

1 October 2019

Enquiries: Jenny Elphinstone
Our Ref: CA 2018_2760/1 (Doc ID 922041)
Your Ref: L3 Vixes Rd – Fish farm expansion

Administration Office
64 - 66 Front St Mossman
P 07 4099 9444
F 07 4098 2902

Daintree Saltwater Barramundi Fish Farm Pty Ltd
Lot 3 Vixies Rd
WONGA BEACH QLD 4873

Email: info@daintreesaltwaterbarramundi.com.au

Attention Mr Mark Hober

Dear Sir

Development Application for Combined application assessed against the superseded scheme, the 2006 Douglas Shire Planning Scheme (as amended), for a Material change of use for aquaculture, An Environmentally relevant activity and Removal, destruction of damage of marine plants At Vixies Road Wonga Beach on land described as Lot 3 on SP292103

Please find attached the Decision Notice for the above-mentioned development application.

Please quote Council's application number: CA 2018_2760/1 in all subsequent correspondence relating to this development application.

Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9482.

Yours faithfully


Paul Hoyer
Manager Environment & Planning

cc. State Assessment and Referral Agency (SARA) E: CairnsSARA@dilgp.qld.gov.au

encl.

- Decision Notice
 - Approved Drawing(s) and/or Document(s)
 - Concurrence Agency Response
 - Reasons for Decision - non-compliance with assessment benchmark.
 - Advice For Making Representations and Appeals (Decision Notice)



Decision Notice

Approval (with conditions)

Given under section 63 of the Planning Act 2016

Applicant Details

Name: Daintree Saltwater Barramundi Fish Farm Pty Ltd
Postal Address: Lot 3 Vixies Rd
Wonga Beach Qld 4873
Email: info@daintreesaltwaterbarramundi.com.au

Property Details

Street Address: Vixies Road Wonga Beach
Real Property Description: Lot 3 on SP292103
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for Combined Application for a Material Change of Use for Aquaculture, Environmentally Relevant Activity for Aquaculture, and Removal, destruction or damage of marine plants.

Decision

Date of Decision: 1 October 2019
Decision Details: Development Permit Approved (subject to conditions)

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
Daintree Saltwater Barramundi – Aquaculture – Overall Plan	Unreferenced and undated plan submitted to Council on 17 May 2019 (Council Document ID:902915).	17 May 2019

Drawing or Document	Reference	Date
Site Plan with Existing Ponds	Figure 10 on page 24 of the Daintree Saltwater Barramundi Farm Expansion, Material Change of Use Application Report, Version 2.1, prepared by Ecosustainability, (Council document 867058), from RPS.	17 June 2018
Existing Production Ponds	Figure 11 on page 25 of the Daintree Saltwater Barramundi Farm Expansion, Material Change of Use Application Report, Version 2.1, prepared by Ecosustainability, (Council document 867058), from RPS.	17 June 2018
Overall Layout and Schematic Arrangement Over Aerial Image	Figure 3, on Page 14, of the Applicant's response to the request from information issued by Douglas Shire Council, provided on 21 March 2019 (Council document ID:895720).	21 March 2019
Proposed Pond Layout	Gary T Pozi Drawing 18/03 Sheet 1 Version B, Plan 9 Design, on page 188 of the Daintree Saltwater Barramundi Farm Expansion, Material Change of Use Application Report, Version 2.1, prepared by Ecosustainability, (Council document 867058)	28 March 2019
File 180337C	Unreferenced and undated plan, Plan 10 Design (Pond Dimensions), on page 190 of the Daintree Saltwater Barramundi Farm Expansion, Material Change of Use Application Report, Version 2.1, prepared by Ecosustainability, (Council document 867058).	17 June 2018
Farm Expansion Preliminary Acid Sulphate Soils Management Plan	Ecosustainability Report Version 1.1, pages 469 to 550 of the application (Council document 867058)	18 April 2018
Daintree Saltwater Barra Farm, Wonga Beach, Geotechnical Investigation Report	PGI, Contract PGC00118014, Version 1.3 Final, application pages 552 to 581 (Council Document 867058).	9 February 2018
Daintree Saltwater Barramundi Flood Study, Response to DSC request for Information 1 August 2019	RECS Consulting Engineers & Building Design, Project 62-2018, Received by Council 28 August 2019 (Council document ID 916914)	August 2019

Note – The plans referenced above will require amending in order to comply with conditions of this Decision Notice. Copies of the following plans, specifications and/or drawings are enclosed.

Assessment Manager Conditions & Advices

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 Council; and
 - b. The following conditions of approval and the requirements of Council's Planning Scheme and the *FNQROC Development Manual*.

Except where modified by these conditions of approval.

Timing of Effect

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

Operational Works

3. An Operational Works Approval is required for the earthworks and drainage associated with the development.

Such works must be completed to the satisfaction of the Chief Executive Officer prior to commencement of use or issue of a compliance certificate for the plan of survey, whichever occurs first. Where plans are required, three (3) A1 size copies of the plans and one (1) copy at A3 size must be submitted to Council.

Acid Sulfate Soil Management Plan

4.
 - a. Undertake an Acid Sulfate Soil sampling, investigation and analysis in the area to be affected by this development in accordance with:
 - i. the *Queensland Acid Sulfate Soil Technical Manual Soil Management Guidelines version 4.0 (2014)*;
 - ii. the *Acid Sulfate Soils - Laboratory Methods Guidelines (version. 2.1, June 2004)*; and
 - iii. the *State Planning Policy 2017*.
 - b. Provide a statement to Council that
 - i. present Acid Sulfate Soils and/or Possible Acid Sulfate Soils are not present; or
 - ii. that management of present Acid Sulfate Soils and/or Possible Acid Sulfate Soils has been incorporated into an Acid Sulfate Soils Environmental Management Plan prepared in accordance with the abovementioned documents.

Identification of soils with a pyrite content in excess of the action levels will trigger a Acid Sulfate Soil Environmental Management Plan which must be prepared to the satisfaction of the Chief Executive Officer.

Where earthworks are undertaken without a Development Permit for Operational Work, the results of this investigation must be submitted to Council for approval, ten (10) business days prior to any earthworks or clearing being commenced on the site.

Where earthworks are undertaken in association with a Development Permit for Operational Work, the results must accompany such application lodged to Council.

Council finds the *Preliminary Acid Sulphate Soils Management Plan*, as submitted with the application, to be sufficient to accompany a future application for a Development Permit for Operational Work provided it is lodged in a Final format and consideration is given to nominating a minimum standard of competency and knowledge of treatment during construction, in particular for high risk situations where onsite testing is required.

Storage of Machinery and Plant

5. The storage of any machinery, material and vehicles must not cause a nuisance to surrounding properties, to the satisfaction of the Chief Executive Officer.

Lawful Point of Discharge

6. All stormwater 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.

Minimum Height for Bunds of Changed Ponds

7. The bunds of the changed ponds are to have a minimum height of 3.9m AHD.

Sediment and Erosion Control

8. 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).

Noise

9. The proposed activity must be conducted in a manner that -
 - a. applies such reasonable and practicable means necessary to avoid, minimise or manage (in that order) the emission or likelihood of emission of noise that constitutes an intrusive or nuisance noise; and
 - b. achieves the acoustic quality objectives of the Environmental Protection (Noise) Policy 2008.

External Lighting

10. Any external lighting installed upon the premises including car parking areas must be designed such that the vertical illumination at a distance of 1.5 metres outside the boundary of the subject land must not exceed eight (8) lux measured at any level upwards from ground level.

Requirement for an Environmental Authority

11. The development can only be undertaken in accordance with an approved and effective Environmental Authority.

Referral Agency Requirements

12. The development must only be undertaken in accordance with the referral agency conditions and advices.

Assessment Manager Advices

1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with sections 85(1)(b) and 71 of the *Planning Act 2016*.
2. This approval does not negate the requirement for compliance with all relevant Local Laws and statutory requirements.
3. For information relating to the *Planning Act 2016*, log on to www.dsd.qld.gov.au . To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au.
4. A separate Environmental Authority (EA) is required to be issued from the Department of Environment and Science for the operation of the Environmentally Relevant Activity.

Note i. The EA0001769 as approved on the 21 May 2019 includes conditions regarding noise emissions.

Note ii An Environmental Authority may be amended by the Department of Environment and Science at a future time exclusive to the use of the land under the ERA and the Material Change of Use.

5. The *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* applies to action that has, will have or is likely to have a significant impact on matters of national environmental significance.

Further information on the *EPBC Act* can be obtained from the Department of the Environment, Water, Heritage and the Arts website www.environment.gov.au/epbc EPBC Act Policy Statement 1.1 Significant Impact Guidelines Matters of National Environmental Significance (Oct. 2009).

Further Development Permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- All Operational Work

Concurrence Agency Response

Concurrence Agency	Concurrence Agency Reference	Date	Council Electronic Reference
State Department Manufacturing, Infrastructure and Planning	1810-7611 SRA	28 May 2019	904332

Refer to Attachment 2: Concurrence Agency Requirements. (Please note that these conditions / requirements may be superseded by subsequent negotiations with the relevant referral agencies).

Note – Concurrence Agency Response is attached. This Concurrence Agency Response maybe amended by agreement with the respective agency.

Currency Period for the Approval

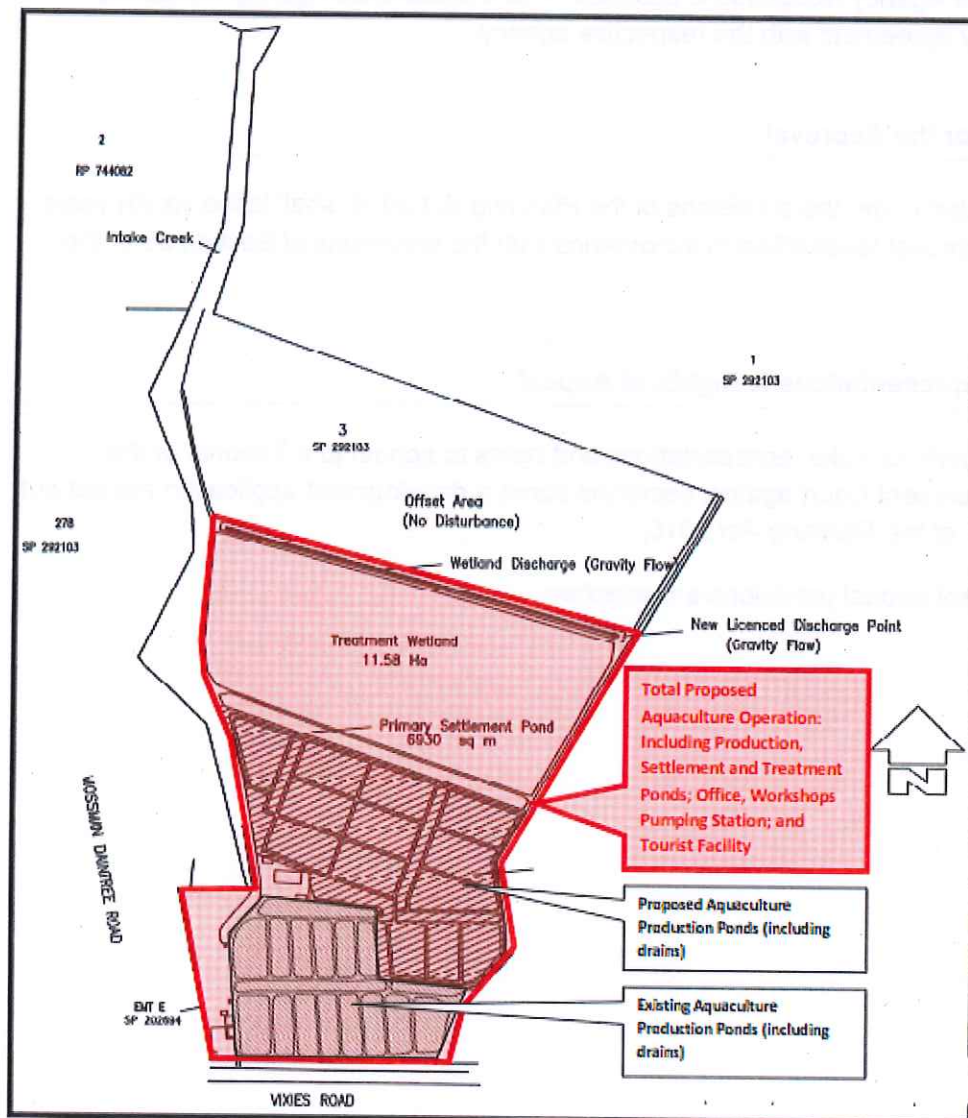
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

Rights to make Representations & Rights of Appeal

The rights of applicants to make representations and rights to appeal to a Tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*.

A copy of the relevant appeal provisions are attached.

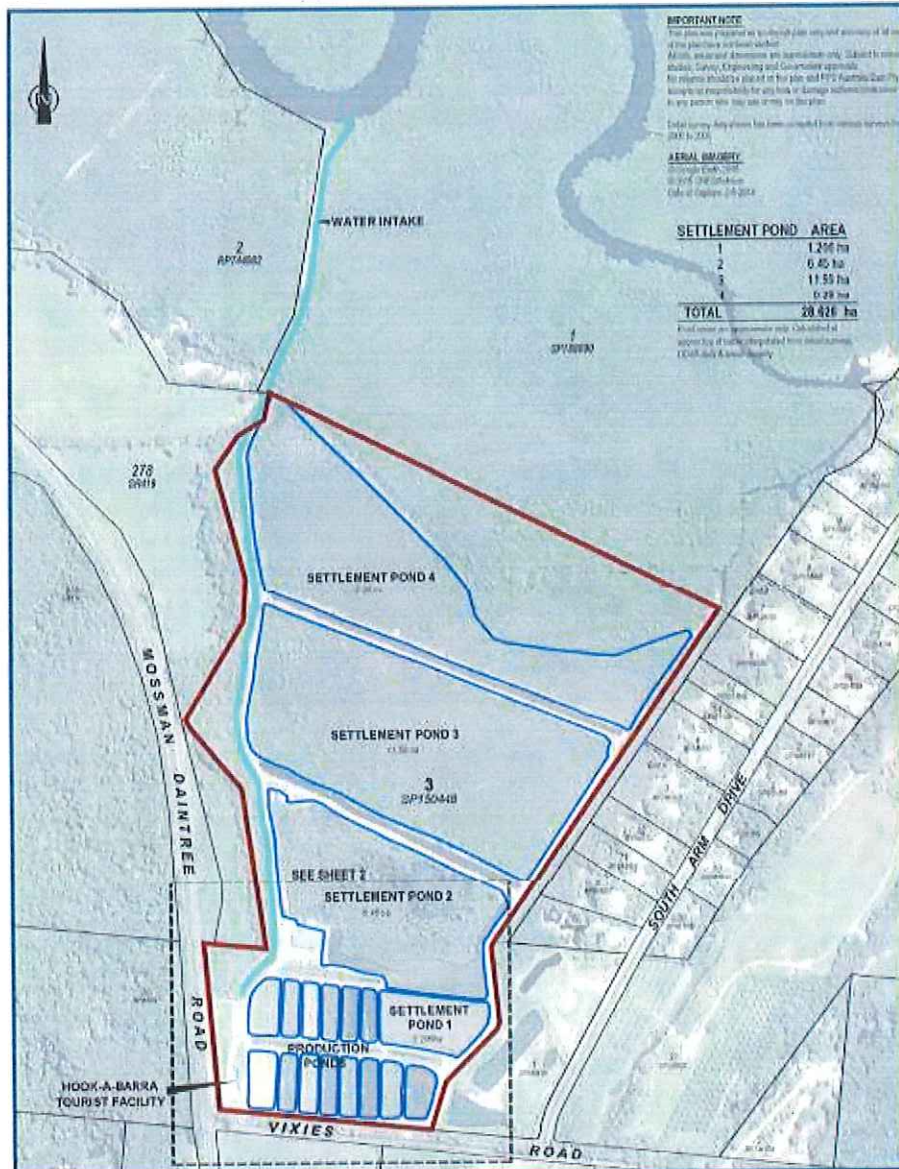
Attachment 1 Daintree Saltwater Barramundi - Aquaculture - Overall Plan





Daintree Saltwater Barramundi Aquaculture Expansion MCU Application

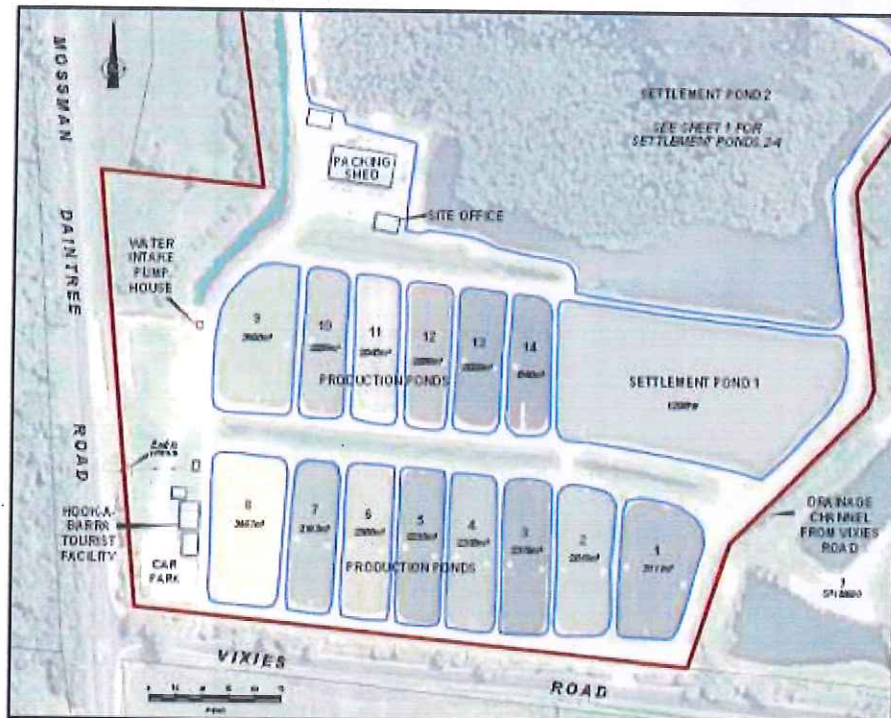
Figure 10: Site Plan with Existing Ponds



From RPS. NOTE Plan does not show extension of Lot 3 SP150488 (now SP292103) along the drain. See also Plan 2.



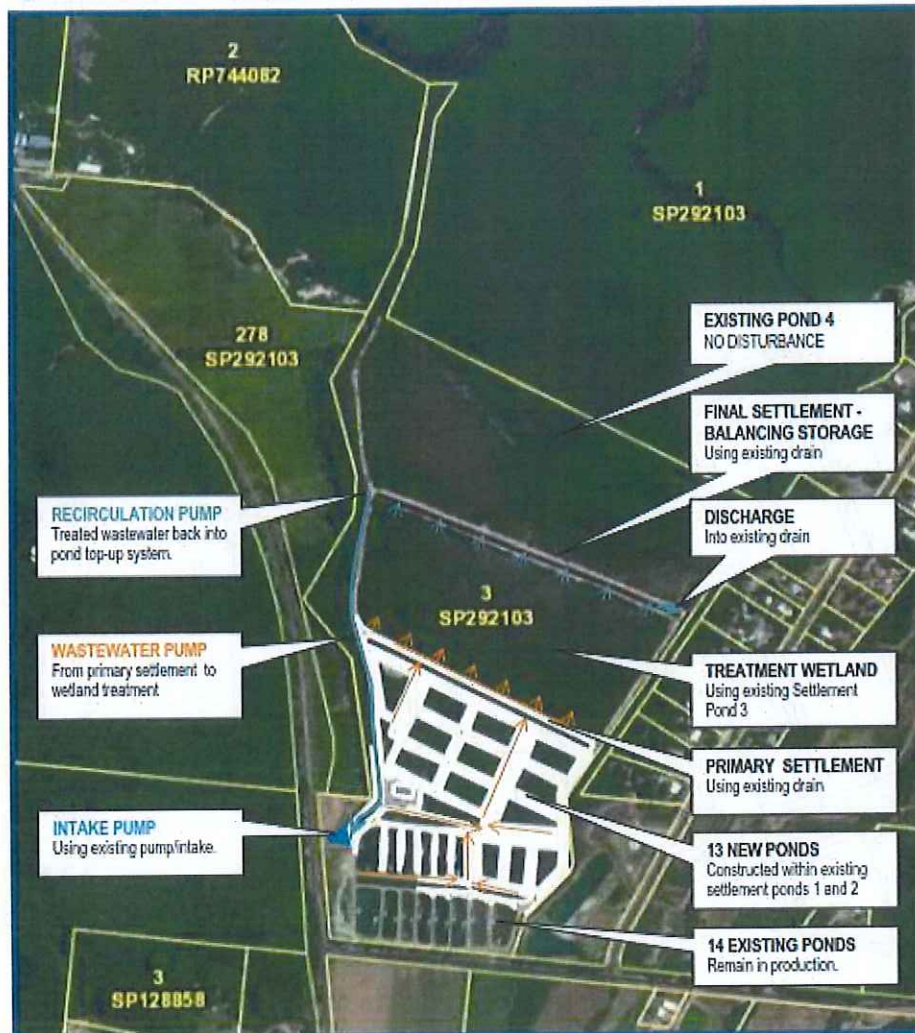
Figure 11: Existing Production Ponds



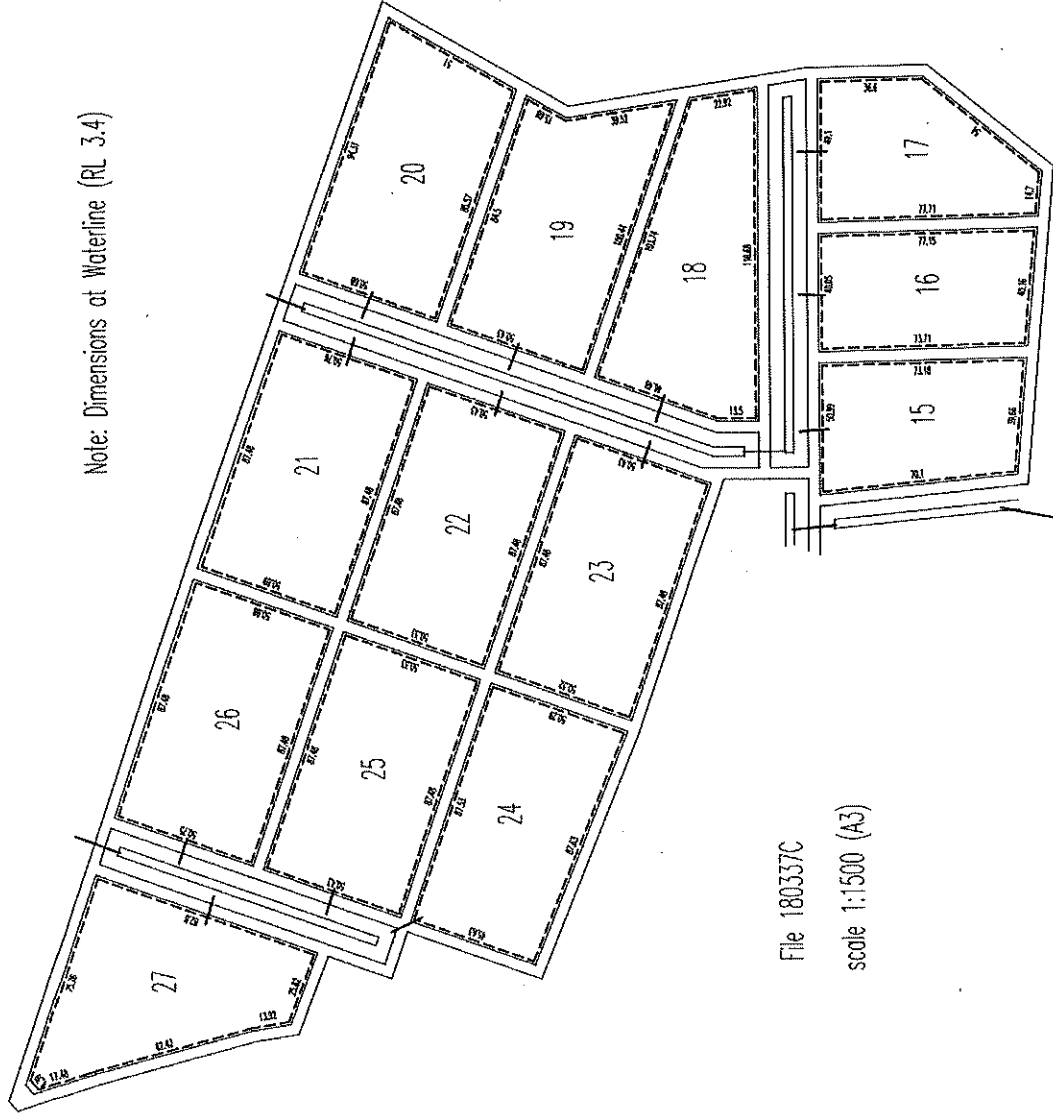
From RFS, Lot 3 SP150488 now SP292103. See also Plan 3.



Figure 3: Overall Layout and Schematic Arrangement Over Aerial Image

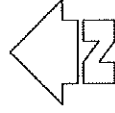


Note: Dimensions at Waterline (RL 3.4)



File 180337C

scale 1:1500 (A3)



Pond Areas (to RL 3.4)

Pond Volumes (to RL 3.4)

15	3010 sq m	4065 cub m
16	3015 sq m	4060 cub m
17	3135 sq m	4225 cub m
18	4500 sq m	6150 cub m
19	4470 sq m	6135 cub m
20	4540 sq m	6255 cub m
21	4445 sq m	6110 cub m
22	4405 sq m	6075 cub m
23	4405 sq m	6075 cub m
24	4195 sq m	5765 cub m
25	4405 sq m	6075 cub m
26	4445 sq m	6110 cub m
27	4255 sq m	5780 cub m

Assessment Manager's Reasons for Decision

The reasons for this decision are:

1. Sections 29(9), 60, 62 and 63 of the *Planning Act 2016*:
 - a. the approved plan(s) and document(s) as per A above;
 - b. the Conditions and Advices as per B above;
 - c. to ensure the development satisfies the benchmarks of the 2006 Douglas Shire Planning Scheme (as amended); and
 - d. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
 - a. the development application was properly lodged to the Douglas Shire Council on 25 September 2018 under section 29(9) and 51 of the *Planning Act 2016* and Part 1 of the Development Assessment Rules;
 - b. the development application contained information from the applicant which Council reviewed together with Council's own investigation of assessment against the State Planning Policy 2016, the Far North Queensland Regional Plan 2008-2031 and the 2006 Douglas Shire Planning Scheme (as amended) in making its assessment manager decision.
3. Evidence or other material on which findings were based:
 - a. the development triggered assessable development under the Assessment Table associated with the Rural Areas and Rural Settlements Locality and the Planning Area;
 - b. Council undertook an assessment in accordance with the provisions of sections 29(9), 60, 62 and 63 of the *Planning Act 2016*; and
 - c. the applicant's reasons have been considered and the following findings are made:
 - i. Subject to conditions the development satisfactorily meets the Planning Scheme requirements.

RA6-N



Department of
**State Development,
Manufacturing,
Infrastructure and Planning**

SARA reference: 1810-7611 SRA
Council reference: MCU2760/2018
Applicant reference: L3 Vixies Rd- Fish Farm Expansion

28 May 2019

Chief Executive Officer
Douglas Shire Council
PO Box 723
Mossman Qld 4873
enquiries@douglas.qld.gov.au

Attention: Jenny Elphinstone

Dear Sir/Madam

Changed referral agency response (with conditions) — Vixies Road, Wonga Beach
(Given under section 28 of the Development Assessment Rules)

On 21 May 2019 the department received notice of a change to the development application described below. The department has assessed the changes and now provides this changed referral agency response which replaces the response dated 14 May 2019.

Response

Outcome:	Changed referral agency response – with conditions
Date of response:	28 May 2019
Conditions:	The conditions in Attachment 1 must be attached to any development approval.
Advice:	Advice to the applicant is in Attachment 2 .
Reasons:	The reasons for the referral agency response are in Attachment 3 .

Development details

Description:	Development permit	Material change of use for aquaculture (expansion of existing fish farm) and Environmentally Relevant Activity
SARA role:	Referral Agency	
SARA trigger:	• Schedule 10, Part 5, Division 4, Table 2, Item 1-	

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Far North Queensland regional office
Ground Floor, Cnr Grafton and Hartley
Street, Cairns
PO Box 2358, Cairns QLD 4870

Environmentally relevant activities

- Schedule 10, Part 6, Division 1, Subdivision 3, Table 1, Item 1- Aquaculture
- Schedule 10, Part 6, Division 3, Subdivision 3, Table 2, Item 1 – Removal, destruction or damage of marine plants
- Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, item 1- State Transport corridor or future State transport corridor
- Schedule 10, Part 17, Division 3, Table 6, Item 1-Tidal works or work in a coastal management
- Schedule 10, Part 20, Division 4, Table 3, Item 1- Wetland protection area

(Planning Regulation 2017)

SARA reference:	1810-7611 SRA
Assessment Manager:	Douglas Shire Council
Street address:	Vixies Road, Wonga Beach
Real property description:	Lot 3 on SP292103
Applicant name:	Daintree Saltwater Barramundi Fish Farm Pty Ltd c/- Ecosustainability
Applicant contact details:	PO Box 230 Yorkeys Knob QLD 4878 goecosustainability@gmail.com
Environmental Authority:	This referral included an application for an environmental authority under section 115 of the <i>Environmental Protection Act 1994</i> . Below are the details of the decision: <ul style="list-style-type: none"> • Approved • Reference: EA0001769 • Effective date: Takes effect on a date to be decided later. • Prescribed environmentally relevant activity (ERA): ERA01- Aquaculture 2: Cultivating or holding marine, estuarine or freshwater organisms, other than crustaceans, in enclosures that are on land and have a total area of (a) more than 100 square metres but not more than 10ha.

If you are seeking further information on the environmental authority, the Department of Environment and Science's website includes a register. This can be found at: www.des.qld.gov.au

Representations

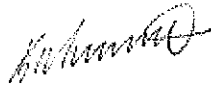
An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules)

Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Joanne Manson, Principal Planning Officer, SARA Far North QLD on 40373228 or via email CairnsSARA@ddsmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc Daintree Saltwater Barramundi Fish Farm Pty Ltd, c/- EcoSustainAbility, gcecosustainability@gmail.com

enc Attachment 1 - Changed referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Changed reasons for referral agency response
Attachment 4 - Change representation provisions
Attachment 5 - Approved plans and specifications

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the Planning Act 2016 the following conditions must be attached to any development approval relating to this application) (Copies of the plans and specifications referenced below are found at Attachment 5)

No.	Conditions	Condition timing
Material change of use		
Schedule 10, Part 17, Division 3, Table 6, Item 1-Tidal works or work in a coastal management district —The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Environment and Science to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
1.	The work in the coastal management district must be carried out generally in accordance with the following plan: <ul style="list-style-type: none"> Proposed Pond Layout Lot 3 on SP292103, prepared by Gary T Pozzi, dated 26/03/2018, reference 18/03, Version B <u>SITE PLAN SHEET 2 OF 2 LOT 3 SP150448 WONGA BEACH, prepared by RPS, dated 27/01/2015, reference 9338-9 (as amended in red)</u> 	Prior to the commencement of use and to be maintained at all times.
2.	For the proposed works, only use clean materials and ensure that the works do not cause contamination. To achieve this only use materials which are free from contaminants as defined under section 11 of the <i>Environmental Protection Act 1994</i>	For the duration of the works
3.	Erosion and sediment control measures which are in accordance with the <i>Best Practice Erosion and Sediment Control (BPESC) guidelines for Australia (International Erosion Control Association)</i> , are to be installed and maintained to prevent the release of sediment to tidal waters.	For the duration of the works
Material change of use		
Schedule 10, Part 6, Division 3, Subdivision 3, Table 2, Item 1 —Removal, destruction or damage of marine plants —The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Agriculture and Fisheries to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
4.	Development authorised under this approval is limited as follows: <ul style="list-style-type: none"> operational works to remove, damage, destroy marine plants being limited to: <ul style="list-style-type: none"> Permanent removal of marine plants within Settlement pond 2 (approximately 5 ha) and shown in Marine Plant Disturbance Areas Settlement Pond 2, Environment Pacific, dated 18/02/2019, reference Figure 1, Revision B. Permanent removal of 10m² of mangrove ferns and milky mangroves shown in Marine Plant Disturbance Drainage Works Area, Environment Pacific, dated 18/02/2019, reference Figure 2, Revision B. 	Prior to the commencement of use and to be maintained at all times

	<ul style="list-style-type: none"> o Temporary disturbance by the use of hand tools of up to 20m² of marine plants on the bund shown in Figure 1: Re-establishment of Fish Habitat Connectivity in Settlement Pond 4 from Section 2.3.1 Rehabilitation in Pond 4 of Farm Expansion Material Change of Use Response to Information Request 1810-7611 SRA, EcoSustainAbility Pty Ltd, 21 March 2019, Version 1.1 	
5.	<p>Provide written notice to notifications@daf.qld.gov.au, when the development authorised under this approval:</p> <p>(a) will start, and</p> <p>(b) when it has been completed.</p> <p>These notices must state this permit number 1810-7611 SRA.</p>	<p>At least 5 business days but no greater than 20 business days prior to the commencement of the works</p> <p>Within 15 business days of the completion of the fisheries development works.</p>
6.	Spoil is not disposed of on tidal lands or within waterways and is managed to prevent acid soil development.	At all times
7.	This fisheries development (as defined by the <i>Fisheries Act 1994</i>) constitutes a place that is required to be open for inspection by an inspector at all times, pursuant to section 145 of the <i>Fisheries Act 1994</i> .	At all times
8.	Marine plants authorised for removal and other material used in the development (e.g. debris, construction material, soil, etc.) are to be promptly removed from the intertidal zone.	For the duration of the works the subject of this approval and to be maintained
9.	The marine plant mitigation works must be undertaken generally in accordance with the Farm Expansion Material Change of Use Response to Information Request 1810-7611 SRA prepared by EcoSustainAbility Pty Ltd dated 21 March 2019, Version 1.1, Section 2.3.1 Rehabilitation in Pond 4.	Prior to the commencement of use and to be maintained at all times
10.	No removal, damage or destruction of any marine plants is permitted within the treatment wetland shown on Proposed Pond Layout Lot 3 on SP292103, prepared by Gary T Pozzi, dated 26/03/2018, reference 18/03, Version B.	At all times
11.	<u>Removal and disposal of marine plants is permitted from within the two constructed drains on the eastern and western boundaries of the property</u>	<u>For the duration of the works the subject of this approval</u>
Material change of use		
<p>Schedule 10, Part 6, Division 1, Subdivision 3, Table 1, Item 1—Aquaculture—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Agriculture and Fisheries to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:</p>		
12.	The approved fisheries resources the subject of this approval are limited to the following species:	Prior to commencement of use and to be maintained at all times

Common Name	Scientific Name	
Australian bass	<i>Macquaria novemaculeata</i>	
Banded rainbowfish	<i>Melanotaenia trifasciata</i>	
Barcoo grunter	<i>Scortum barcoo</i>	
Barramundi	<i>Lates calcarifer</i>	
Barramundi cod	<i>Cromileptes altivelis</i>	
Barred-cheek coral trout	<i>Plectropomus maculatus</i>	
Blue-spot coral trout	<i>Plectropomus laevis</i>	
Cobia	<i>Rachycentron canadum</i>	
Common coral trout	<i>Plectropomus leopardus</i>	
Eel tail catfish	<i>Tandanus tandanus</i>	
Estuary cod	<i>Epinephelus coioides</i>	
Flowery cod	<i>Epinephelus fuscoguttatus</i>	
Freshwater shrimp	<i>Macrobrachium rosenbergii</i>	
Golden perch (Cooper Creek strain)	<i>Macquaria ambigua n.sp</i>	
Golden perch (Dawson River strain)	<i>Macquaria ambigua oriens</i>	
Golden perch (Murray-Darling strain)	<i>Macquaria ambigua ambigua</i>	
Golden Snapper	<i>Lutjanus johnii</i>	
Gulf Saratoga	<i>Scleropages jordanii</i>	
Mahi Mahi	<i>Coryphaena hippurus</i>	
Mangrove jack	<i>Lutjanus argentimaculatus</i>	
Milkfish	<i>Chanos chanos</i>	
Mud Crab	<i>Scylla serrata</i>	
Mulloway	<i>Argyrosomus japonicus</i>	
Murray cod	<i>Maccullochella peelii peelii</i>	
Passionfruit trout	<i>Plectropomus areolatus</i>	
Queensland groper	<i>Epinephelus lanceolatus</i>	
Redclaw crayfish	<i>Cherax quadricarinatus</i>	
Sand whiting	<i>Sillago ciliata</i>	
Silver perch	<i>Bidyanus bidyanus</i>	
Sleepy cod	<i>Oxyeleotris lineolatus</i>	

	<p>Snapper <i>Pagrus auratus</i></p> <p>Southern saraloga <i>Scleropages leichardti</i></p> <p>Spangled perch <i>Leiopotherapon unicolor</i></p> <p>Tropical rock lobster <i>Paralimnopus ornatus</i></p> <p>Yabby <i>Cherax destructor</i></p> <p>Hereafter referred to as the "approved species".</p>	
13.	<p>The water surface area associated with the additional production ponds (approximate area of 5.323 8.74 hectares), settlement pond (approximate area of 0.7 hectares) and treatment wetland (approximate area of 11.58 hectares) is limited to a combined maximum area of 24.4 21.02 hectares, and must be carried out generally in accordance with the following plan:</p> <ul style="list-style-type: none"> Proposed Pond Layout Lot 3 on SP 292103, <u>prepared by Gary T Pozzi, dated 26/03/2018, reference 18/03, Version 8</u> <u>SITE PLAN SHEET 2 OF 2 LOT 3 SP150448 WONGA BEACH, prepared by RPS, dated 27/01/2015, reference 9338-9 (as amended in red)</u> 	Prior to commencement of use and to be maintained at all times
14.	<p>This aquaculture development constitutes a place that is required to be open for inspection by an inspector at all times, pursuant to section 145 of the <i>Fisheries Act 1994</i>.</p>	At all times
15.	<p>Inform the assessing authority Department of Agriculture and Fisheries via notifications@daf.qld.gov.au of any changes to the personal contact details for this development approval.</p> <p>Note: Forms for reporting a change in contact details can be found at https://www.daf.qld.gov.au/fisheries/aquaculture/aquaculture-approvals</p>	Within 28 days of change to personal contact details
16.	<p>Aquaculture fisheries resources must not be sold, traded or given away for the purposes of using for bait. This includes the use of whole fish and any part of the fish.</p>	At all times
17.	<p>Provide an annual aquaculture production return in the approved form to the Department of Agriculture and Fisheries. This includes lodging a nil return when no activity has occurred.</p> <p>Note: This is an information requirement pursuant to section 118 of the <i>Fisheries Act 1994</i>. Details on how to lodge and electronic aquaculture production return will be sent to operators annually.</p>	By close of business on the 31 July each year
18.	<p>Aquaculture fisheries resources must not be released into Queensland waters (as defined in the <i>Acts Interpretation Act 1954</i>) with the exception of any ponds, tanks, containers approved to hold aquaculture fisheries resources.</p> <p>Note: It is an offence under the <i>Fisheries Act 1994</i> to unlawfully release aquaculture fisheries resources, or cause aquaculture fisheries resources to be released, into Queensland waters. Maximum penalty—2000 penalty units.</p>	At all times
19.	<p>The movement of fisheries resources into, or within, Queensland must comply with the current version of:</p> <p>(a) Health protocol for the importation and movement of live barramundi; and</p>	At all times

	<p>(b) Health protocol for the movement of live freshwater crayfish and prawns; and</p> <p>(c) Health protocol for the movement of live freshwater native finfish (other than barramundi and eels; and</p> <p>(d) Health protocol for the movement of live marine crustaceans including crabs, lobsters and bugs; and</p> <p>(e) any approved species not included in a species specific health protocol: "Health protocol for movement of aquatic animals for aquaculture in Queensland"</p> <p>Note: Health protocols and application form FDU1398 can be found at https://www.daf.qld.gov.au/fisheries/aquaculture/management-and-policies</p> <p>Note: Commonwealth quarantine protocols must be successfully completed for the relevant organisms of any species prior to their introduction to the approved aquaculture area.</p>	
20.	<p>Maintain control over the release of water from all ponds, tanks and drainage systems within the approved aquaculture area.</p> <p>Note: Control may be achieved through ensuring ponds, tanks and containers integrity at all times, having adequate freeboard to avoid any overtopping, preventing overland flow, ensuring all equipment intended to control releases is functioning correctly at all times and backup systems or equipment are in place.</p>	Prior to the commencement of the use and to be maintained at all times
21.	<p>Provide a barrier around any production ponds used to cultivate Freshwater shrimp, Redclaw crayfish or Yabby to prevent the overland release from the approved aquaculture area.</p>	Prior to the commencement of the use and to be maintained at all times
22.	<p>Install screening on all points of water release or discharge from within the approved aquaculture area to prevent the escape of any aquaculture fisheries resources (eggs, juveniles or adults) into Queensland waters (as defined in the <i>Acts Interpretation Act 1954</i>).</p>	Prior to the commencement of the use and to be maintained at all times
23.	<p>Install screening on all intake waters to prevent the movement of any juvenile or adult wild fauna (excepting zooplankton) into the approved aquaculture area.</p>	Prior to the commencement of the use and to be maintained at all times
24.	<p>Ponds, tanks and containers used to cultivate indigenous aquaculture fisheries resources are constructed with the lowest point of the top of wall above Q100 flood level.</p>	Prior to the commencement of the use and to be maintained at all times
Material change of use		
<p>Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1— State transport corridors or future State transport corridors —The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:</p>		
25.	<p>Direct access is not permitted between Mossman-Daintree Road and the subject site.</p>	At all times

Attachment 2—Advice to the applicant

General advice – Aquaculture	
1.	<p>Immediately report any unusual clinical signs or mortalities of any fisheries resources brought into Queensland, to the Queensland Boating and Fisheries Patrol. If directed, specimens must be forwarded to a veterinary laboratory.</p> <p>Note: Information on reporting disease in aquaculture can be found at https://www.business.qld.gov.au/industry/fisheries/aquaculture/health-pests-and-diseases-of-aquaculture/managing-disease-in-aquaculture-farms/identifying-and-reporting-disease-in-aquaculture</p>
2.	<p>This approval does not permit the harvest of broodstock and culture stock.</p> <p>Note: Broodstock and/or culture stock may be purchased from the holder of an authority or licence that authorises the sale of the approved species. In Queensland, this includes from a commercial fisher holding an appropriate <i>Fisheries Act 1994</i> licence.</p> <p>Note: Forms to apply for the collection of broodstock or culture stock for aquaculture under a <i>Fisheries Act 1994</i> General Fisheries Permit can be found at https://www.daf.qld.gov.au/fisheries/aquaculture/aquaculture-approvals</p> <p>Note: Depending on the species sought and its location, additional permits may be required under other legislation, for example the <i>Environmental Protection and Biodiversity Conservation Act 1999</i>, the <i>Great Barrier Reef Marine Park Act 1975</i>, the <i>Nature Conservation Act 1992</i>.</p>
3.	<p>This approval does not provide any entitlement to access or harvest an aquaculture fisheries resource that becomes an unauthorised escape or release, including but not limited to:</p> <ul style="list-style-type: none"> (a) animal(s) stocked within the approved aquaculture area that move outside the area; or (b) spawn or progeny of an aquaculture fisheries resource should such eggs, larvae, juveniles or adult progeny become distributed outside of the approved aquaculture area. <p>The responsibility for any impact of unauthorized escapes or releases of aquaculture fisheries resources is with the operator. Additional permits may be required under the <i>Fisheries Act 1994</i> to authorise processes required to be readily available to effectively manage this risk.</p>

Attachment 3—Changed reasons for referral agency response

(Given under section 56(7) of the Planning Act 2016)

The reasons for the department's decision are:

- The department carried out an assessment of the development application against the relevant state codes and with conditions the proposal complies with the relevant performance outcomes.
- The development application includes the existing aquaculture operation and the proposed aquaculture expansion area.
- The proposed aquaculture expansion is to the existing aquaculture facility and cannot feasibly be located elsewhere.
- The proposed development:
 - is located and designed to conserve coastal processes
 - is designed, constructed and operated to avoid and mitigate impacts on the wetland protection area environmental values
 - is located and designed to avoid and mitigate environmental harm on the environmental values of the natural environment
 - maintains the extent, distribution, diversity and condition of marine plant communities and protects the ecological function to which they contribute
 - appropriately carries out the use of fisheries and aquaculture fisheries resources
 - meets standards in the prevention, control and eradication of disease in fish
 - suitably contains aquaculture fisheries resources to prevent escape and release
 - meets the relevant standards for aquaculture
 - minimises and mitigates impacts on the matters of environmental significance and does not result in a significant residual impact; and
 - does not impact on the safety, efficiency or operation of the state-controlled road.

Material used in the assessment of the application:

- The development application material and submitted plans
- Information request response
- Change to application on 21 May 2019
- Planning Act 2016
- Planning Regulation 2017
- The State Development Assessment Provisions (version 2.4) as published by the department
- The Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system

Attachment 4—Change representation provisions

(page left intentionally blank – attached separately)

Development Assessment Rules—Representations about a referral agency response (concurrency)

The following provisions are those set out in sections 28 and 30 of the *Development Assessment Rules*¹ regarding representations about a referral agency response (concurrency).

Part 6: Changes to the application and referral agency responses and Part 7: Miscellaneous

28 Concurrency agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

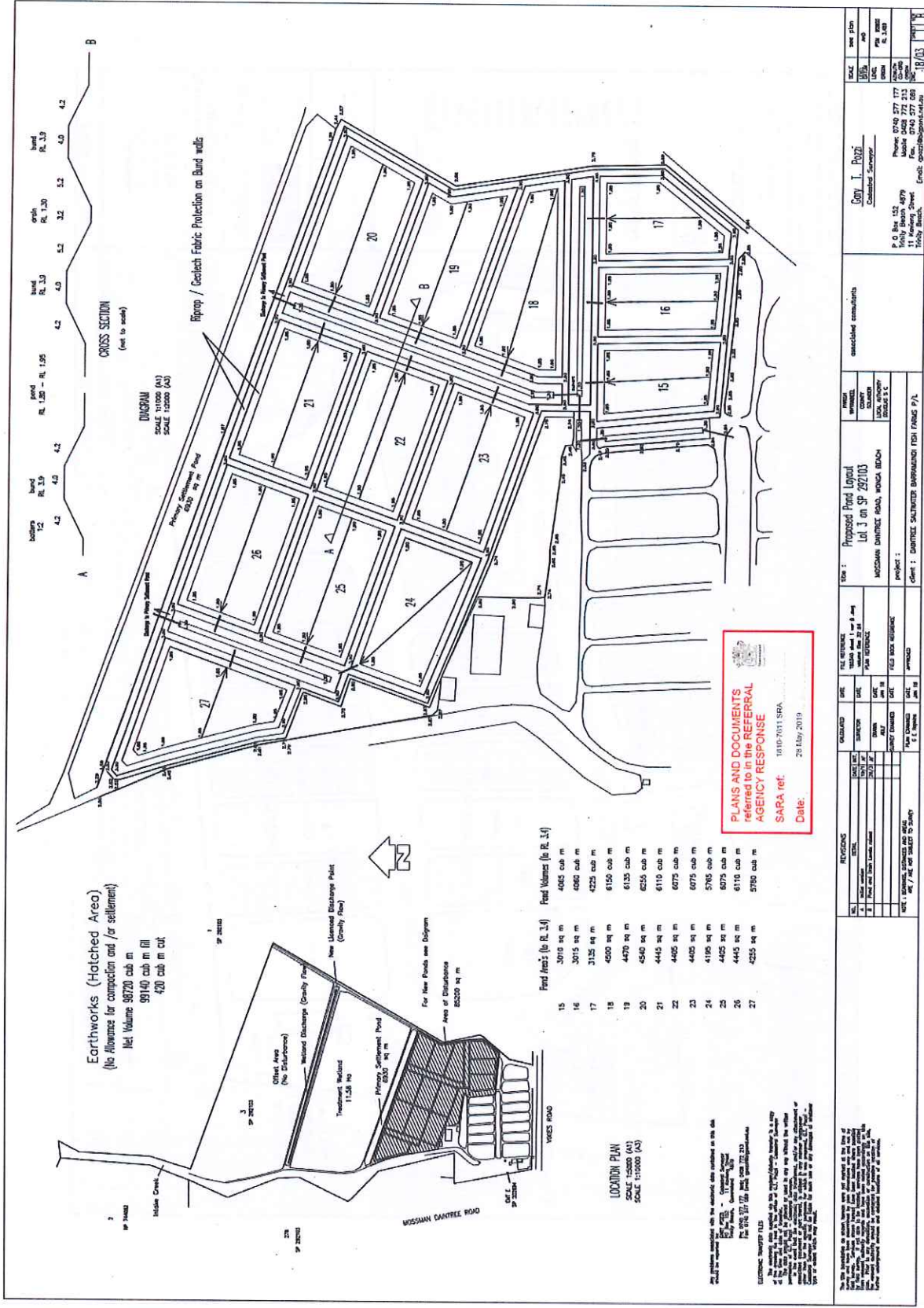
30 Representations about a referral agency response

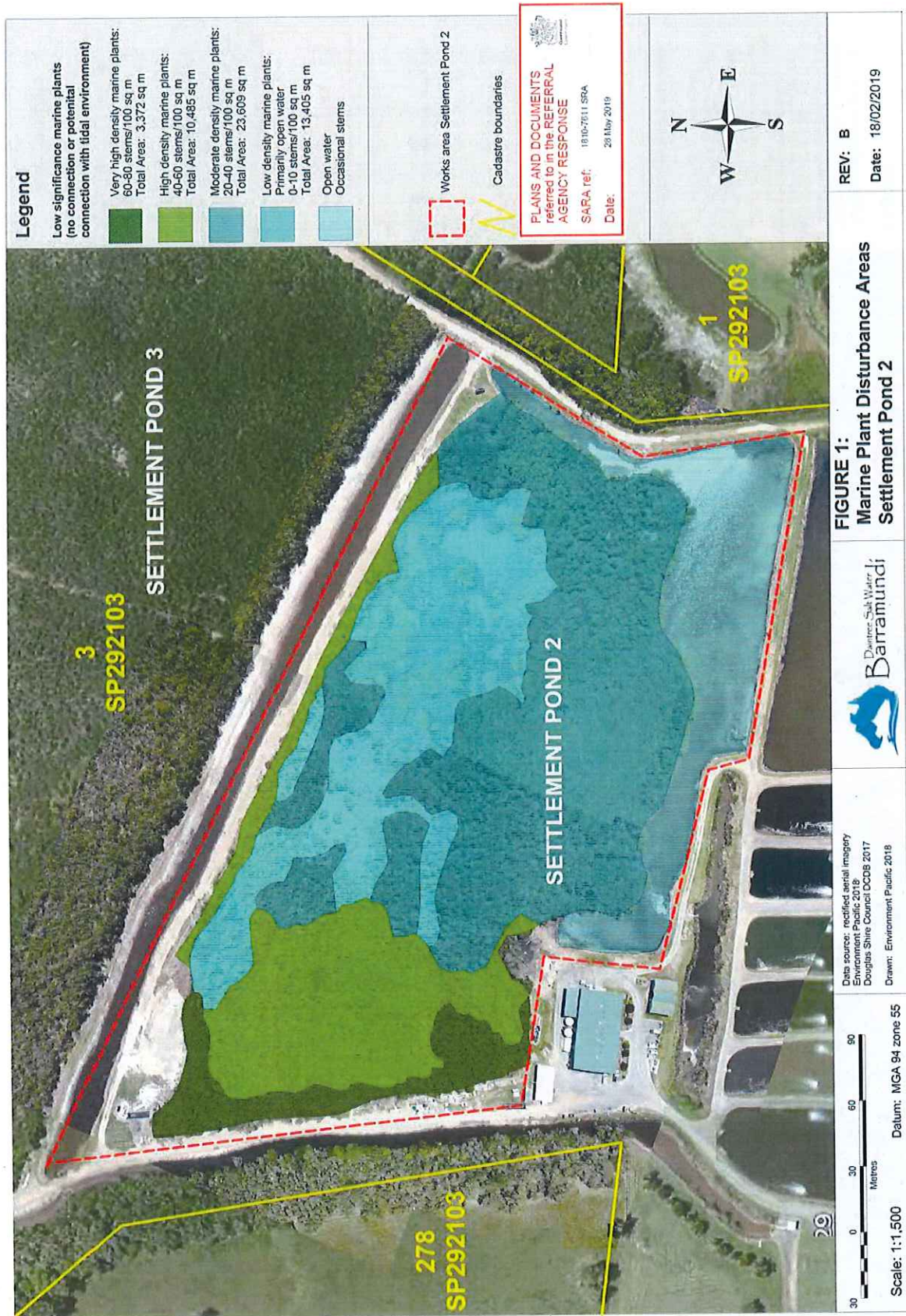
30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.³

³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

Attachment 5—Approved plans and specifications

(page left intentionally blank - attached separately)









Works are proposed for the eastern end of the main tidal drain between settlement pond 3 and settlement pond 4. The internal drain and batters between settlement pond 3 and 4 are subject to maintenance and generally free of any mature vegetation. Seedlings of *Excoecaria agallocha* (tallest noted approximately 30cm high) have recruited into the maintained area of the internal drain within the general area of works (approximately 400m²). Between four to six seedlings will be affected by the works. *Acrostichum aureum* is ubiquitous across the entire development area, and small examples have become established in the maintained internal drain between settlement pond 3 and 4, and on the outside of the road batter within the tidal external drain. Between five to seven immature plants will be disturbed depending on extent of drainage works. This work location is directly connected to tidal lands, and the marine plants present are classed as high fisheries significant plants under *FHMOP 001 (2007)*.

All these individuals are small/juveniles, and may be easily relocated through simply digging out manually with a shovel and relocating immediately into the same drainage line upstream or downstream of the drainage works area. Relocation in this manner and location will meet all *FHMOP 001 (2007)* guidelines relevant to the relocation of marine plants (refer Appendix 2 of the *FHMOP 001*).

2.3 Item 3 - Tidal and Fisheries Connectivity

Information Request

Opening an old bund to restore tidal connectivity is offered within supporting information to mitigate impacts to marine plants. No detailed information is provided on how the bund is to be removed and tidal fish habitats restored. If this is proposed as a mitigation strategy additional information is requested.

Information requested

a. Provide a response to State code 11, PO29 and PO30 and include detailed information on:

i. How the restoration is to occur, and

ii. What total benefits to fisheries productivity will result.

b. Include any marine plant disturbance required to gain access to the bund in the total area of marine plant disturbance (refer item 3.1).

2.3.1 Rehabilitation in Pond 4

Settlement pond 4 occupies an area of approximately 16.5 ha, with a surveyed area of 9.38 ha being within the bunded section most of which is isolated from tidal connectivity owing to an old bund. This bund runs along either side drain and also across the pond in a generally South-east to north-west direction.

The proposal is to open up the bund to restore connectivity and hence fisheries habitat values. This is proposed to offset the marine plant disturbance in Pond 2 and the outlet works.

It is proposed to minimise any disturbance to marine plants in the process of opening the bund by using hand tools to dig away the bund back to surrounding ground surface level in initially six to ten locations. Along the bund there are clearly lower areas with past tidal flow and these will be opened up. Any marine plant seedling by way of the area to be opened will be translocated. The opening may disturb roots of adjacent trees, but will be done to ensure that the root system of each mangrove tree remains essentially intact, without threat to the viability of the individual. Each opening will be about 1-2m wide with material removed placed back onto the adjoining bund or, if practical without causing further disturbance removed from the bund area.

PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE



SARA ref: 1810-7611 SRA

Date: 28 May 2019



Daintree Saltwater Barramundi Response to SARA Information Request

Succession and recruitment south of the bund wall has been strongly influenced by breaches in the bund wall (through natural erosion via root penetration and water flow) allowing tidal water to influence the otherwise arrested successional state of the vegetation south of the bund wall. With increasing saline influences on the surrounding communities, recruitment is expected to reflect the species composition and general complexity of South Arm Creek immediately north of the bund wall, albeit with a higher number of mangrove species typically associated with upper freshwater influenced areas, and successional processes. In areas where the bund wall has already some breaches there are mangroves include *Lumnitzera racemosa* (tallest examples of these species in all surveyed areas) with large examples of *Excoecaria agallocha*. The understorey and subcanopy are expected to host recruiting mangrove species typically found in more tidal areas: *Brugiera* spp, *Rhizophora* spp, *Xylocarpus* spp, and *Aegialitis annulata*.

With additional openings along the bund wall and increasing tidal influence it is expected that this community will continue to be replaced by a more complex mangrove community (similar to the north side of the bund wall).

After the initial works an assessment will be made during spring/and king tides to review the flow and identify any further areas which are desirable to open. It is expected that sesamid crab activity and fisheries productivity will be re-established within a few years in the lower lying areas and over a longer period in the rest of the area.

See Appendix 6 for the 2017 Marine Plant survey which sets out in more detail the conditions within the previously bunded area.

PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE

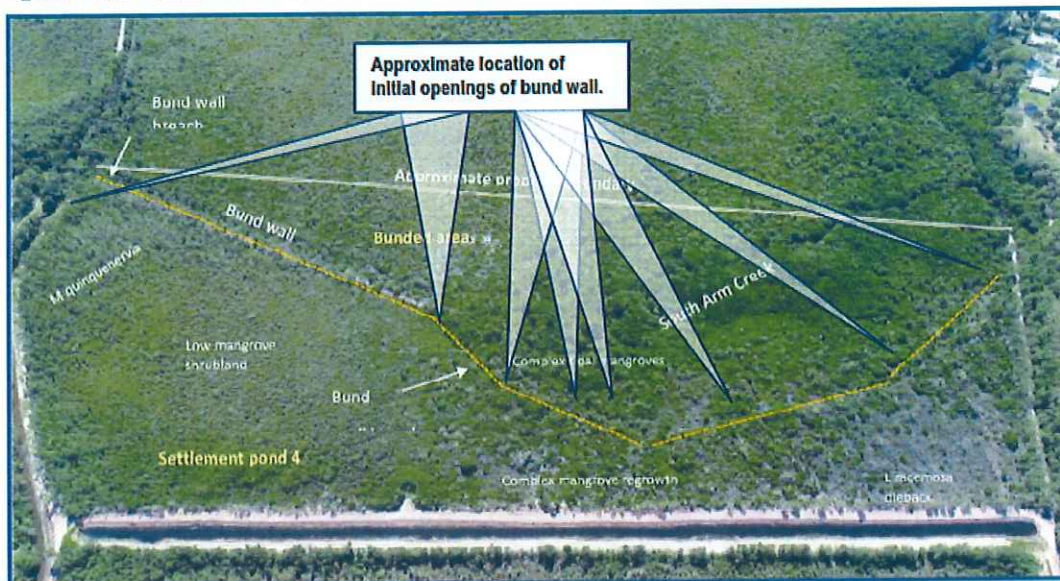
SARA ref: 1810-7611 SRA

Date: 28 May 2019





Figure 1: Re-establishment of Fish Habitat Connectivity in Settlement Pond 4



From: Small, A (2017) Marine Plant and Fisheries values Assessment Report (see Appendix 6).

Fisheries Productivity

The net result of this will be a over 16.5 ha of Lot 3 which is essentially natural habitat with thriving fisheries values. This will contribute an additional 9 ha of fisheries habitat and productivity to the South Arm of the Daintree River.

Disturbance

To avoid any doubt, disturbance will be minimised by only "on-foot" access along the bund, use of hand tools to dig away the bund in select locations and removal of the excess material, or placement on adjoining areas of the bund. Any seedling by way of the areas of bund to be disturbed will be translocated, they can be placed on the bund wall opening channel banks as immediate revegetation.

2.3.2 State Code 11

Please see a revised response to State Code 11 at Attachment 5.



Planning Act 2016
Chapter 3 Development assessment

[s 74]

Division 2 Changing development approvals

Subdivision 1 Changes during appeal period

74 What this subdivision is about

- (1) This subdivision is about changing a development approval before the applicant's appeal period for the approval ends.
- (2) This subdivision also applies to an approval of a change application, other than a change application for a minor change to a development approval.
- (3) For subsection (2), sections 75 and 76 apply—
 - (a) as if a reference in section 75 to a development approval were a reference to an approval of a change application; and
 - (b) as if a reference in the sections to the assessment manager were a reference to the responsible entity; and
 - (c) as if a reference in section 76 to a development application were a reference to a change application; and
 - (d) as if the reference in section 76(3)(b) to section 63(2) and (3) were a reference to section 83(4); and
 - (e) with any other necessary changes.

75 Making change representations

- (1) The applicant may make representations (*change representations*) to the assessment manager, during the applicant's appeal period for the development approval, about changing—
 - (a) a matter in the development approval, other than—
 - (i) a matter stated because of a referral agency's response; or

- (ii) a development condition imposed under a direction made by the Minister under chapter 3, part 6, division 2; or
- (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(c).
- (2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
- (3) Only 1 notice may be given.
- (4) If a notice is given, the appeal period is suspended—
 - (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
 - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
 - (i) the applicant withdraws the notice, by giving another notice to the assessment manager; or
 - (ii) the applicant receives notice that the assessment manager does not agree with the change representations; or
 - (iii) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- (5) However, if the assessment manager gives the applicant a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

76 Deciding change representations

- (1) The assessment manager must assess the change representations against and having regard to the matters that

must be considered when assessing a development application, to the extent those matters are relevant.

- (2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
 - (a) the applicant; and
 - (b) if the assessment manager agrees with any of the change representations—
 - (i) each principal submitter; and
 - (ii) each referral agency; and
 - (iii) if the assessment manager is not a local government and the development is in a local government area—the relevant local government; and
 - (iv) if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
 - (v) another person prescribed by regulation.
- (3) A decision notice (a *negotiated decision notice*) that states the assessment manager agrees with a change representation must—
 - (a) state the nature of the change agreed to; and
 - (b) comply with section 63(2) and (3).
- (4) A negotiated decision notice replaces the decision notice for the development application.
- (5) Only 1 negotiated decision notice may be given.
- (6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.

- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.

- (3) In this section—

conduct means an act or omission.

representative means—

- (a) of a corporation—an executive officer, employee or agent of the corporation; or
- (b) of an individual—an employee or agent of the individual.

state of mind, of a person, includes the person's—

- (a) knowledge, intention, opinion, belief or purpose; and
- (b) reasons for the intention, opinion, belief or purpose.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—

- (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
- (b) the person—
 - (i) who may appeal a matter (the *appellant*); and
 - (ii) who is a respondent in an appeal of the matter; and

- (iii) who is a co-respondent in an appeal of the matter;
and
 - (iv) who may elect to be a co-respondent in an appeal
of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
- (a) for an appeal by a building advisory agency—10
business days after a decision notice for the decision is
given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time
after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under
chapter 7, part 4, to register premises or to renew the
registration of premises—20 business days after a notice
is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—
20 business days after the infrastructure charges notice
is given to the person; or
 - (e) for an appeal about a deemed approval of a development
application for which a decision notice has not been
given—30 business days after the applicant gives the
deemed approval notice to the assessment manager; or
 - (f) for an appeal relating to the *Plumbing and Drainage Act
2018*—
 - (i) for an appeal against an enforcement notice given
because of a belief mentioned in the *Plumbing and
Drainage Act 2018*, section 143(2)(a)(i), (b) or
(c)—5 business days after the day the notice is
given; or
 - (ii) for an appeal against a decision of a local
government or an inspector to give an action notice
under the *Plumbing and Drainage Act 2018*—5
business days after the notice is given; or

- (iii) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—

- (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
 - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.

- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
- decision** includes—
- (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise,

whether by the Supreme Court, another court, any tribunal or another entity; and

- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

Part 2 Development tribunal

Division 1 General

233 Appointment of referees

- (1) The Minister, or chief executive, (the *appointer*) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—
 - (a) has the qualifications or experience prescribed by regulation; and
 - (b) has demonstrated an ability—
 - (i) to negotiate and mediate outcomes between parties to a proceeding; and
 - (ii) to apply the principles of natural justice; and
 - (iii) to analyse complex technical issues; and
 - (iv) to communicate effectively, including, for example, to write informed succinct and well-organised decisions, reports, submissions or other documents.