon as practicable.

Notice of appeal to other parties (div 8)

- 4.1.41 (1) An appellant under division 8 must, within 10 business days after the day the appeal is started (or if information is requested under section 4.1.40, within 10 business days after the day the appellant is given the information) give written notice of the appeal to -
- (a) if the appellant is an applicant - the assessment manager, any concurrence agency, any principal submitter whose submission has not been withdrawn and any advice agency treated as a submitter whose submission has not been withdrawn; or
 - (b) if the appellant is a submitter or an advice agency whose response to the development application is treated as a submission for an appeal - the assessment manager, the applicant and any concurrence agency; or
 - (c) if the appellant is a person to whom a notice mentioned in section 4.1.30 has been given - the assessment manager and any entity that was a concurrence agency for the development application.
- (2) The notice must state -
- (a) the grounds of the appeal; and
 - (b) if the person given the notice is not the respondent or a co-respondent under section 4.1.43 - that the person, within 10 business days after the day the notice is given, may elect to become a co-respondent to the appeal.

Notice of appeal to other parties (div 9)

- 4.1.42 (1) An appellant under division 9 must, within 10 business days after the day the appeal is started give written notice of the appeal to -
- (a) if the appellant is a person to whom a notice mentioned in section 4.1.31⁷³ has been given - the entity that gave the notice; or
 - (b) if the appellant is a person to whom an enforcement notice is given - the entity that gave the notice and if the entity is not the local government, the local government; or
 - (c) if the appellant is a person dissatisfied with a decision about compensation - the local government that decided the claim; or
 - (d) if the appellant is a person dissatisfied with a decision about acquiring designated land - the designator; or
 - (e) if the appellant is a person who is disqualified as a private certifier - the entity disqualifying the person and if the entity disqualifying the person is not the accrediting body, the accrediting body; or
 - (f) if the appellant is a party to a proceeding decided by a tribunal - the other party to the proceeding.
- (2) The notice must state the grounds of the appeal.

Respondent and co-respondents for appeals under div 8

- 4.1.43 (1) This section applies to appeals under division 8 for a development application.
- (2) The assessment manager is the respondent for the appeal.
 - (3) If the appeal is started by a submitter, the applicant is a co-respondent for the appeal.
 - (4) If the appeal is about a concurrence agency response, the concurrence agency is a co-respondent for the appeal.
 - (5) If the appeal is only about a concurrence agency response, the assessment manager may apply to the court to withdraw from the appeal.
 - (6) The respondent and any co-respondents for an appeal are entitled to be heard in the appeal as a party to the appeal.
 - (7) A person to whom a notice of appeal is required to be given under section 4.1.41 and who is not the respondent or a co-respondent for the appeal may elect to be a co-respondent.

Respondent and co-respondents for appeals under div 9

- 4.1.44 (1) This section applies if an entity is required under section 4.1.42 to be given a notice of an appeal.
- (2) The entity given written notice is the respondent for the appeal.
 - (3) However, if under a provision of the section more than 1 entity is required to be given notice, only the first entity mentioned in the provision is the respondent.
 - (4) The second entity mentioned in the provision may elect to be a co-respondent.

How a person may elect to be co-respondent

- 4.1.45 (1) An entity elects to be a co-respondent by lodging in the court, within 10 business days after the day the notice of the appeal is given to the entity, a notice of election under the rules of court.
- (2) If a principal submitter is entitled to elect to become a co-respondent, any other submitter for the submission may also elect to become a co-respondent to the appeal.

Minister entitled to be represented in an appeal involving a State interest

- 4.1.46 If the Minister is satisfied that an appeal involves a State interest, the Minister is entitled to be represented in the appeal.

Lodging appeal stops certain actions

- 4.1.47 (1) If an appeal (other than an appeal under section 4.1.30) is started under division 8, the development must not be started until the appeal is decided or withdrawn.
- (2) Despite subsection (1), if the court is satisfied the outcome of the appeal would not be affected if the development or part of the development is started before the appeal is decided, the court may allow the development or part of the development to start before the appeal is decided.