

OUR REF: MCUC 3526/2009 (432644)

30 October 2014

Mr Edward Fitzgerald
PO Box 595
REDLYNCH QLD 4870

Dear Sir

**CHANGED DECISION NOTICE UNDER S 369 & S 383 SUSTAINABLE
PLANNING ACT 2009: DEVELOPMENT APPLICATION FOR
IRONBARK ROAD, DIWAN**

With reference to the request for a permissible change and to extend the relevant period for the abovementioned Development Permit, which was determined under Instrument of Delegation on 29 October 2014, please find attached the relevant Changed Decision Notice.

The Development Permit is now valid up to and including 5 November 2018.

Condition 7 is amended as follows:

Vegetation Clearing

7. Existing native vegetation on the subject land must be retained in all areas outside the Designated Development Area, this being the area indicated as 'Proposed Development Area' on the approved plans. Any further clearing on the site requires a Permit to Damage Protected Vegetation under Amendment 1 of 2006 of Local Law No 56 Vegetation Management Development Permit for Operational Works.

All other conditions of Development Permit MCUC 3526/2009 (previously 8/7/1829) issued on 5 November 2010 and attached at Appendix 1 remain unchanged.

The Notice includes extracts from the Act with respect to lodging an Appeal.

Should you have any enquiries in relation to this Decision Notice, please contact Susanna Andrews of Development and Environment on telephone number 07 4099 9456.

Yours faithfully

Donna Graham
Manager Development & Environment

Att



Our Ref: Meeting 54 Item 6.1 5 November 2010
Council Ref: 8/7/1829

Douglas Iconic Panel

5 November 2010

Mrs Lyn Russell
Chief Executive Officer
Cairns Regional Council
PO Box 359
Cairns QLD 4870



Dear Mrs Russell

Re Decision of the Douglas Iconic Panel

Development Application seeking a Development Permit for a Material Change of Use – House (Code Assessable) on land at 17 Ironbark Rod, Diwan, described as Lot 17 on RP739770

With reference to the abovementioned development application, please find attached the decision notice which was determined by the Development Assessment Panel for the Iconic Places of Douglas at its meeting held on 5 November 2010.

Pursuant to section 53(3) of the *Iconic Queensland Places Act 2008* (IQPA), the decision notice given by the Panel is taken to have been given by the local government as the assessment manager for the application in accordance with section 802 of the *Sustainable Planning Act 2009* (SPA) and the *Integrated Planning Act 1997* (IPA).

Accordingly, pursuant to section 5.7.4 of the IPA, Council is required to keep a copy of the decision notice available for inspection and purchase by the public.

Councils appeal rights are pursuant to section 54(3) of the IQPA.

Should you have any queries, please contact Ms Joanne Manson, Planner, Far North Queensland Division, Department of Infrastructure and Planning, on (07) 4039 8859.

Yours sincerely

Joanne Manson
Project Manager on behalf of the Development Assessment Panel
for the Iconic Queensland Place of Douglas

Douglas Iconic Panel
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Cairns Qld 4870
Telephone +61 7 4039 8859
Facsimile +61 7 4039 8866
Website www.dip.qld.gov.au
E: douglas.panel@dip.qld.gov.au

CC: Ms Kelly Reaston
Manager Development Assessment Services

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COPY



Douglas Iconic Panel

**Decision Notice
APPROVAL**

Sustainable Planning Act 2009 S 802 and Integrated Planning Act 1997 S 3.5.15

Our Ref: Meeting 54 Item 6.1 5 November 2010
Council Ref: 8/7/1829

5 November 2010

Mr Edward Fitzgerald
PO Box 595
Redlynch QLD 4870

Dear Sir/Madam

Re Decision of the Douglas Iconic Panel

Development Application seeking a Development Permit for a Material Change of Use – House (Code Assessable) on land at 17 Ironbark Rod, Diwan, described as Lot 17 on RP739770

I wish to advise that, on 5 November 2010, the above development application was approved in full, subject to conditions.

The conditions relevant to this approval are attached.

Should you have any queries, please contact Ms Joanne Manson, Planner, Far North Queensland Division, Department of Infrastructure and Planning, on (07) 4039 8859.

Yours sincerely

A handwritten signature in black ink, appearing to read "Joanne Manson".

Joanne Manson
**Project Manager on behalf of the Development Assessment Panel
for the Iconic Queensland Place of Douglas**

cc: Ms Kelly Reaston
Manager Development Assessment Services

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Decision Notice – Approval for a **Development Application seeking a Development Permit for a Material Change of Use – House (Code Assessable)** on land at 17 Ironbark Rod, Diwan, described as Lot 17 on RP739770

DETAILS OF THE APPROVAL

The following type of approval has been issued.

	Development Permit	Preliminary Approval
<ul style="list-style-type: none">• Material change of use made assessable by the planning scheme	✓	

THE RELEVANT PERIOD FOR THE APPROVAL

The relevant periods stated in section 3.5.21 of the *Integrated Planning Act 1997* apply to each aspect of development in this approval, as outlined below:

- Material change of use – 4 years

If there is 1 or more subsequent related approvals for a development approval for a material change of use or a reconfiguration, the relevant period for the approval will be taken to have started on the day the latest related approval takes effect.

OTHER NECESSARY DEVELOPMENT PERMITS

Listed below are other development permits that are necessary to allow the development to be carried out –

- Development Permit for Building Work
- Development Permit for Operational Works
- Development Permit for Plumbing Works

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APPROVED DRAWING(S) AND / OR DOCUMENT(S)

The term 'approved drawing(s) and / or document(s)' or other similar expressions means:

Drawing or Document	Reference	Date
Site Plan	'Site Plan' Un-numbered	Undated
Plan of Designated Development Area	'Site Drainage Plan' Un-numbered	Undated
House Floor Plan	'3 Bedroom House' (un-numbered)	19 January 2009
House Elevation Plan	'3 Bedroom House' Rev. B (unnumbered)	21 January 2009
Shed Floor Plan	'Proposed Shed' (unnumbered)	Undated

ASSESSMENT MANAGER CONDITIONS

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
 - a. The specifications, facts and circumstances as set out in the application submitted to Cairns Regional Council;
 - b. To ensure that the development complies in all respects with the following conditions of approval and the requirements of Cairns Regional Council's Planning Scheme and the FNQROC Development Manual; and

Except where modified by these conditions of approval

Timing of Effect

2. The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.

Plan of Drainage

3. A site specific plan of drainage works prepared by a registered professional engineer (RPEQ) prior to the issue of a permit for building work. The assessment is to detail the catch drains upslope of proposed cut batters. Details are to show the required footprint of the catch drain and all proposed infrastructure must be fully contained with the subject site unless otherwise provided written agreement from affected landowners.

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On-site Effluent Disposal

4. The method of on-site effluent disposal must be in accordance with the Queensland Plumbing & Wastewater Code. Details of the wastewater treatment system to be installed must be in accordance with the on-site sewerage report provided to Council (Council ref #2412146).

Water Supply

5. Water storage tank(s) with a minimum capacity not less than 30,000 litres, and must be installed prior to occupation of the premises. Details of the water tank(s) must be shown on plans submitted with the building application. Such water tanks must be provided with:
 - a. Mosquito-proof screens of brass, copper, aluminium or stainless steel gauze not coarser than one (1) mm aperture mesh of substantial construction and installed in such manner as not to cause or accelerate corrosion; or
 - b. Flap valve at every opening of the tank or other receptacle; or
 - c. Other approved means for preventing the ingress or egress of mosquitoes; and
 - d. Where a tank or other receptacle is provided with a manhole, the manhole must have a diameter of no more than 40 cm; and
 - e. The water tank(s) shall be fitted with a 50 mm ball valve with a camlock fitting.

Weed Management Plan

6. A Weed Management Plan detailing the methods proposed for the control or eradication of the Class 3 Weed Lantana (*Lantana camara*) must be submitted and approved by the Cairns Regional Council's Chief Executive Officer prior to the issue of a Development Permit for Building Work. All control measures detailed in the submitted plan must be in place prior to the commencement of building works.

Vegetation Clearing

7. Existing native vegetation on the subject land must be retained in all areas outside the Designated Development Area, this being the area indicated as 'Proposed Development Area' on the approved plans. Any further clearing on the site requires a Permit to Damage Protected Vegetation under *Amendment 1 of 2006 Of Local Law No. 56 Vegetation Management*.

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Shed Elevation Plan

8. The applicant/owner is required to provide a scale plan which includes all elevations of the proposed shed. This plan must be submitted to Cairns Regional Council and approved by Cairns Regional Council's Chief Executive Officer prior to the issue of a Development Permit for Building Works.

Building Colours

9. The exterior finishes and colours of Buildings must be non-reflective and must blend with the natural colours of the surrounding environment. Roofs and structures (including Water Tanks) must be of moderately dark to darker shades of green, grey, blue and brown.

Details of the proposed materials and colour scheme for the External Walls must be submitted at the time of lodgement of a Development Application for Building Works and endorsed by Cairns Regional Council's Chief Executive Officer prior to the issue of a Development Permit for Building Works.

The applicant / owner must also ensure that the above Building Exterior requirements are made known in writing to all prospective purchasers.

Landscaping

10. The balance area of the site not built upon must be landscaped/ revegetated. All landscaping to be installed must consist of 100% native and endemic species only and planted in an irregular and random fashion to blend with existing vegetation. Exotic species are not permitted.

A Landscape Plan nominating the species and location of trees and shrubs to be planted must be endorsed by Cairns Regional Council's Chief Executive Officer. The approval and completion of all landscaping works must be undertaken in accordance with the endorsed plan prior to the issue of a Certificate of Classification or Commencement of Use whichever occurs first.

The landscape plan does not need to be professionally drawn but does need to be of a standard which clearly illustrates those areas to be planted.

Site Access

11. The existing cleared site access must be laid and maintained to a minimum gravel standard of 75mm road base on a compacted soil surface and meet the requirements of Planning Policy 6 – FNQROC Development Manual in order to ensure efficient and safe vehicle access and manoeuvring. The maximum width of this access is four (4) metres.

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Geotechnical Assessment

12. All earthwork batters steeper than 1 in 2 and/or higher than 1.8 metres must be certified by a qualified Geotechnical Engineer prior to the Commencement of Use.

Structural Certification

13. All retaining walls or structures higher than 900mm must be structurally certified prior to the issue of a Development Permit for Building Work.

Where the profile or height of the wall is redesigned during structural certification, amended plans must be endorsed by Cairns Regional Council's Chief Executive Officer prior to the issue of a Development Permit for Building Work.

Water Saving

14. All toilet devices in the development must be fitted with dual flush cisterns and showers and hand basins in the development must be fitted with flow control valves or similar water control devices to generally restrict flow to nine (9) litres of water per minute.

Generators

15. All power generation devices are to be positioned and housed (including noise attenuation material) so as to mitigate noise nuisance to adjoining and nearby residents. The noise level generated must be less than 65dBA when measured from a distance of seven (7) metres.

Fuel Storage

16. All fuels must be stored in an undercover and secure location at all times.

Sediment and Erosion Control

17. The soil and water management measures must be installed/implemented prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the *Environmental Protection Act 1994*, and the FNQROC Development Manual).

Lawful Point of Discharge

18. The applicant/owner must ensure that the flow of all external stormwater from the property is 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 Cairns Regional Council's Chief Executive Officer.

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Shed

19. The use of the shed shall be for purposes ancillary to the residential use of the land.

Existing Creek and Drainage Systems

20. 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 Cairns Regional Council's Chief Executive Officer.

Fences

21. No continuous boundary fences or barriers are to be erected on the site in order to protect the scenic amenity of the site and surrounding area, unless otherwise agreed in writing with Cairns Regional Council.

External Lighting

22. Any flood lights to be installed must not point upwards and areas of retained vegetation should not be illuminated. Where appropriate, outdoor lights should be controlled by movement detectors and/or have timers.

ADVICE

1. This approval, granted under the provisions of the *Sustainable Planning Act 2009*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of section 802 of the *Sustainable Planning Act 2009* and section 3.5.21 of the *Integrated Planning Act 1997*.
2. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
4. The regrowth vegetation code clearing notification form should be forwarded to Department of Environment and Resource Management prior to the clearing of any vegetation mapped as important regrowth under the *Vegetation Management Act 1999*. Any clearing of important regrowth vegetation should be in accordance with the Regrowth Vegetation Code.
5. For information relating to the *Integrated Planning Act 1997* log on to www.ipa.qld.gov.au. To access Council's Development Manual, Local Laws and other applicable Policies log on to www.cairns.qld.gov.au.

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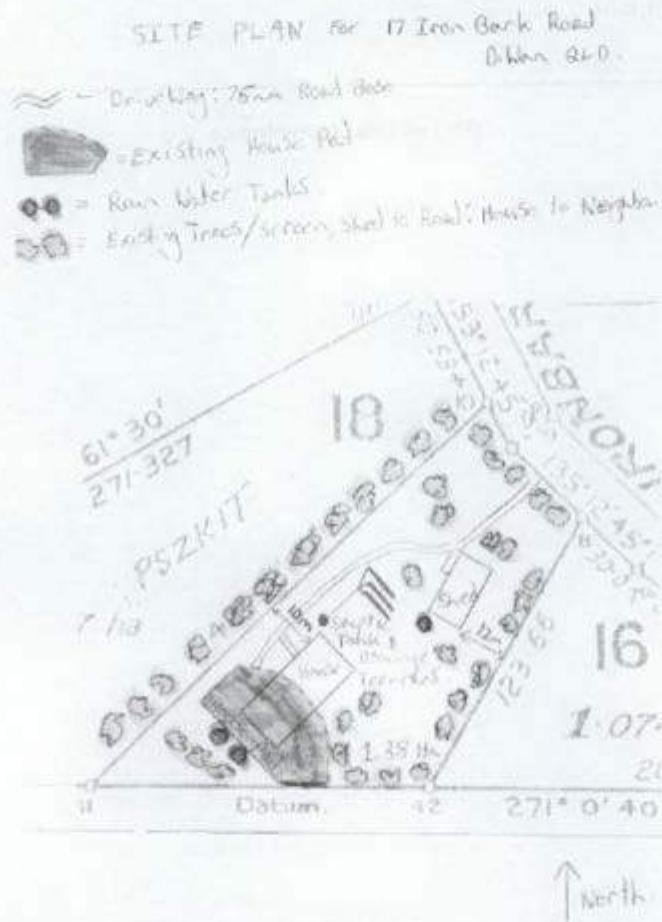
RIGHTS OF APPEAL

Attached

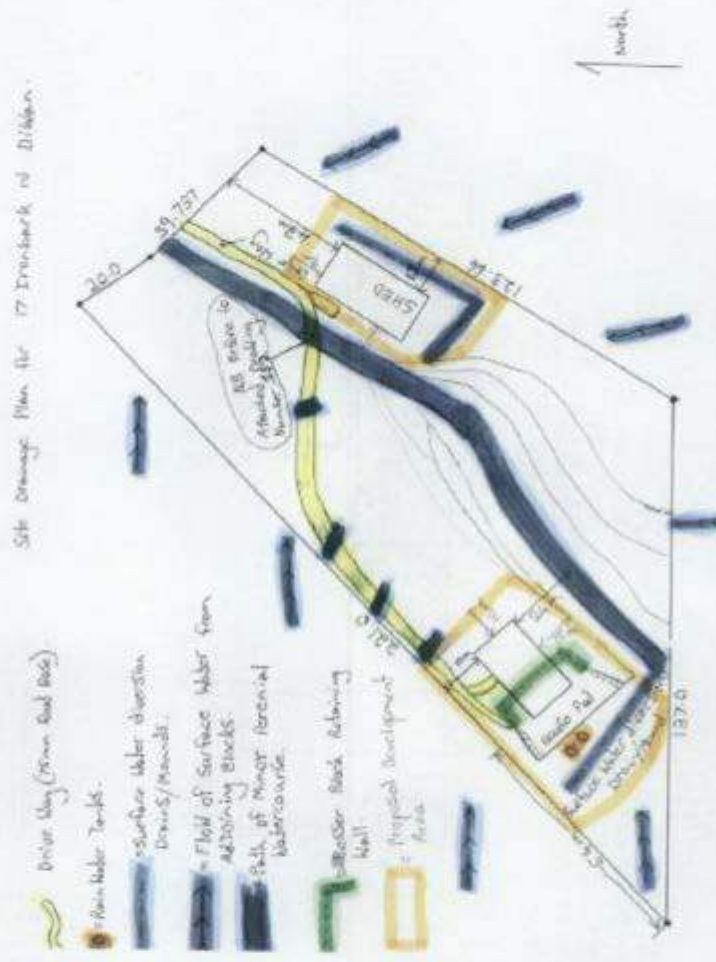
End of Decision Notice

Decision Notice – Approval for a Development Application seeking a Development Permit for a Material Change of Use – House (Code Assessable) on land at 17 Ironbark Road, Diwan, described as Lot 17 on RP739770

APPENDIX 1 – APPROVED PLAN(S) & DOCUMENT(S)



Decision Notice – Approval for a Development Application seeking a Development Permit for a Material Change of Use – House (Code Assessable) on land at 17 Ironbark Rod, Diwan, described as Lot 17 on RP739770



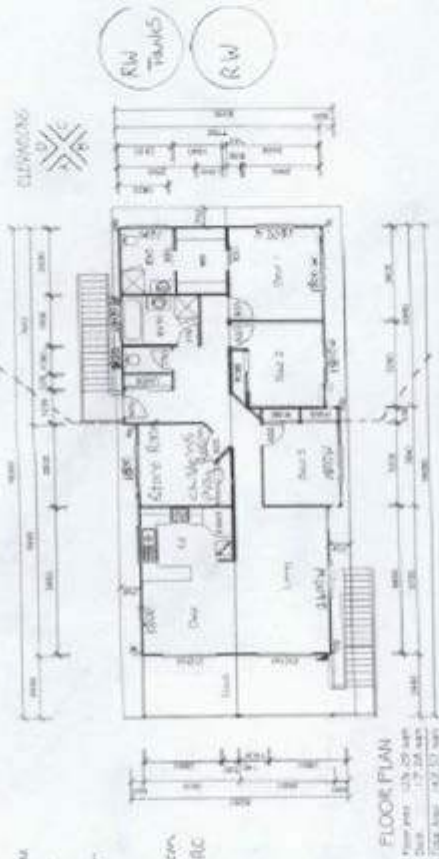
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Proposed Residence at 17 Ironbark Road Diwan

- NOTES
- 1. EXISTING HOUSE IN AREA USE
- 2. EMERGENCY ONLY
- 3. WINDOW PLACEMENT
- 4. CENTRED TO ROOM LINE
- 5. WALL SET BACKS
- 6. ACCESSIBLE WITH R/A
- 7. WARDROBES TO BE R/A
- 8. W.C. DOOR TO BE R/A
- 9. ONE ENTRY

Solar Hot Water System

Solar R/W System
 Design to suit CAC regulations



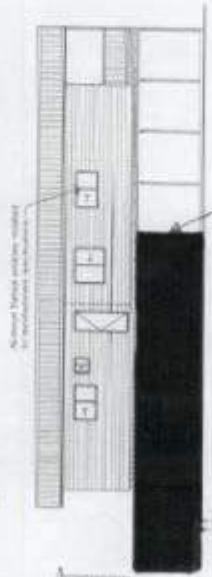
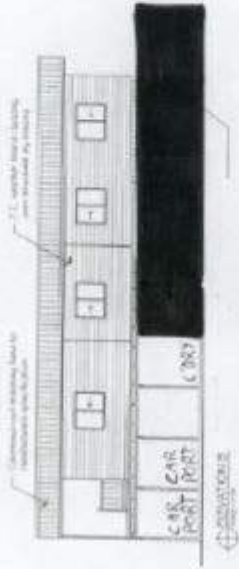
FLOOR PLAN
 Floor Area: 127.20 sqm
 Site Area: 17.20 sqm
 Total Area: 144.40 sqm

3 BEDROOM HOUSE

DATE	BY	REVISION	SCALE	TITLE
			1:100	3 BEDROOM HOUSE
			1:100	3 BEDROOM HOUSE
			1:100	3 BEDROOM HOUSE
			1:100	3 BEDROOM HOUSE
			1:100	3 BEDROOM HOUSE

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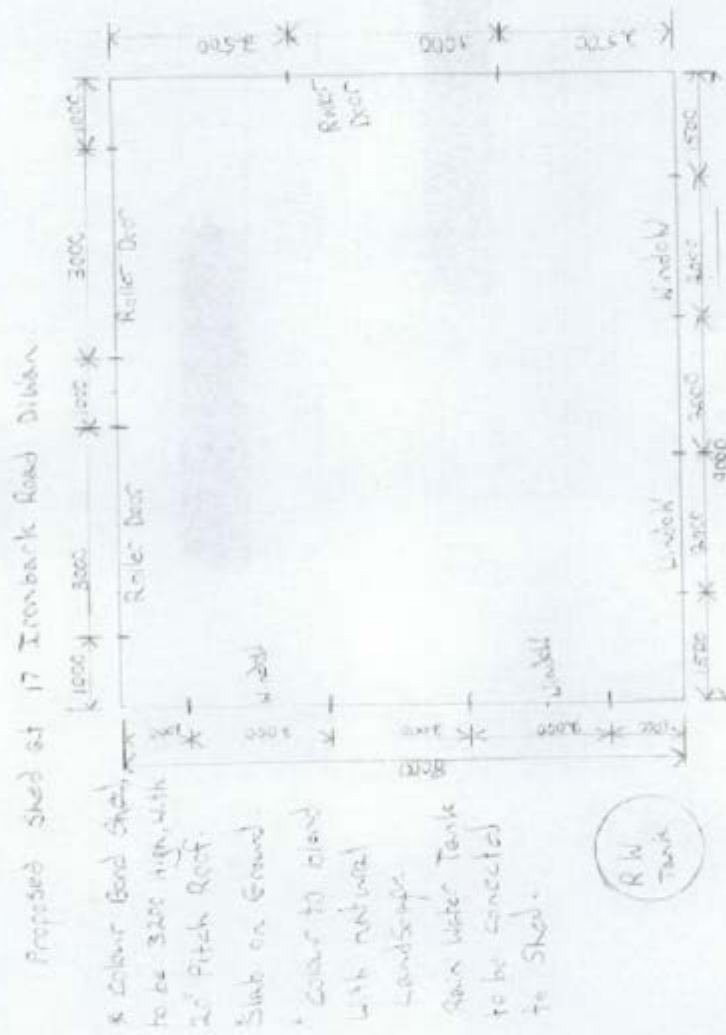
All columns Roofing
 PC Weather board cladding
 to suit CRC Regulations



3 BEDROOM HOUSE

DATE	1/12/2009	SCALE	1:50
DRAWN BY	ARCHITECTURE	DATE	1/12/2009
CHECKED BY		DATE	1/12/2009
PROJECT NO.			
DRAWING AND I AMENDS. SEE 'DATE' COLUMN			

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54 Provision about appeals against decision

- (1) This section applies for any appeal relating to the application under the Planning Act, sections 461 to 464.
- (2) Despite the Planning Act, section 485, the State, as represented by the panel, is the respondent for the appeal.
- (3) The local government may appeal to the court as if it had been a submitter for the application.
- (4) Despite the Planning Act, chapter 7, part 2, a person can not appeal to a building and development committee under that Act against a decision of a panel.

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;

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- (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.

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- (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.