



HINCHINBROOK SHIRE COUNCIL

Our Ref: RC16\0017

02 October 2018

PJ & SA Poggio
PO Box 10
Trebonne QLD 4850

Email: peter.poggio@bigpond.com

Dear Sir/Madam,

AMENDED DECISION NOTICE *Sustainable Planning Act 2009*

In relation to your request for a change to the existing reconfiguration of land approval, Council have assessed your application and it was APPROVED SUBJECT TO CONDITIONS. The decision was made on Tuesday, 25 September 2018.

APPLICATION DETAILS

Application Number: RC16\0017
Property ID Number: 104945 & 105393

Applicant Details: PJ & SA Poggio
PO Box 10
Trebonne QLD 4850

Owner Details: Peter Joseph Poggio
Silvia Ann Poggio
PO Box 10
Trebonne QLD 4850

Property Description: Stone River Road and Kehls Road, Trebonne, Queensland, 4850
Lots 4, 5, 6 on RP722607, Lot 3 on RP735162, Lot 1 on RP731600 and
Lot 2 on RP738929, Parish of Trebonne

Proposal: Reconfiguration of Land - Rearrangement of Boundaries



Level of Assessment:	Code Assessment
Assessment Benchmarks:	Reconfiguring a Lot Code; and Flooding & Inundation Code

CONDITIONS OF APPROVAL

The conditions of this approval are set out in the Schedule of Conditions. The conditions are identified to indicate whether the Assessment Manager or a referral agency (if any) imposed them.

REFERRAL AGENCIES

Referral Agency and Address	Referral Trigger
Department of Infrastructure, Local Government and Planning State Assessment and Referral Agency PO Box 5666 Townsville QLD 4810 Email: nqsara@dilgp.qld.gov.au	State-controlled Road <i>Sustainable Planning Regulation 2009</i> <i>Schedule 7, Table 2, Item 2</i>

PROPERTY NOTES

Not Applicable

FURTHER DEVELOPMENT PERMITS REQUIRED

Not Applicable

RIGHTS OF APPEAL

You may appeal against any matter stated in the Decision Notice.

An Applicant for a development application may appeal to the Planning & Environment Court against the following:

- The refusal, or refusal in part of the development application;
- Any conditions of a development approval, another matter stated in a development approval and the identification or inclusion of a code under section 242 of the *Sustainable Planning Act 2009*;
- The decision to give a preliminary approval when a development permit was applied for;
- The length of a period mentioned in section 341; and
- A deemed refusal of the development application.

APPROVAL CURRENCY PERIOD

The relevant periods stated in s. 341 of the *Sustainable Planning Act 2009* apply to each aspect of development in this approval (unless stated otherwise within the conditions of approval), as outlined below –

- Reconfiguration of Land – Two (2) years



APPROVED PLANS & SPECIFICATIONS

In accordance with the *Sustainable Planning Act 2009*, a copy of the approved plans and specifications (if relevant) are attached.

FURTHER INFORMATION

The development must be carried out in accordance with the approved plans and specifications and the requirements of all relevant laws, and any deviation there from must have the prior approval of the Chief Executive Officer.

This approval does not authorise any building work, any works within Council's Road Reserve (e.g. new/additional accesses, repair/modifications to existing accesses or works to footpaths), or any filling of land permits.

Should you have any questions or seek clarification with regard to any aspect of this notice, I encourage you to contact Council's Development, Planning and Environmental Services on telephone (07) 4776 4609.

Yours sincerely,

Gerhard Visser
Planning & Development Manager

Enclosed: Approved Plans/Documents
 Appeal Rights



CONDITIONS OF APPROVAL

Conditions of Development		Compliance Timing						
Approved plans								
<p>(1) Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:-</p> <ul style="list-style-type: none"> a) The specifications, facts and circumstances as set out in the application submitted to Council, including recommendations and findings confirmed within technical reports; and b) The conditions of approval and the requirements of Council's Planning Scheme and best practice engineering. <table border="1"> <thead> <tr> <th>Plan / Document Name</th><th>Number</th><th>Date</th></tr> </thead> <tbody> <tr> <td>Proposed Boundary Realignment Lots 4, 5 & 6 on RP722607, Lot 3 on RP735162, Lot 1 on RP731600 & Lot 2 on RP738929 Stone River Road & Kehls Road, Trebonne</td><td>160454/01</td><td>October 2016</td></tr> </tbody> </table>		Plan / Document Name	Number	Date	Proposed Boundary Realignment Lots 4, 5 & 6 on RP722607, Lot 3 on RP735162, Lot 1 on RP731600 & Lot 2 on RP738929 Stone River Road & Kehls Road, Trebonne	160454/01	October 2016	At all times
Plan / Document Name	Number	Date						
Proposed Boundary Realignment Lots 4, 5 & 6 on RP722607, Lot 3 on RP735162, Lot 1 on RP731600 & Lot 2 on RP738929 Stone River Road & Kehls Road, Trebonne	160454/01	October 2016						
Timing of effect								
<p>(2) Conditions of the Development Permit must be satisfied prior to issue of a Compliance Certificate for the Plan of Survey, except where specified otherwise in these conditions of approval.</p>		At all times						
Internal works								
Existing Creek and Drainage System								
<p>(3) All existing creek systems and drainage areas must be left in their current state, including no channel alterations and no removal of vegetation, unless consented to in writing by the Chief Executive Officer.</p>		At all times						
<p>(4) All storm water from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development, all to the requirements and satisfaction of the Chief Executive Officer.</p> <p>That any works as a result of the reconfiguration must not interfere with storm water flow over or through the land.</p>		At all times						
External Works								
Access								
<p>(5) Access provision to all proposed allotments must be maintained/constructed in accordance with Council's standard engineering specifications and to the satisfaction of the Chief Executive Officer or demonstrate that such is already in existence. Future maintenance of all accesses is the responsibility of the landowner</p>		Prior to the Approval of Survey Plan						



Conditions of Development	Compliance Timing
<p>(6) Gillis Road Access</p> <ul style="list-style-type: none"> a) The new access that will be constructed onto Gillis Road will require the landowner to construct Gillis Road to Council's standard engineering specifications for an unsealed rural low volume road with without cane traffic and will be required to obtain a Works in Road Reserve Permit from Council. b) It will be the landowners responsibility to consult with Wilmar Sugar and construct the access point across cane rail in accordance with their specifications and approval processes. c) As Stone River Road is a State Controlled Road, it is the owners responsibility to consult with the Department of Transport and Main Roads and construct the turnout in accordance with their specifications and approval processes. d) The existing drainage systems that currently exist within the Gillis Road corridor is to be left in its current state and any construction to the road must not adversely affect surrounding properties. e) Upon completion of the upgrade to Gillis Road, it will be the landowners responsibility to maintain this access. Gillis Road will not become a maintained road on Council's asset register. 	<p>Prior to construction commences.</p>



HINCHINBROOK SHIRE COUNCIL

File Ref: RC16\0017



- Site Location
- Legend**
- Cadastre



Data Sources & Acknowledgements

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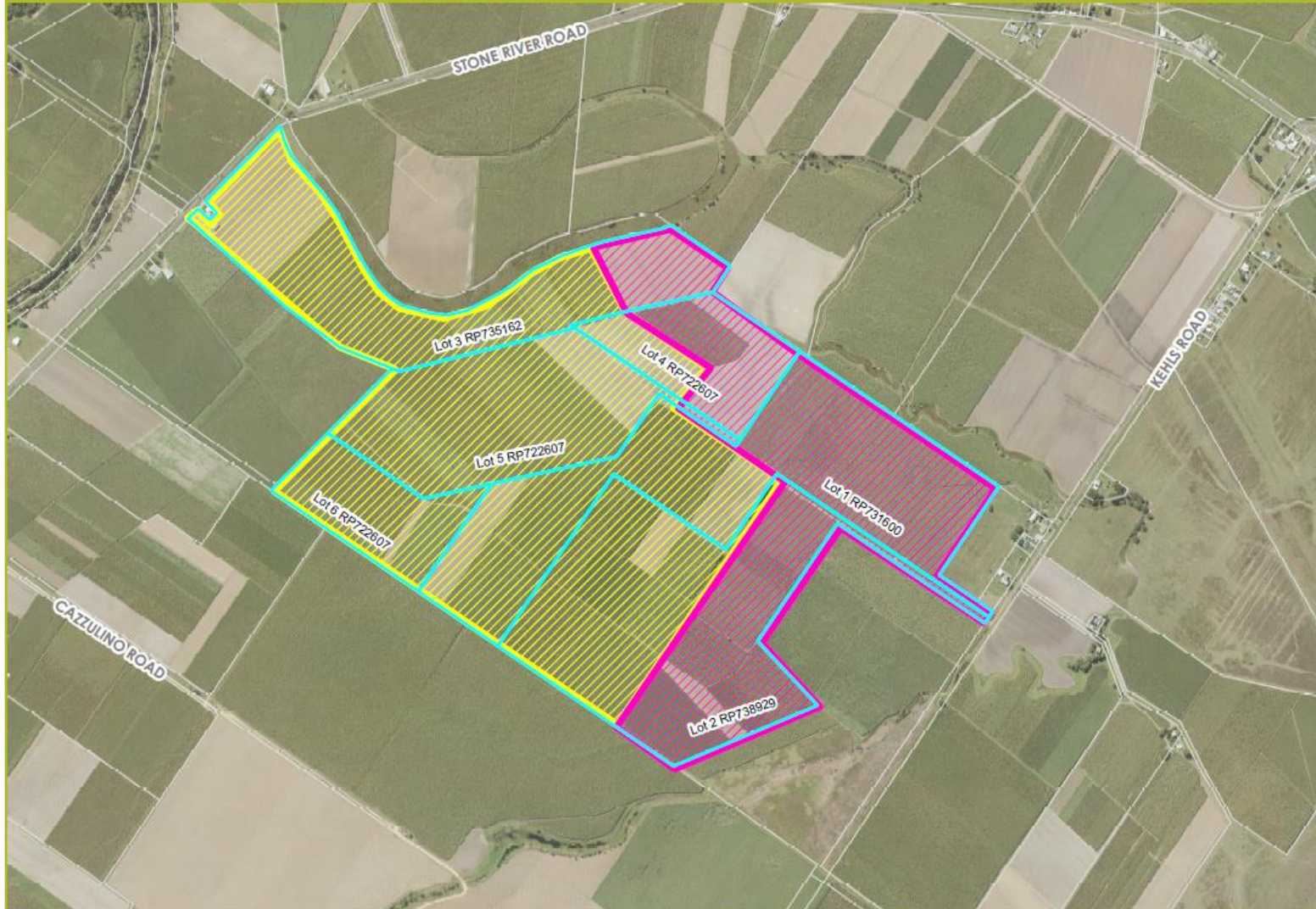
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Application for Reconfiguration of Land - Rearrangement of Boundaries and Access Easement(s)
Hansen Surveys Pty Ltd for SA & PJ Poggio

Path: G:\projects\admin\HayleyRoy\1MARCH 2016.mxd
 Compiled By: hayley1667 Date: 15/11/2016



- Legend**
- Cadastre
 - Site Location
 - Proposed Lot 1
 - Proposed Lot 2



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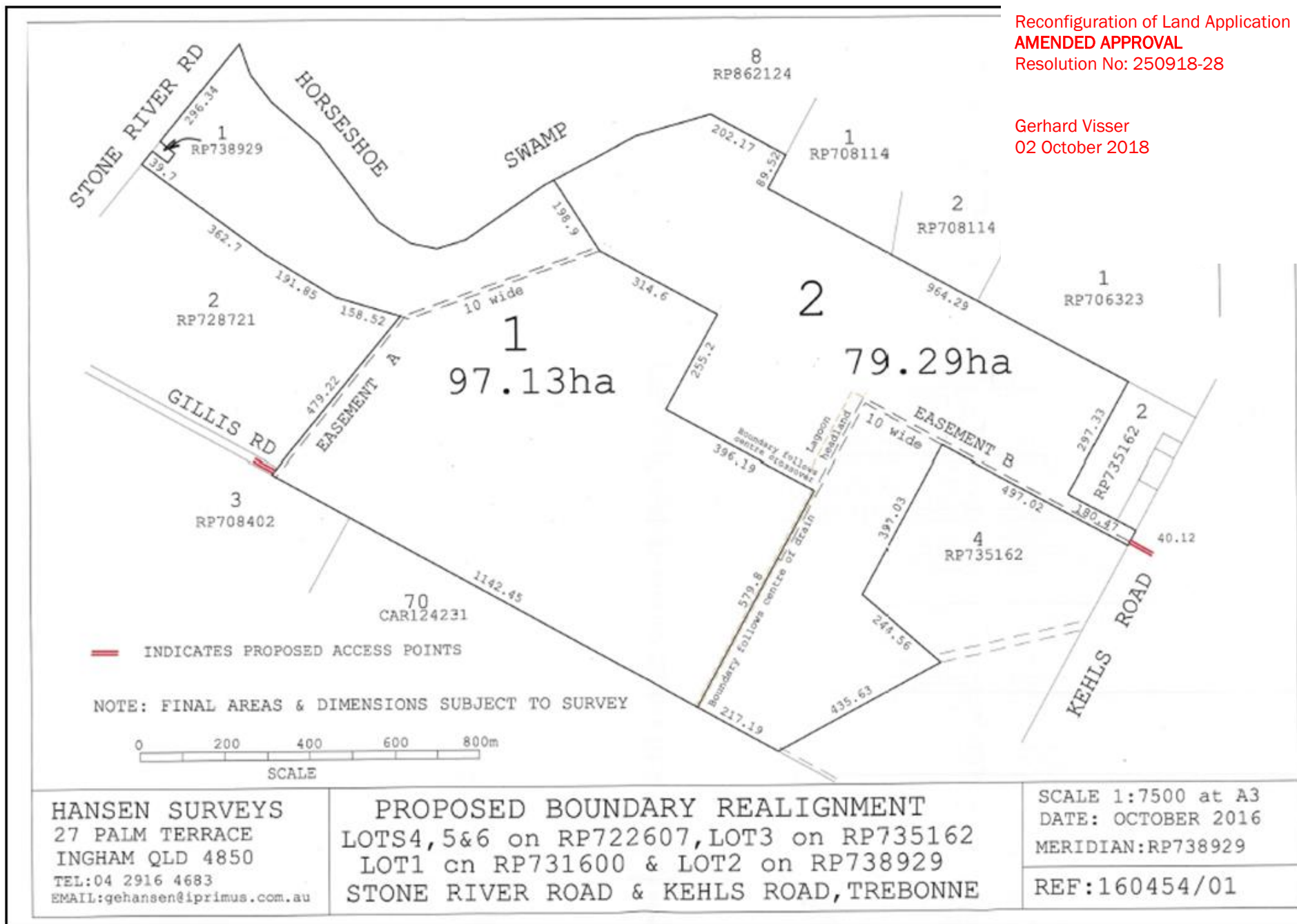
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 Compiled By: hayley1667 Date: 15/11/2016

HINCHINBROOK SHIRE COUNCIL

Reconfiguration of Land Application
AMENDED APPROVAL
 Resolution No: 250918-28

Gerhard Visser
 02 October 2018



APPEAL RIGHTS

The following is an extract from the *Sustainable Planning Act 2009* (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 cannot 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 applicant a new regulated State infrastructure charges notice the 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 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.



The following is an extract from the Sustainable Planning Act 2009 (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.

