

Decision notice

This notice is issued by the Department of Environment and Resource Management (DERM) pursuant to section 334 (decision notice) of the Sustainable Planning Act 2009 ("the Act").

Mr Matthew Alexander Smith
"Uranus"
10925 Blackwater Road
ROLLESTON QLD 4702

Attention: Matthew Smith
Email: casper29@bigpond.com

cc. Chief Executive Officer
Central Highlands Regional Council
PO Box 21
EMERALD QLD 4720

Email: enquiries@chrc.qld.gov.au

Our reference: 468614 / IM0811ROK0001

Re: Application for development approval

1. Application Details

Date application made to DERM: 5 August 2011

Development approval applied for: Development permit

Development description: Material Change of Use

Aspect(s) of development:

Material change of use of premises – For an environmentally relevant activity	<i>Sustainable Planning Regulation 2009</i> - Schedule 3, Part 1, Table 2, item 1	DERM Permit No. SPDE02407511
Various aspects of development – For removal of quarry material	<i>Sustainable Planning Regulation 2009</i> - Schedule 3, Part 1, Table 5, item 1	DERM Permit No. 604943

Property/Location description: Lot 64 on Plan DSN170
Blackwater Road, LOWESBY

2. The name and address of each referral agency.
Nil

3. The Chief Executive, Department of Environment and Resource Management (DERM) decision notice, for the aspect of development involved with the application the subject of this Notice is as follows.

- (a) The application was decided on 19 September 2011 and is approved subject to conditions.
- (b) The application is approved subject to the conditions attached to this notice, and the conditions are stated to be assessment manager conditions:
 - (i) Department of Environment and Resource Management – Assessment manager conditions – Permit No. SPDE02407511 – ERA 16 1(a)
 - (ii) Department of Environment and Resource Management – Assessment manager conditions – Permit No. 604943 – Removal of quarry material from a watercourse

4. Any other development permits or compliance permits necessary to allow the aspect of development the subject of this Notice to be carried out are stated below.

This approval pursuant to the *Sustainable Planning Act 2009* does not remove the need to obtain any further approval for this development, required by this or other State and/or Commonwealth legislation. Applicants are advised to check with all relevant statutory authorities for such approvals as may be required. Applicants should also comply with all relevant legislation.

5. Information about the rights of appeal for the applicant and submitters are attached to this Notice.

6. **Approved plans and specifications**

Document No.	Document Name	Date
8649-32134	SmartMap for Lot 64 on DSN170	08/09/2011

7. **Additional comments or advice about the application**

Requirements under the *Water Act 2000*

Any works that result in the destruction of vegetation, excavation or placement of fill in a watercourse require a Riverine Protection Permit (RPP under the *Water Act 2000*). The applicant should be aware that the process for applying for a RPP is outside this IDAS process and will require a separate application to this Department.

There are some considerations the applicants must be aware of in relation to accessing or interfering with water resources on land subject to the application, in accordance with the provisions of the *Water Act 2000*.

It is a requirement under the *Water Act 2000*, that approval be obtained from the DERM before any activities are undertaken in watercourses, lakes or springs above the tidal limit. All rights to the use, flow and control of all water in Queensland are vested in the State.

Surface Water

The take of water from a watercourse, as defined under the *Water Act 2000*, for any purpose other than for stock or domestic purposes, as defined in the *Water Act 2000*, would require the relevant authorisations (i.e. a water permit or water licence and development permit) under the *Water Act 2000* and *Sustainable Planning Act 2009*.

Impact on Riparian Water Use.

Under section 20 of the *Water Act*, the owner of land adjoining a watercourse, lake or spring, may take water from the watercourse, lake, or spring for stock and domestic purposes without a water entitlement.

Overland Flow

A person may take overland flow water for any purpose unless there is a moratorium notice, a water resource plan or a wild river declaration that limits or alters the water that may be taken or interfered with.

This property is located within the Fitzroy Basin and is therefore affected by the Water Resource (Fitzroy Basin) Plan 1999. This Plan regulates the taking of overland flow and states how overland flow water can be taken (Section 28). The Plan allows for Works such as overland flow storages for stock and domestic purpose, those of limited capacity (5ML) or those constructed under an Environmental Relevant Activity. Such works are self-assessable and can be undertaken in accordance with the relevant code.

Existing structures

Water can only be taken from an overland flow structure for quarry purposes under the following scenarios:-

- The water has been taken previously (prior to 22/7/05) from the overland flow structure dam for quarry feedlot purposes (and the owner notifies the Department the works are taking water under the overland flow notification process)
- The owner can build a new storage or storages not connected to each other and use the water for any purposes as long as the structure does not exceed 5 ML
- Structures required under an environmental authority (subject to a code).

Groundwater

Declared subartesian area - Water licensing and development permit requirements

This property is located within the Highlands Subartesian Area defined in the *Water Regulation 2002*. For Highlands Subartesian Area:

- a water licence is required to take or interfere with subartesian water, other than for the purposes specified within Schedule 11 of the *Water Regulation 2002*.
- under the *Sustainable Planning Act 2009*, a development permit is required to construct or install works that take subartesian water, other than works constructed or installed solely for the purposes mentioned within schedule 11 of the *Water Regulation 2002*.

More Information

It is recommended that advice be sought before any activities are undertaken in watercourses, lakes or springs above the tidal limit. Please contact the Project Officer (Water Management and Use) on 48373481 if you have any questions relating to the above.

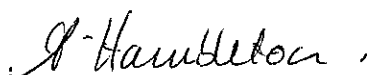
8. Additional information for applicants

Aboriginal Cultural Heritage

Under section 23 of the *Aboriginal Cultural Heritage Act 2003* a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are \$1,000,000 for a corporation and \$100,000 for an individual.

Applicants will comply with the duty of care in relation to Aboriginal cultural heritage if they are acting in accordance with cultural heritage duty of care guidelines gazetted under the *Aboriginal Cultural Heritage Act 2003*, available on the DERM website, or in accordance with an agreement with the Aboriginal party for the area or a cultural heritage management plan approved under part 7 of the *Aboriginal Cultural Heritage Act 2003*.

Applicants are also encouraged to undertake a search of the Aboriginal Cultural Heritage Database and the Aboriginal Cultural Heritage Register, administered by the Cultural Heritage Coordination Unit, DERM. Application forms to undertake a free search of the Cultural Heritage Register and the Database may be obtained by contacting the Cultural Heritage Coordination Unit on (07) 3239 3647 or on the DERM website <www.derm.qld.gov.au/cultural_heritage>.



Alison Hambleton
Delegate for the Chief Executive,
Department of Environment and Resource Management

21 September 2011

Enquiries:

Dianne McDowell
A/Senior Natural Resource Officer
Regional Planning and Coordination
Department of Environment and Resource
Management
PO Box 1762, Rockhampton Qld 4700
Phone: (07) 4837 3499
Fax: (07) 4837 3350
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Attachments

- Attachment 1:** DERM permit number SPDE02407511 – Assessment manager conditions – Environmentally relevant activities
- Attachment 2:** DERM permit number 604943 – Assessment manager conditions – Removal of quarry material from a watercourse
- Attachment 3:** Information Sheet – Appeals – *Sustainable Planning Act 2009* (extract from the *Sustainable Planning Act 2009*)

Department of Environment
and Resource Management

Sustainable Planning Act 2009
DERM Permit ¹ number: SPDE02407511

Assessment manager reference	468614
Date application received:	5 August 2011
Permit type:	
Date of decision:	12 September 2011
Decision:	The application is approved subject to conditions and the Assessment Managers conditions are stated in this permit.
Relevant laws and policies:	<i>Sustainable Planning Act 2009 and the Environmental Protection Act 1994</i> and any related statutory instruments and subordinate legislation
Jurisdiction(s):	Material change of use of premises – For an environmentally relevant activity under the <i>Sustainable Planning Regulation 2009</i> – Schedule 3, Part 1, Table 2, item 1

Development Description(s)

Property/Location		Development
Blackwater Road, Lowesby	Lot 64 on DSN170	ERA 16, 1(a) – Dredging in a year 1000t to 10000t of material

Reason(s) for inclusion of conditions

In accordance with section 289 of the *Sustainable Planning Act 2009*, the reason(s) for inclusion of conditions stated in this permit required by the concurrence agency response for the application are as follows.

1. The Department of Environmental and Resource Management is the Assessment Manager under the *Sustainable Planning Regulation 2009* for the purposes of the *Environmental Protection Act 1994*.
2. The conditions are included pursuant to section 73B of the *Environmental Protection Act 1994*.

Additional information for applicants

¹ Permit includes licences, approvals, permits, authorisations, certificates, sanctions or equivalent/similar as required by legislation administered by the Department of Environment and Resource Management.

BA

Environmentally Relevant Activities

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

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

In addition to this permit, the person to carry out the ERA must be a registered operator under the *Environmental Protection Act 1994*. For the person to become a registered operator, they must apply to the administering authority for a registration certificate under section 73F of the *Environmental Protection Act 1994*.

Duty to notify environmental harm

Section 320 of the *Environmental Protection Act 1994* requires a person to notify the administering authority if the person becomes aware that an activity (whether by act or omission) has caused, or threatened, unlawful material or serious environmental harm. It is an offence to fail to notify in accordance with this section, and the duty extends to all persons (including employers and employees). This obligation exists irrespective of any conditions forming part of DERM's concurrence agency response.

Aboriginal Cultural Heritage

All significant Aboriginal cultural heritage in Queensland is protected under the *Aboriginal Cultural Heritage Act 2003*, and penalty provisions apply for any unauthorised harm. Under the legislation a person carrying out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage. This applies whether or not such places are recorded in an official register and whether or not they are located in, on or under private land.

Further information in relation to your obligations under the *Aboriginal Cultural Heritage Act 2003* can be obtained from http://www.derm.qld.gov.au/cultural_heritage/about_cultural_heritage.html



Delegate

Sandra Flanagan

Manager, Environmental Services

Delegate administering the *Environmental Protection Act 1994*

Department of Environment and Resource Management

15 September 2011

CONDITIONS

- 1 This development approval authorises the extraction of sand within the high banks of Planet Creek on Lot 64, on DSN170.
- 2 A copy of this development approval must be kept in a location readily accessible to personnel carrying out the activity.
- 3 A Site Based Management Plan (SBMP) must be implemented prior to commencement of the ERA and identify all potential sources of environmental harm, including but not limited to the actual and potential release of all contaminants, the potential impact of these sources and what actions will be taken to prevent the likelihood of environmental harm being caused. The SBMP must also provide for the review and 'continual improvement' in the overall environmental performance of all ERAs that are carried out.
The Site Based Management Plan must address the following matters:
 - a) environmental commitments - a commitment by senior management to achieve environmental goals;
 - b) Identification of environmental issues and potential impacts;
 - c) control measures for routine operations to minimise likelihood of environmental harm;
 - d) contingency plans and emergency procedures for non-routine situations;
 - e) organisational structure and responsibility;
 - f) effective communication;
 - g) monitoring of the contaminant releases;
 - h) conducting environmental impact assessments;
 - i) staff training;
 - j) record keeping; and
 - k) periodic review of environmental performance and continual improvement.
- 4 The SBMP must be kept in a location readily accessible to persons carrying out the activity.
- 5 Contaminants that may cause actual or potential environmental nuisance or environmental harm must not be released directly or indirectly to land, air, or waters.
- 6 As soon as a registered operator becomes aware of any release of contaminants that may cause actual or potential environmental harm, the release must be stopped, promptly rectified with the necessary equipment and remediation methods, and all reasonable actions taken to prevent a recurrence of the release.
- 7 Any release of contaminants not in accordance with the conditions of this approval must be reported by telephone to the DERM Pollution Hotline or DERM office located in the area where the release occurred. Any such release must be reported as soon as possible but no later than 24 hours after the registered operator becomes aware of the release.

A written notice detailing the following information must be provided to DERM within 7 days:

- (a) the name of the registered operator, including their registration certificate number;
- (b) the name and telephone number of a designated contact person;
- (c) quantity and substance released;

- (d) person/s involved;
 - (e) the location and time of the release;
 - (f) the suspected cause of the release;
 - (g) a description of the effects of the release;
 - (h) the results of any sampling performed in relation to the release;
 - (i) actions taken to mitigate any environmental harm caused by the release; and
 - (j) proposed actions to prevent a recurrence of the release.
- 8 All waste generated in carrying out the activities must be reused, recycled or removed to a facility that can lawfully accept the waste under the EP Act.
- 9 All machinery used in the works is to be stored, refuelled and maintained outside the high banks of the watercourse.
- 10 Any liquid held in a container such as a tank or drum that has the potential to cause environmental harm if released to the environment must be bunded. Volumes of liquid less than 1000L may be stored without bunding if:
- (a) recovery of any spilt material is possible;
 - (b) containers or drums are stored undercover on an impervious base;
 - (c) the storage is occurring at least 100m from any waters; and
 - (d) there is absorbent material readily available at the site for clean up if necessary.
- 11 Care shall be taken to disturb as little as possible any mud, clay or fine silt which could cause increased discolouration of the water or cause siltation in Planet Creek downstream of this operation.
- 12 Removal and storage of material must not be carried out within 1km of any sensitive place.
- 13 To prevent the unreasonable release of dust, the following measures must include but are not limited to:
- (a) watering stockpiles;
 - (b) covering loads on haulage vehicles;
 - (c) maintenance of unsealed roads to minimise dust.
- 14 The registered operator must abide by the air, noise, water and waste management quality objectives specified in the most recent edition of the respective *Environmental Protection Policy*.
- 15 When requested by the administering authority, the registered operator must commission dust and particulate monitoring to investigate any complaint of environmental nuisance caused by dust and/or particulate matter. The monitoring data, an analysis of the data and a report must be provided to the administering authority within 14 days of the completion of the investigation.
- The registered operator must abide by the air quality objectives specified in the most recent edition of the respective *Environmental Protection (Air) Policy*.
- 16 When requested by the administering authority, the registered operator must commission noise monitoring to investigate any complaint of nuisance caused by noise. The monitoring data, an analysis of the data and a report must be provided to the administering authority within 14 days of the completion of the investigation.

Noise measurements must be compared with the acoustic quality objectives specified in the most recent edition of the *Environmental Protection (Noise) Policy*.

- 17 Access to the removal site over banks to the bed of the river or lake is via existing tracks only. These tracks are to be maintained in an "as good" state.
- 18 All batters must be no steeper than one (1) vertical on three (3) horizontal.
- 19 The surface area of the operation within the bed of the watercourse shall be left at an even longitudinal grade, smooth and free from holes and ridges.
- 20 Removal of material, stockpiling and associated operations is prohibited:
 - within 5 meters of the stem or trunk of any native vegetation;
 - within 5 meters of the toe of the banks of Planet Creek;
 - at a depth greater than 2 meters below natural surface;
 - below the water level prevailing at the time of operation.
- 21 Consolidated material comprising the bed and banks of the watercourse may only be interfered with at the access track and for the purpose of maintaining the access track. Any other interference with the consolidated material comprising the bed and the banks of the watercourse is prohibited
- 22 A sign must be displayed at the entrance to the activity site that states the name of the registered operator and that the site is being operated under a development approval. The sign must include contact details for the registered operator.

Definitions

Activity means an environmentally relevant activity, or aspect of an ERA to which this approval relates.

Administering authority means the Chief Executive of the Department of Environment and Resource Management (or its successor).

Bund(ed) means an earth mound or similar structure (e.g. a concrete block wall), whether impervious or not, constructed to contain spilled material (e.g. petrol, diesel, oil).

Contaminant (as defined in Section 11 of the *Environmental Protection Act 1994*) means —

- (a) a gas, liquid or solid; or
- (b) an odour; or
- (c) an organism (whether alive or dead), including a virus; or
- (d) energy, including noise, heat, radioactivity and electromagnetic radiation; or
- (e) a combination of contaminants.

Environmental harm (as defined in Section 14 of the *Environmental Protection Act 1994*) is any adverse effect, or potential adverse effect (whether temporary or permanent and of whatever magnitude, duration or frequency) on an environmental value, and includes environmental nuisance. Environmental harm may be caused by an activity—

- (a) whether the harm is a direct or indirect result of the activity; or
- (b) whether the harm results from the activity alone or from the combined effects of the activity and other activities or factors.

Environmental nuisance (as defined in Section 15 of the *Environmental Protection Act 1994*) means — “unreasonable interference or likely interference with an environmental value” caused by:

- (a) aerosols, fumes, light, noise, odour, particles or smoke; or
- (b) an unhealthy, **offensive** or unsightly condition because of contamination; or
- (c) another way prescribed by regulation.

EP Act means the *Environmental Protection Act 1994*.

EP Reg means the *Environmental Protection Regulation 2008*.

ERA means an Environmentally Relevant Activity under the *Environmental Protection Regulation 2008*.

High bank means the defining terrace or bank or, if no bank is present, the point on the active floodplain, which confines the average annual peak flows in a watercourse.

Registered operator means the holder of a registration certificate for carrying out extractive or screening activities under ERA 16 that meet the criteria in section 3 of this code.

Registration certificate means a certificate given under section 73F of the *Environmental Protection Act 1994* to the registered operator of an ERA.

Release of a contaminant into the environment, includes —

- (a) to deposit, discharge, emit or disturb the contaminant; and
- (b) to cause or allow the contaminant to be deposited, discharged, emitted or disturbed; and
- (c) to allow the contaminant to escape; and
- (d) to fail to prevent the contaminant from escaping.

Sensitive place means —

- (a) a dwelling (including residential allotment, mobile home or caravan park, residential marina or other residential premises, motel, hotel or hostel;

- (b) a library, childcare centre, kindergarten, school, university or other educational institution;
- (c) a medical centre, surgery or hospital;
- (d) a protected area;
- (e) a public park or garden that is open to the public (whether or not on payment of money) for use other than for sport or organised entertainment.

Site(s) comprise all works required to undertake the activity and may include —

- (a) stockpiles;
- (b) hardstand areas;
- (c) chemical or fuel storage areas;
- (d) any associated infrastructure; and
- (e) voids

Watercourse (as defined in Section 5, Schedule 12 of the *Environmental Protection Regulation 2008*) means —

- (a) a river, creek or stream in which water flows permanently or intermittently—
in a natural channel, whether artificially improved or not; or
in an artificial channel that has changed the course of the watercourse.
- (b) A watercourse includes the bed and banks and any other element of a river, creek or stream confining or containing water.

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.

END OF CONDITIONS

DECISION NOTICE

**Application for a Development
Permit**

Sustainable Planning Act 2009



**Queensland
Government**

Development Permit 604943

Applicant MATTHEW ALEXANDER SMITH

Approval Information

The application for development to remove quarry material on land described as is approved by this agency subject to the conditions endorsed hereon or attached hereto .

Development to remove quarry material from a watercourse or lake may continue under this permit only during the period for which an allocation notice granted under the *Water Act 2000* authorises the material to be removed.

It is an offence for a person to remove quarry material from a watercourse or lake without appropriate authority under the *Water Act 2000*.

Given at Emerald this NINTH day of SEPTEMBER 2011.

**Jim Reeves
Director-General
Department of Environment and Resource Management**

Schedule of Assessment Manager Conditions

Description of Approved Works

Works Reference 570865

Removal of quarry material from Planet Creek.

Development for the removal of quarry material associated with a Quarry Material Allocation Notice.

The bed of the Planet Creek adjacent to Lot 64 on DSN170.

Must be located on Lot 64 on DSN170.

Part A - General Conditions of the Works

DQ02

The permit area is confined to within the bed and banks of Planet Creek.

DQ03

Existing sand, gravel, clay or rock bars that create a natural storage in the bed of the watercourse shall not be lowered or disturbed in any way to prejudice the interests or rights of owners of adjacent or affected lands, or water entitlements given under the provisions of the Water Act 2000.

DQ04

Removal of material must not be carried out within 200 metres of any public road, bridge culvert or railway crossing.

DQ05

Attached to this document is a map indicating the location of the permit area.

DQ06

Removal of material and associated operations shall not cause erosion or damage to the bed or banks, the vegetation growing thereon, pumps, fences or structures within the watercourse, nor shall they cause unauthorised interference to the flow of the watercourse.

DQ08

All batters must be no steeper than one (1) vertical on three (3) horizontal.

DQ09

The surface area of the operation within the bed of the watercourse shall be left at an even longitudinal grade, smooth and free from holes and ridges or as required by an approved works or rehabilitation plan.

DQ10

All works are to be carried out in accordance with the approved operations plan identified as Operations Plan for Sand Extraction from Planet Creek submitted by the applicant.

DQ11

Material removed from the watercourse should be stored above known flood level and must only be returned to the watercourse in accordance with an operations plan approved by the chief executive of the Department of Environment and Resource Management.

DQ14

Development for removing quarry material may continue under this permit only during the period
Quarry Material Allocation Notice 300232 remains in force.

Part B - Other Conditions of the Works
SCHEDULE B CONDITIONS ATTACHED

SCHEDULE B CONDITIONS

SPEC 1

The permittee is to ensure that any person employed or contracted by the permittee in connection with this operation understands and complies with the provisions of this permit.

SPEC 2

The permittee must maintain current permission to traverse any property to access the permit site.

SPEC 3

Access to the removal site over banks to the bed of the river or lake is via existing tracks only. These tracks are to be maintained in an "as good" state and will be subject of rehabilitation to a standard as directed by an Officer of this Department.

SPEC 4

Work is only allowed to be undertaken within the area defined on site by an officer of the Department. The area will be defined by:

Downstream Limit - AMTD: Downstream 14.0 km

Lat: 24° 22' 31"

Long: 148° 41' 47"

Upstream Limit - AMTD: Upstream 23.0 km

Lat: 24° 25' 41"

Long: 148° 41' 47"

SPEC 5

Removal of Material and associated operations is prohibited:

- Within 5 meters of the stem or trunk of any native vegetation;
- Within 5 meters of the toe of the banks of Planet Creek;
- At a depth greater than 2 meters below natural surface;
- Below the water level prevailing at the time of operation.

SPEC 6

Consolidated material comprising the bed and banks of the watercourse may only be interfered with at the access track and for the purpose of maintaining the access track. Any other interference with the consolidated material comprising the bed and the banks of the watercourse is prohibited.

SPEC 7

In the case of a screening process, reject oversize material and unwanted sand shall be replaced in the bed of the excavation on an even gradient over the removal area.

SPEC 8

Care shall be taken to disturb as little as possible any mud, clay or fine silt which could cause increased discolouration of the water or cause siltation in Planet Creek downstream of this operation.

SPEC 9

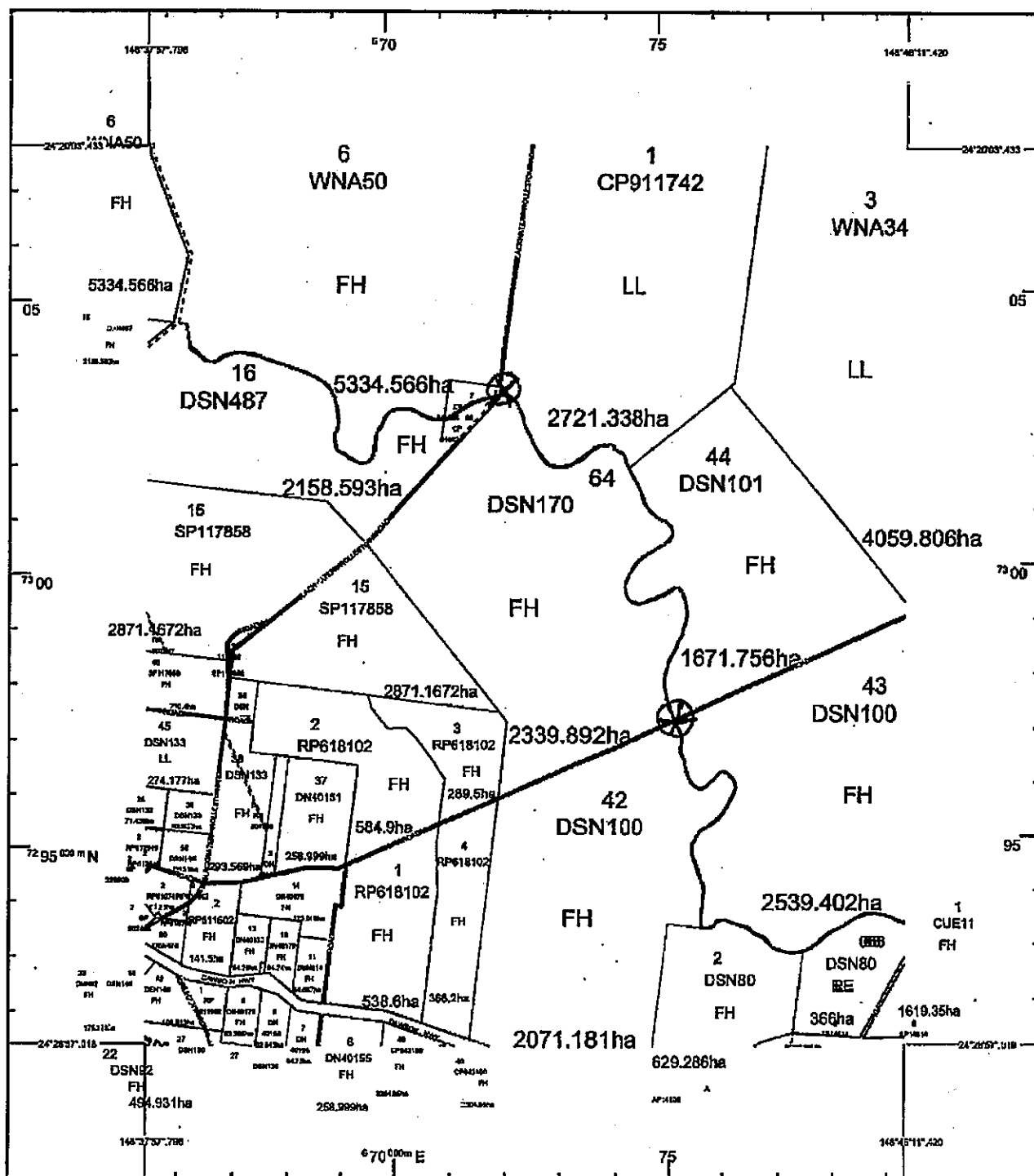
All machinery used in the works is to be stored, refuelled and maintained outside the high banks of the watercourse.

Part A - General Conditions of the Approvals

D025

The permittee must provide a copy of the permit to any person contracted to construct the works approved by this permit.

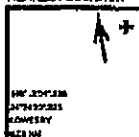
END OF ASSESSMENT MANAGER CONDITIONS



STANDARD MAP NUMBER
8649-32134

0 2.0 4.0 6.0 8.0 10.0 km
HORIZONTAL DATUM: GDA94 ZONE: 58 SCALE: 1:100,000

MAP WINDOW POSITION &
NEAREST LOCATION



SUBJECT PARCEL DESCRIPTION

DCDB
Lot/Plan 64/DSN170
Area/Volume 2339.892ha
Tenure FREEHOLD
Local Government CENTRAL HIGHLANDS REGIONAL
Locality LOWESBY
Parish ROLLISTON
County DENISON
Segment/Parcel 442755

CLIENT SERVICE STANDARDS

PRINTED (dd/mm/yyyy) 08/08/2011

DCDB 07/08/2011 (Lots with an area less than 4.00ha are not shown)

Users of the information recorded in this document (the information) accept all responsibility and risk associated with the use of the information and should seek independent professional advice in relation to dealings with property.

Despite Department of Environment and Resource Management (DERM)'s best efforts, DERM makes no representations or warranties in relation to the information, and, to the extent permitted by law, exclude or limit all warranties relating to correctness, accuracy, reliability, completeness or currency and all liability for any direct, indirect and consequential costs, losses, damages and expenses incurred in any way (including but not limited to that arising from negligence) in connection with any use of or reliance on the information.

For further information on SmartMap products visit <http://www.qld.gov.au/property/mapping/smartmap>

SmartMap

An External Product of
SmartMap Information Services

Based upon an extraction from the
Digital Cadastral Data Base



**Queensland
Government**

(c) The State of Queensland,
(Department of Environment and
Resource Management) 2011.

GDA



The following are extracts from the *Sustainable Planning Act 2009* (Reprint 1A effective 1 January 2010) which detail rights to make representations about certain conditions and other matters in this notice, and the appeal provisions regarding this decision.

Chapter 6, Part 8, Division 1 - Changing decision notices and approvals during applicant's appeal period

360 Application of div 1

This division applies only during the applicant's appeal period.

361 Applicant may make representations about decision

- (1) The applicant may make written representations to the assessment manager about -
 - (a) a matter stated in the decision notice, other than a refusal or a matter about which a concurrence agency told the assessment manager under section 287(1) or (5); or
 - (b) the standard conditions applying to a deemed approval.
- (2) However, the applicant can not make representations under subsection (1)(a) about a condition attached to an approval under the direction of the Minister.

362 Assessment manager to consider representations

The assessment manager must consider any representations made to the assessment manager under section 361.

363 Decision about representations

- (1) If the assessment manager agrees with any of the representations about a decision notice or a deemed approval, the assessment manager must give a new decision notice (the negotiated decision notice) to -
 - (a) the applicant; and
 - (b) each principal submitter; and
 - (c) each referral agency; and
 - (d) if the assessment manager is not the local government and the development is in a local government area - the local government.
 - (2) Before the assessment manager agrees to a change under this section, the assessment manager must consider the matters the assessment manager was required to consider in assessing the application, to the extent the matters are relevant.
 - (3) Only 1 negotiated decision notice may be given.
 - (4) The negotiated decision notice -
 - (a) must be given within 5 business days after the day the assessment manager agrees with the representations; and
 - (b) must comply with section 335; and
 - (c) must state the nature of the changes; and
 - (d) replaces -
 - (i) the decision notice previously given; or
 - (ii) if a decision notice was not previously given and the negotiated decision notice relates to a deemed approval - the standard conditions applying to the deemed approval.
 - (5) If the assessment manager does not agree with any of the representations, the assessment manager must, within 5 business days after the day the assessment manager decides not to agree with any of the representations, give written notice to the applicant stating the decision about the representations.
- 364 Giving new Infrastructure charges notice or regulated infrastructure charges notice**
- (1) This section applies if the development approved by the negotiated decision notice is different from the development approved in the decision notice or deemed approval in a way that affects the amount of an infrastructure charge or regulated infrastructure charge.



- (2) The local government may give the applicant a new infrastructure charges notice under section 633 or regulated infrastructure charges notice under section 643 to replace the original notice.

365 Giving new regulated State infrastructure charges notice

- (1) This section applies if the development approved by the negotiated decision notice is different from the development approved in the decision notice or deemed approval in a way that affects the amount of a regulated State infrastructure charge.
- (2) The relevant State infrastructure provider may give the applicant a new regulated State infrastructure charges notice under section 669 to replace the original notice.

366 Applicant may suspend applicant's appeal period

- (1) If the applicant needs more time to make the representations, the applicant may, by written notice given to the assessment manager, suspend the applicant's appeal period.
- (2) The applicant may act under subsection (1) only once.
- (3) If the representations are not made within 20 business days after the day written notice was given to the assessment manager, the balance of the applicant's appeal period restarts.
- (4) If the representations are made within 20 business days after the day written notice was given to the assessment manager -
- (a) if the applicant gives the assessment manager a notice withdrawing the notice under subsection(1) - the balance of the applicant's appeal period restarts the day after the assessment manager receives the notice of withdrawal; or
 - (b) if the assessment manager gives the applicant a notice under section 363(5) - the balance of the applicant's appeal period restarts the day after the applicant receives the notice; or
 - (c) if the assessment manager gives the applicant a negotiated decision notice - the applicant's appeal period starts again the day after the applicant receives the negotiated decision notice.

Chapter 7, Part 1, Division 8 - Appeals to court relating to development applications and approvals

461 Appeals by applicants

- (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 the development application;
 - (b) any condition of a development approval, another matter stated in a development approval and the identification or inclusion of a code under section 242;
 - (c) the decision to give a preliminary approval when a development permit was applied for;
 - (d) the length of a period mentioned in section 341;
 - (e) a deemed refusal of the development application.
- (2) An appeal under subsection (1)(a), (b), (c) or (d) must be started within 20 business days (the "*applicant's appeal period*") after -
- (a) if a decision notice or negotiated decision notice is given - the day the decision notice or negotiated decision notice is given to the applicant; or
 - (b) otherwise - the day a decision notice was required to be 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.

462 Appeals by submitters - general

- (1) A submitter for a development application may appeal to the court only against -
- (a) the part of the approval relating to the assessment manager's decision about any part of the application requiring impact assessment under section 314; or
 - (b) the part of the approval relating to the assessment manager's decision under section 327.
- (2) To the extent an appeal may be made under subsection (1), the appeal may be against 1 or more of the following -



- (a) the giving of a development approval;
 - (b) any provision of the approval including -
 - (i) a condition of, or lack of condition for, the approval; or
 - (ii) the length of a period mentioned in section 341 for the approval.
 - (3) However, a submitter may not appeal if the submitter -
 - (a) withdraws the submission before the application is decided; or
 - (b) has given the assessment manager a notice under section 339(1)(b)(ii).
 - (4) The appeal must be started within 20 business days (the "submitter's appeal period") after the decision notice or negotiated decision notice is given to the submitter.
- 463 Additional and extended appeal rights for submitters for particular development applications**
- (1) This section applies to a development application to which chapter 9, part 7 applies.
 - (2) A submitter of a properly made submission for the application may appeal to the court about a referral agency's response made by a prescribed concurrence agency for the application.
 - (3) However, the submitter may only appeal against a referral agency's response to the extent it relates to -
 - (a) if the prescribed concurrence agency is the chief executive (environment) - development for an aquacultural ERA; or
 - (b) if the prescribed concurrence agency is the chief executive (fisheries) - development that is -
 - (i) a material change of use of premises for aquaculture; or
 - (ii) operational work that is the removal, damage or destruction of a marine plant.
 - (4) Despite section 462(1), the submitter may appeal against the following matters for the application even if the matters relate to code assessment -
 - (a) a decision about a matter mentioned in section 462(2) if it is a decision of the chief executive (fisheries);
 - (b) a referral agency's response mentioned in subsection (2).
- 464 Appeals by advice agency submitters**
- (1) Subsection (2) applies if an advice agency, in its response for an application, told the assessment manager to treat the response as a properly made submission.
 - (2) The advice agency may, within the limits of its jurisdiction, appeal to the court about -
 - (a) any part of the approval relating to the assessment manager's decision about any part of the application requiring impact assessment under section 314; or
 - (b) any part of the approval relating to the assessment manager's decision under section 327.
 - (3) The appeal must be started within 20 business days after the day the decision notice or negotiated decision notice is given to the advice agency as a submitter.
 - (4) However, if the advice agency has given the assessment manager a notice under section 339(1)(b)(ii), the advice agency may not appeal the decision.
- 465 Appeals about decisions relating to extensions for approvals**
- (1) For a development approval given for a development application, a person to whom a notice is given under section 389, other than a notice for a decision under section 386(2), may appeal to the court against the decision in the notice.
 - (2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.
 - (3) Also, a person who has made a request under section 383 may appeal to the court against a deemed refusal of the request.
 - (4) An appeal under subsection (3) may be started at any time after the last day the decision on the matter should have been made.
- 466 Appeals about decisions relating to permissible changes**



- (1) For a development approval given for a development application, the following persons may appeal to the court against a decision on a request to make a permissible change to the approval -
 - (a) if the responsible entity for making the change is the assessment manager for the application -
 - (i) the person who made the request; or
 - (ii) an entity that gave a notice under section 373 or a pre-request response notice about the request;
 - (b) if the responsible entity for making the change is a concurrence agency for the application - the person who made the request.
 - (2) The appeal must be started within 20 business days after the day the person is given notice of the decision on the request under section 376.
 - (3) Also, a person who has made a request under section 369 may appeal to the court against a deemed refusal of the request.
 - (4) An appeal under subsection (3) may be started at any time after the last day the decision on the matter should have been made.
- 467 Appeals about changing or cancelling conditions imposed by assessment manager or concurrence agency**
- (1) A person to whom a notice under section 378(9)(b) giving a decision to change or cancel a condition of a development approval has been given may appeal to the court against the decision in the notice.
 - (2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.

Chapter 7, Part 1, Division 11 - Making an appeal to court

481 How appeals to the court are started

- (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).

482 Notice of appeal to other parties - development applications and approvals

- (1) An appellant under division 8 must give written notice of the appeal to -
 - (a) if the appellant is an applicant -
 - (i) the chief executive; and
 - (ii) the assessment manager; and
 - (iii) any concurrence agency; and
 - (iv) any principal submitter whose submission has not been withdrawn; and
 - (v) 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 -
 - (i) the chief executive; and
 - (ii) the assessment manager; and
 - (iii) any referral agency; and
 - (iv) the applicant; or
 - (c) if the appellant is a person to whom a notice mentioned in section 465(1) has been given -
 - (i) the chief executive; and
 - (ii) the assessment manager for the development application to which the notice relates; and



- (iii) any entity that was a concurrence agency for the development application to which the notice relates; and
- (iv) the person who made the request under section 383 to which the notice relates, if the person is not the appellant; or
- (d) if the appellant is a person mentioned in section 466(1) -
 - (i) the chief executive; and
 - (ii) the responsible entity for making the change to which the appeal relates; and
 - (iii) the person who made the request to which the appeal relates under section 369, if the person is not the appellant; and
 - (iv) if the responsible entity is the assessment manager - any entity that was a concurrence agency for the development application to which the notice of the decision on the request relates; or
- (e) if the appellant is a person to whom a notice mentioned in section 467 has been given - the entity that gave the notice.
- (2) The notice must be given within -
 - (a) if the appellant is a submitter or advice agency whose response to the development application is treated as a submission for an appeal - 2 business days after the appeal is started; or
 - (b) otherwise - 10 business days after the appeal is started.
- (3) 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 485 - that the person may, within 10 business days after the notice is given, elect to become a co-respondent to the appeal by filing in the court a notice of election in the approved form.

483 Notice of appeals to other parties - compliance assessment

- (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 an action notice, compliance permit or compliance certificate has been given -
 - (i) the compliance assessor who gave the notice, permit or certificate; and
 - (ii) if the compliance assessor was a nominated entity of a local government and a copy of the request for compliance assessment was given to the local government under section 402 - the local government; or
 - (b) if the appellant is a person to whom a notice mentioned in section 470(1) has been given -
 - (i) the entity that gave the notice; and
 - (ii) if the entity that gave the notice was a nominated entity of a local government and the written agreement of the local government was required to give the notice - the local government.
- (2) The notice must state the grounds of the appeal.

484 Notice of appeal to other parties - other matters

- (1) An appellant under division 10 must, within 10 business days after the day the appeal is started, give written notice of the appeal to -
 - (a) if the appeal is under section 471 - the local government and coordinating agency for the application for approval of the master plan; or
 - (b) if the appeal is under section 472 or 475 - the local government; or
 - (c) if the appeal is under section 478 - the entity that gave the notice the subject of the appeal; or
 - (d) 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

- (e) if the appellant is a person dissatisfied with a decision about compensation - the local government that decided the claim; or
- (f) if the appellant is a person dissatisfied with a decision about acquiring designated land - the designator; or
- (g) if the appellant is a party to a proceeding decided by a building and development committee - the other party to the proceeding.

(2) The notice must state the grounds of the appeal.

485 Respondent and co-respondents for appeals under div 8

- (1) Subsections (2) to (8) apply for appeals under sections 461 to 464.
- (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) Any submitter may elect to become a co-respondent for the appeal.
- (5) If the appeal is about a concurrence agency's response, the concurrence agency is a co-respondent for the appeal.
- (6) If the appeal is only about a concurrence agency's response, the assessment manager may apply to the court to withdraw from the appeal.
- (7) The respondent and any co-respondents for an appeal are entitled to be heard in the appeal as a party to the appeal.
- (8) A person to whom a notice of appeal is required to be given under section 482 and who is not the respondent or a co-respondent for the appeal may elect to be a co-respondent.
- (9) For an appeal under section 465 -
 - (a) the assessment manager is the respondent; and
 - (b) if the appeal is started by a concurrence agency that gave the assessment manager a notice under section 385 - the person asking for the extension the subject of the appeal is a co-respondent; and
 - (c) any other person given notice of the appeal may elect to become a co-respondent.
- (10) For an appeal under section 466 -
 - (a) the responsible entity for making the change to which the appeal relates is the respondent; and
 - (b) if the responsible entity is the assessment manager -
 - (i) if the appeal is started by a person who gave a notice under section 373 or a pre-request response notice - the person who made the request for the change is a co-respondent; and
 - (ii) any other person given notice of the appeal may elect to become a co-respondent.
- (11) For an appeal under section 467, the respondent is the entity given notice of the appeal.

486 Respondent and co-respondents for appeals under div 9

- (1) For an appeal under section 468 or 469 -
 - (a) the compliance assessor is the respondent; and
 - (b) if the compliance assessor is a nominated entity of a local government and the appeal relates to a matter required by a local government - the local government is a co-respondent.
- (2) However, if the appeal is only about a matter required by the local government, the compliance assessor may apply to the court to withdraw from the appeal.
- (3) For an appeal under section 470 -
 - (a) the entity that gave the notice to which the appeal relates is the respondent; and
 - (b) if the entity mentioned in paragraph (a) is a nominated entity of a local government and the local government did not agree to the request mentioned in section 470(1) - the local government is a co-respondent.
- (4) However, if the appeal is only about the local government's refusal of the request, the entity that gave the notice to which the appeal relates may apply to the court to withdraw from the appeal.



487 Respondent and co-respondents for appeals under div 10

- (1) This section applies if an entity is required under section 484 to be given a notice of an appeal.
- (2) The entity given 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.

488 How an entity may elect to be a co-respondent

An entity that is entitled to elect to be a co-respondent to an appeal may do so, within 10 business days after notice of the appeal is given to the entity, by following the rules of court for the election.

489 Minister entitled to be party to an appeal involving a State interest

If the Minister is satisfied an appeal involves a State interest, the Minister may, at any time before the appeal is decided, elect to be a party to the appeal by filing in the court a notice of election in the approved form.

490 Lodging appeal stops particular actions

- (1) If an appeal, other than an appeal under section 465, 466 or 467, is started under division 8, the development must not be started until the appeal is decided or withdrawn.
- (2) If an appeal is about a condition imposed on a compliance permit, the development must not be started until the appeal is decided or withdrawn.
- (3) Despite subsections (1) and (2), 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.

Information sheet

Sustainable Planning Act

Appeals

This information sheet is an extract from the Sustainable Planning Act 2009 (Reprint 1A effective 1 January 2010) providing information on appeals under that Act.

Chapter 7, Part 1, Division 8 Appeals to court relating to development applications and approvals

461 Appeals by applicants

- (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 the development application;
 - (b) any condition of a development approval, another matter stated in a development approval and the identification or inclusion of a code under section 242;
 - (c) the decision to give a preliminary approval when a development permit was applied for;
 - (d) the length of a period mentioned in section 341;
 - (e) a deemed refusal of the development application.
- (2) An appeal under subsection (1)(a), (b), (c) or (d) must be started within 20 business days (the **applicant's appeal period**) after—
 - (a) if a decision notice or negotiated decision notice is given—the day the decision notice or negotiated decision notice is given to the applicant; or
 - (b) otherwise—the day a decision notice was required to be 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.

462 Appeals by submitters—general

- (1) A submitter for a development application may appeal to the court only against—
 - (a) the part of the approval relating to the assessment manager's decision about any part of the application requiring impact assessment under section 314; or
 - (b) the part of the approval relating to the assessment manager's decision under section 327.
- (2) To the extent an appeal may be made under subsection (1), the appeal may be against 1 or more of the following—
 - (a) the giving of a development approval;
 - (b) any provision of the approval including—
 - (i) a condition of, or lack of condition for, the approval; or
 - (ii) the length of a period mentioned in section 341 for the approval.

- (3) However, a submitter may not appeal if the submitter—
 - (a) withdraws the submission before the application is decided; or
 - (b) has given the assessment manager a notice under section 339(1)(b)(ii).
- (4) The appeal must be started within 20 business days (the *submitter's appeal period*) after the decision notice or negotiated decision notice is given to the submitter.

463 Additional and extended appeal rights for submitters for particular development applications

- (1) This section applies to a development application to which chapter 9, part 7 applies.
- (2) A submitter of a properly made submission for the application may appeal to the court about a referral agency's response made by a prescribed concurrence agency for the application.
- (3) However, the submitter may only appeal against a referral agency's response to the extent it relates to—
 - (a) if the prescribed concurrence agency is the chief executive (environment)—development for an aquacultural ERA; or
 - (b) if the prescribed concurrence agency is the chief executive (fisheries)—development that is—
 - (i) a material change of use of premises for aquaculture; or
 - (ii) operational work that is the removal, damage or destruction of a marine plant.
- (4) Despite section 462(1), the submitter may appeal against the following matters for the application even if the matters relate to code assessment—
 - (a) a decision about a matter mentioned in section 462(2) if it is a decision of the chief executive (fisheries);
 - (b) a referral agency's response mentioned in subsection (2).

464 Appeals by advice agency submitters

- (1) Subsection (2) applies if an advice agency, in its response for an application, told the assessment manager to treat the response as a properly made submission.
- (2) The advice agency may, within the limits of its jurisdiction, appeal to the court about—
 - (a) any part of the approval relating to the assessment manager's decision about any part of the application requiring impact assessment under section 314; or
 - (b) any part of the approval relating to the assessment manager's decision under section 327.
- (3) The appeal must be started within 20 business days after the day the decision notice or negotiated decision notice is given to the advice agency as a submitter.
- (4) However, if the advice agency has given the assessment manager a notice under section 339(1)(b)(ii), the advice agency may not appeal the decision.

465 Appeals about decisions relating to extensions for approvals

- (1) For a development approval given for a development application, a person to whom a notice is given under section 389, other than a notice for a decision under section 386(2), may appeal to the court against the decision in the notice.
- (2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.

- (3) Also, a person who has made a request under section 383 may appeal to the court against a deemed refusal of the request.
- (4) An appeal under subsection (3) may be started at any time after the last day the decision on the matter should have been made.

466 Appeals about decisions relating to permissible changes

- (1) For a development approval given for a development application, the following persons may appeal to the court against a decision on a request to make a permissible change to the approval—
 - (a) if the responsible entity for making the change is the assessment manager for the application—
 - (i) the person who made the request; or
 - (ii) an entity that gave a notice under section 373 or a pre-request response notice about the request;
 - (b) if the responsible entity for making the change is a concurrence agency for the application—the person who made the request.
- (2) The appeal must be started within 20 business days after the day the person is given notice of the decision on the request under section 376.
- (3) Also, a person who has made a request under section 369 may appeal to the court against a deemed refusal of the request.
- (4) An appeal under subsection (3) may be started at any time after the last day the decision on the matter should have been made.

467 Appeals about changing or cancelling conditions imposed by assessment manager or concurrence agency

- (1) A person to whom a notice under section 378(9)(b) giving a decision to change or cancel a condition of a development approval has been given may appeal to the court against the decision in the notice.
- (2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.

Chapter 7, Part 1, Division 9 Appeals to court about compliance assessment

468 Appeals against decision on request for compliance assessment

- (1) A person to whom an action notice has been given under section 405(5) about a request for compliance assessment of development, a document or work may appeal to the court against the decision in the notice.
- (2) The appeal must be started within 20 business days after the notice is given to the person.

469 Appeals against condition imposed on compliance permit or certificate

- (1) A person who is given a compliance permit or compliance certificate subject to any conditions may appeal to the court against the decision to impose the condition.
- (2) The appeal must be started within 20 business days after the day the compliance permit or compliance certificate is given to the person.

470 Appeals against particular decisions about compliance assessment

- (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 of a decision on a request to change or withdraw an action notice;
 - (b) a notice under section 413(2)(c) about a decision to refuse a request to change a compliance permit or compliance certificate.
- (2) The appeal must be started within 20 business days after the day the notice is given to the person.

Chapter 7, Part 1, Division 11 Making an appeal to court

481 How appeals to the court are started

- (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).

482 Notice of appeal to other parties—development applications and approvals

- (1) An appellant under division 8 must give written notice of the appeal to—
 - (a) if the appellant is an applicant—
 - (i) the chief executive; and
 - (ii) the assessment manager; and
 - (iii) any concurrence agency; and
 - (iv) any principal submitter whose submission has not been withdrawn; and
 - (v) 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—
 - (i) the chief executive; and
 - (ii) the assessment manager; and
 - (iii) any referral agency; and
 - (iv) the applicant; or
 - (c) if the appellant is a person to whom a notice mentioned in section 465(1) has been given—
 - (i) the chief executive; and
 - (ii) the assessment manager for the development application to which the notice relates; and
 - (iii) any entity that was a concurrence agency for the development application to which the notice relates; and
 - (iv) the person who made the request under section 383 to which the notice relates, if the person is not the appellant; or

- (d) if the appellant is a person mentioned in section 466(1)—
 - (i) the chief executive; and
 - (ii) the responsible entity for making the change to which the appeal relates; and
 - (iii) the person who made the request to which the appeal relates under section 369, if the person is not the appellant; and
 - (iv) if the responsible entity is the assessment manager—any entity that was a concurrence agency for the development application to which the notice of the decision on the request relates; or
 - (e) if the appellant is a person to whom a notice mentioned in section 467 has been given—the entity that gave the notice.
- (2) The notice must be given within—
- (a) if the appellant is a submitter or advice agency whose response to the development application is treated as a submission for an appeal—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (3) 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 485—that the person may, within 10 business days after the notice is given, elect to become a co-respondent to the appeal by filing in the court a notice of election in the approved form.

483 Notice of appeals to other parties—compliance assessment

- (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 an action notice, compliance permit or compliance certificate has been given—
 - (i) the compliance assessor who gave the notice, permit or certificate; and
 - (ii) if the compliance assessor was a nominated entity of a local government and a copy of the request for compliance assessment was given to the local government under section 402—the local government; or
 - (b) if the appellant is a person to whom a notice mentioned in section 470(1) has been given—
 - (i) the entity that gave the notice; and
 - (ii) if the entity that gave the notice was a nominated entity of a local government and the written agreement of the local government was required to give the notice—the local government.
- (2) The notice must state the grounds of the appeal.

485 Respondent and co-respondents for appeals under div 8

- (1) Subsections (2) to (8) apply for appeals under sections 461 to 464.
- (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) Any submitter may elect to become a co-respondent for the appeal.

- (5) If the appeal is about a concurrence agency's response, the concurrence agency is a co-respondent for the appeal.
- (6) If the appeal is only about a concurrence agency's response, the assessment manager may apply to the court to withdraw from the appeal.
- (7) The respondent and any co-respondents for an appeal are entitled to be heard in the appeal as a party to the appeal.
- (8) A person to whom a notice of appeal is required to be given under section 482 and who is not the respondent or a co-respondent for the appeal may elect to be a co-respondent.
- (9) For an appeal under section 465—
 - (a) the assessment manager is the respondent; and
 - (b) if the appeal is started by a concurrence agency that gave the assessment manager a notice under section 385—the person asking for the extension the subject of the appeal is a co-respondent; and
 - (c) any other person given notice of the appeal may elect to become a co-respondent.
- (10) For an appeal under section 466—
 - (a) the responsible entity for making the change to which the appeal relates is the respondent; and
 - (b) if the responsible entity is the assessment manager—
 - (i) if the appeal is started by a person who gave a notice under section 373 or a pre-request response notice—the person who made the request for the change is a co-respondent; and
 - (ii) any other person given notice of the appeal may elect to become a co-respondent.
- (11) For an appeal under section 467, the respondent is the entity given notice of the appeal.

486 Respondent and co-respondents for appeals under div 9

- (1) For an appeal under section 468 or 469—
 - (a) the compliance assessor is the respondent; and
 - (b) if the compliance assessor is a nominated entity of a local government and the appeal relates to a matter required by a local government—the local government is a co-respondent.
- (2) However, if the appeal is only about a matter required by the local government, the compliance assessor may apply to the court to withdraw from the appeal.
- (3) For an appeal under section 470—
 - (a) the entity that gave the notice to which the appeal relates is the respondent; and
 - (b) if the entity mentioned in paragraph (a) is a nominated entity of a local government and the local government did not agree to the request mentioned in section 470(1)—the local government is a co-respondent.
- (4) However, if the appeal is only about the local government's refusal of the request, the entity that gave the notice to which the appeal relates may apply to the court to withdraw from the appeal.

488 How an entity may elect to be a co-respondent

An entity that is entitled to elect to be a co-respondent to an appeal may do so, within 10 business days after notice of the appeal is given to the entity, by following the rules of court for the election.

489 Minister entitled to be party to an appeal involving a State interest

If the Minister is satisfied an appeal involves a State interest, the Minister may, at any time before the appeal is decided, elect to be a party to the appeal by filing in the court a notice of election in the approved form.

490 Lodging appeal stops particular actions

(1) If an appeal, other than an appeal under section 465, 466 or 467, is started under division 8, the development must not be started until the appeal is decided or withdrawn.

(2) If an appeal is about a condition imposed on a compliance permit, the development must not be started until the appeal is decided or withdrawn.

(3) Despite subsections (1) and (2), 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.

