Officer: Ian Marshall

Direct Telephone: (07) 5475 9832

Our Reference: IM006:TC026:OPW21/0110

Your Reference: 18038

8 July 2021

Pacific Diamond 88 Pty Ltd

C/- Project Urban Pty Ltd

PO Box 6380

MAROOCHYDORE QLD 4558

Dear Sir/Madam

**Decision Notice – APPROVAL – OPW21/0110** **- Lot 1 RP 201319, Lot 280 B 92911, Lot 281 B 92911, Lot 282 B 92911, Lot 310 B 92911, Lot 311 B 92911** **– 2 Talinga St BUDDINA QLD 4575****, 84 Pacific Bvd BUDDINA QLD 4575, 63 Iluka Ave BUDDINA QLD 4575, 61 Iluka Ave BUDDINA QLD 4575, 85 Pacific Bvd BUDDINA QLD 4575, 6 Talinga St BUDDINA QLD 4575**

I refer to your application and advise that on 25 June 2021 council decided to approve the application subject to conditions.

The following type of approval has been issued:

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|  | Development Permit for Operational Work (Drainage Works, Stormwater, Earthworks, Civil and Coastal Protection) |

A copy of the development approval granted by this decision notice is attached.

A copy of the relevant appeal provisions is also attached.

During the appeal period, you as the applicant may suspend your appeal period and make written representations to council about a matter contained within this decision notice. If council agrees or agrees in part with the representations, a negotiated decision notice will be issued. Only one negotiated decision notice may be given.

Should you have any further queries in relation to this decision, please do not hesitate to contact Ian Marshall on the above number.

Yours faithfully



ROBERT MACDONALD

PRINCIPAL DEVELOPMENT ENGINEER

ENGINEERING AND ENVIRONMENT UNIT

Enc: Development Approval

Approved Plans

Appeal Rights

Cc: Unitywater

**Development Approval**

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| APPLICATION DETAILS |

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| Application No: | OPW21/0110 |
| Street Address: | 2 & 6 Talinga St BUDDINA , 84 & 85 Pacific Bvd BUDDINA & 61 & 63 Iluka Ave BUDDINA QLD 4575 |
| Real Property Description: | Lot 1 RP 201319 & Lot 280, 281, 282, 310, 311 B 92911 |
| Planning Scheme: | Sunshine Coast Planning Scheme (24 August 2020) |

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| APPROVAL DETAILS |

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| Nature of Approval: | Approval with conditions |
| Type of Approval: | Development Permit for Operational Work (Drainage Works, Stormwater, Earthworks, Civil and Coastal Protection) |

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| CURRENCY PERIOD OF APPROVAL |

Unless lawfully extended, the currency period for this development approval is 2 years starting the day that this development approval first took effect (Refer to Section 85 “Lapsing of approval at end of currency period” of the *Planning Act 2016*).

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| INFRASTRUCTURE |

Unless otherwise specified, all assessment manager conditions of this development approval relating to the provision of infrastructure are non-trunk infrastructure conditions for Chapter 4 of the *Planning Act 2016*.

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| ASSESSMENT MANAGER CONDITIONS |

**PRIOR TO COMMENCEMENT OF WORKS**

# General

1. Prior to requesting a pre-start meeting/commencement of works:

A condition report of the drainage system must be completed for agreement at the pre-start meeting. The condition report is to include a CCTV inspection of the existing pipe and must include at least 50m upstream and downstream of all works.

1. A pre-start meeting must be organised with Council prior to the commencement of any on site works. An Operational Works Pre-Start Request Form must be submitted to Council together with payment of the relevant application fee. The applicant must organise for the certifying Registered Professional Engineer, Queensland (RPEQ) and all other certifying entities, as well as the principal contractor/s for the operational works must be in attendance at this pre-start meeting.
2. A condition report including photographs of the frontage of the site must be completed and submitted to Council at the pre-start meeting and prior to any works commencing.
3. A Construction Management Plan must be submitted to Council prior to the pre-start meeting and prior to commencement of works and must specifically address the following:
4. Traffic management during all aspects of the construct phase including:

A Traffic Management Control Plan in accordance with the *Manual of Uniform Traffic Control Devices* (MUTCD) detailing all temporary signage and traffic control measures prior to construction.

* + 1. Maintenance of safe pedestrian access across the frontage of the site both during daily construction and after daily construction has ceased.
    2. Proposed fencing to the site during the construction phase of the development.
    3. Adequate parking arrangements for construction workers.
  1. Works programme identifying key components of the works and their respective durations.
  2. Establishment of a communication protocol with the general public, adjoining owners, emergency services and local businesses to advise of agreed construction times, impacts on traffic and services and other relevant issues.
  3. Identification of complaint management procedures including:
     1. Contact details for the onsite manager.
     2. Dispute resolution procedures.
  4. Details on the location of external fill sites/sources, the haulage route, type of vehicle to be utilised during filling operations and frequency of usage. NOTE: any damage to the existing road system as a result of haulage operations must be fully repaired at the applicant’s expense.

1. Any changes to the details associated with the certifying RPEQ or Principal Contractor during construction, must be notified to Council in writing within five business days of the change occurring.
2. Any conflict between the development and an existing or proposed service must be referred to the relevant service authority for determination prior to commencement of works.
3. This approval must be coordinated with all other Operational Works approvals relating to this development including the:
   * Operational Works Permit (Landscaping)
   * Operational Works Permit (Ecology – Sand Dune Rehabilitation for Turtles)
   * Operational Works Permit (Electrical Reticulation – Underground power Iluka & Pac Blvd)

# Erosion and Sediment Control

1. An Erosion and Sediment Control Plan (E&SCP) and a completed Design Certificate for Erosion and Sediment Control must be provided to Council’s delegate in accordance with the requirements of the Planning Scheme Policy for Development Works prior to the onsite prestart meeting and prior to works commencing. The program must additionally contain measures to comply with the construction phase - stormwater management design objectives of the State Planning Policy 2017 (Appendix 2 Table A).

**DURING CONSTRUCTION**

**General**

1. Where damage occurs to any Council asset as a result of these development works, it must be repaired immediately where it creates a hazard that presents risk to person or property. Other damage must be repaired prior to completion of works.
2. A Registered Professional Engineer, Queensland (RPEQ) must undertake the necessary supervision, inspections, testing and or auditing of the works to enable them to certify that all works conform to the Operational Works approval and current engineering standards. Where municipal works are involved, such confirmation must be submitted for the respective hold points prior to any site inspection by Council officers.
3. All works must be constructed, and work procedure undertaken in accordance with:
   1. The approved plans, documents and conditions detailed in this Decision Notice.
   2. The relevant conditions of the higher order Material Change of Use approval viz. MCU18/0190.02 to which this approval relates.
   3. All relevant Council Planning Scheme Policies, standard drawings, standard specifications and guidelines.

**Ecology - Turtle Lighting**

1. To minimise the impact of the development on turtle nesting, and the sea-finding behaviour and ocean orientation of hatchlings, the following actions are required to be undertaken during construction of the development:
   1. Construction works are to be restricted to daylight hours during the turtle nesting and hatching season (October – May) in addition to any further restriction imposed as part of the Operational Works approval.
   2. Flood lighting and spot lighting must not be used from October – May (turtle nesting and hatching season). Allowable lighting must be of reduced intensity, long wavelength lights all of which are fitted with shields; outdoor lighting must be located low to the ground, and directed only onto specific areas of interest (not upwards) and, directed away from the beach, to avoid direct illumination of the beach, ocean and sky at night.

**Works within Road Reserve/Reinstatement**

1. Safe pedestrian access on all streets in the vicinity of the development must be maintained at all times. When footpath/road closures become necessary to carry out construction works, Council’s Engineering Officer must be notified prior to the proposed closure and all requirements complied with.
2. All frontage works must match neatly with existing road and verge/footpath features. Additional works beyond the frontage may be required to provide an acceptable transition to existing road and verge/footpath profiles.
3. The applicant is fully responsible for all costs associated with the development works including alterations, rectification or removal of public utility as well as any unforeseen or unplanned costs necessary to fulfil the requirements of this approval.

**Pathways and Access Points**

1. All pathways must be constructed in accordance with the following requirements:
   1. All footpaths/cycleways must comply with council’s adopted standard engineering drawing IPWEA RS-065.
   2. Provision must be made for disabled access at all kerb crossings associated with pathways, in accordance with council's adapted standard drawings IPWEA RS-090 and RS-091.
   3. All paths must have a slip resistant surface.
   4. Expansion and contraction joints must provide a flush finish. Installation of joints by saw cutting is preferred to ensure a smooth ride for cyclists.
   5. The required work includes any modifications to ensure the footpath finishes flush with all existing service covers and the like, or alternatively these services are raised or altered, so as not to create a pedestrian safety hazard.
2. Pathways must:
   1. Terminate in a manner that ensures smooth transition to existing surfaces for public safety.
   2. Be designed and constructed to comply with IPWEAQ Standards, Austroads and relevant sections of *AS 1428 - Design for access and mobility.*
   3. Maintain a minimum 10m radius (preferably a 25m radius) for any alignment changes.
   4. Maintain a minimum 0.5m clearance from any vertical obstruction (e.g. power poles) or increase pathway width in close (<0.5m) proximity, where located within the road reserve, unless specifically agreed otherwise by Council.

**Site Access and Driveways**

1. Driveway crossovers must be constructed in accordance with Council’s adopted standard engineering drawings IPWEA RS-050 and RS-051.
2. Any existing unnecessary or redundant property access must be removed, and the kerb, footpath and verge area reinstated to match the existing footpath and verge treatments. Grassed verge areas to be reinstated must be provided with 100mm topsoil/turf and must be maintained by the developer until established.
3. The following must be complied with during the construction of the required crossover/driveway:
   1. Residential driveway pavements to be in accordance with *AS 3727.1 – Pavements – Residential.*
   2. The driveway must be constructed so as not to concentrate stormwater runoff onto neighbouring properties.
   3. Underground service conduits for water supply, electricity and any other services must be provided as part of the access driveway.
   4. Where used for parking, the longitudinal gradient and crossfall of all driveways must comply with the requirements of *AS 2890 – Parking facilities*
   5. For existing pedestrian paths, a matching crossfall must be provided for the driveway on the alignment of the path, for the full width of the path.
4. The property access must be located a minimum of 1m clear of power poles, streetlights, other signage, street trees and stormwater entry pits. The applicant is responsible for any necessary relocation of existing services to provide this clearance and must contact the relevant service authorities and comply with their requirements in relation to these works.
5. Pedestrian/Vehicular Warning signs, speed bumps, mirrors/other measures must be installed at the exit of the basement carpark, where the driveway meets the footpath, to improve driver awareness of pedestrians and enhance pedestrian safety. Warning signage must be provided near the exit ramp/adjacent to the building at the front property alignment from the parking area to warn motorists of pedestrian movement along the street.

**Earthworks**

1. All earthworks shall be undertaken in accordance with the provisions of *AS 3798 – Guidelines on earthworks for commercial and residential developments*, with geotechnical testing undertaken in accordance with Section 8 of the Standard, and to a minimum of ‘Level 1’. Test results as required by AS 3798, and a certificate of quality and uniformity of fill, shall be provided by a RPEQ and submitted to Council upon practical completion of works.

**Erosion and Sediment Control**

1. Information is to be provided and all works undertaken in accordance with the requirements of the Planning Scheme Policy for Development Works (SC6.14.6.5 Protecting waters from the impacts of developments) at all times from when land disturbing activities commence until such time as the site is effectively stabilised. This is to include, but is not limited to, the following specific actions in accordance with the Planning Scheme Policy for Development Works:
   1. Inspection certification is to be provided in the form and frequency specified in the Development Works Planning Scheme Policy.
   2. All actions are to be taken to avoid and minimise releases, flow and discharges of prescribed water contaminants in accordance with the requirements of the Development Works Planning Scheme Policy.
   3. Prior to the commencement of use, the site is required to be effectively stabilised; **and**
   4. The actions required by the Planning Scheme Policy for Development Works are to be augmented as necessary to ensure the measures implemented comply with the construction phase - stormwater management design objectives of the State Planning Policy 2017 (Appendix 2 Table A).

**Stormwater Drainage**

1. Appropriate scour protection must be provided at the outlet of all stormwater pipes including temporary outlets.
2. Works associated with this permit must not adversely impact on the existing drainage conditions on other properties (eg by blocking or interfering with natural overland flows).
3. Construction of all internal stormwater drainage works must comply with the relevant section/s of Australian Standard AS 3500 – Plumbing and Drainage (Part 3 – Stormwater drainage).

Acid Sulfate Soils

1. All works must be carried out in accordance with the acid sulfate soil and groundwater dewatering management plan listed in this development approval.
2. All waters, including stormwater runoff, groundwater seepage and leachate from acid sulfate soils must achieve the following quality prior to release from the site:
   * 1. a pH range of 6.5-8.5 pH units.
     2. 50mg/L maximum total suspended solids concentration.
     3. 0.3mg/L maximum total iron concentration.
     4. 0.2mg/L maximum total aluminium concentration.
     5. no visible plume at either the point of release from the site or within receiving waters.
3. The basement must be designed and constructed as a water excluding structure in accordance with *AS 3735 - Concrete Structures for Retaining Liquids”.* It must be able to withstand hydrostatic pressure, be completely sealed (including control joints) to prevent groundwater infiltration and contain no permanent or post-construction sub-surface drainage.

Monitoring of Subterranean Water Supply (Buddina Community Garden)

1. Water level and quality samples from the Buddina Community Gardens bore (on Lot 223 CP901704) must be taken prior to commencing the basement de-watering on the development site. The taking of these bore water samples (and water level info) must happen every 2 weeks for the duration of the basement de-watering activities and these test results must be provided to Council’s Construction Officer. Should Council observe any material deterioration in the quality or level of this bore water, the applicant must establish an alternative water supply as soon as practical, but within 5 business days (1 x calendar week).

**Council Notes:**

* + 1. The above Conditions are based on a Scott Property Group commitment to ensure Buddina Community Gardens bore water will be tested and if required an alternative water supply provided to irrigate their gardens.
    2. The Secretary of the Buddina Community Garden can apply to Council’s Construction Officer to obtain a copy of these water quality/quantity results.

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# Work Hours

1. Construction and earthworks (including the entry and departure of heavy vehicles) must only occur between the hours of 7:00am to 6:00pm Monday to Saturday with no work on Sunday or Public Holidays unless written approval in advance is provided by Council.
2. Lighting associated with the construction and earthworks activities, including security lighting, must be designed, sited, installed and tested to comply with Table 3.2 & 3.3 of *AS 4282, Control of the obtrusive effects of outdoor lighting*.

# Air Emissions

1. Visible emissions of dust must not occur beyond the boundaries of the subject site Monday to Sunday.
2. A perceptible odour associated with *basement dewatering* must not be evident beyond the boundaries of the subject site Monday to Sunday.

# Construction Materials, Equipment and Waste

1. Construction materials, equipment and waste (waste\* as defined by the *Environmental Protection Act 1994)* resulting from the approved works must be retained wholly within the subject works alignment in accordance with the approved plans*.* Any waste generated as a result of these works, must be disposed only to a facility for waste disposal approved in accordance with the *Environmental Protection Act 1994,* for example a Council operated Waste Facility.

*\* (Refer to Advisory Note)*

**FOLLOWING CONSTRUCTION**

**Supervision/Certification**

1. Upon completion of the work a certificate must be issued by a RPEQ certifying that the works have been constructed/undertaken in accordance with the Operational Works approval.

**Bonds**

1. Bonds must:
   1. Meet the requirements of Council’s relevant Planning Scheme Policy for performance, uncompleted works and maintenance.
   2. Be calculated using a schedule of works and relevant bond equation.
   3. Include GST.
   4. Have approval of the bond calculations and amount from Council prior to lodgement.
   5. Be lodged with Council and accompanied by the Bond Administration Fee/s.
   6. Be requested for release by writing to Council, when relevant approval requirements have been met.

**As Constructed Plans**

1. Prior to acceptance On Maintenance of civil works intended to become Council assets, As Constructed records must be submitted to and approved by Council. The As Constructed information must include:
   1. Drawings and data certified by a RPEQ for design intent, These must be certified by a Licensed Surveyor in regard to the cadastre and the location, level and type of all services and structures.
   2. The data must be in accordance with Council’s *Planning scheme policy for development works* and fully detail levels for all engineering works including, but not limited to, drainage structures, finished ground levels and pavement surface levels. The data must be submitted in hardcopy form and digital format (Asset Design and As Constructed (ADAC)). Guidelines on the use of ADAC are available at [www.adac.com.au](http://www.adac.com.au)

**On Maintenance**

1. A secondary CCTV inspection is to be completed for the same extent as required prior to the commencement of works, prior to the acceptance On Maintenance. Any damage identified must be fully rectified at the applicant’s cost.
2. All municipal works must be accepted On Maintenance by Council in accordance with Council’s relevant Planning Scheme Policy prior to commencement of use. To achieve On Maintenance, the certifying RPEQ must submit to Council:
   1. Certification (including landscape works) that all works have been undertaken and completed in accordance with the requirements of this approval.
   2. As Constructed details in accordance with Council’s relevant Planning Scheme Policy.
   3. Maintenance and operational manuals for all proprietary devices.

**Off Maintenance**

1. Prior to requesting an Off Maintenance inspection, the applicant must provide Council with a written request to release the bond.
2. A re-inspection fee in accordance with Council’s Fees and Charges Register will be charged where:
   1. A Council inspection reveals works do not comply with approval requirements.
   2. A submitted certification falsely states works comply with approval requirements.

**GENERAL**

# Sunset Date for Completion of Approved Development

1. Pursuant to s88 of the *Planning Act 2016*, this development approval lapses the sooner of 30 June 2025, or the end of the currency period of the higher order approval.

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| DEVELOPMENT PLANS |

The following development plans are Approved Plans for the development:

**Approved Plans**

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| **Plan No.** | **Rev.** | **Plan Name** | **Date** |
| S20/081 C | A | *Notes & Legend,* sheet 2 of 7, prepared by Westera Partners | 9/02/2021 |
| S20/081 C | E | *Site Plan,* sheet 3 of 7, prepared by Westera Partners | 25/06/2021 |
| S20/081 C | D | *Civil Works Plan 1 of 3,* sheet 4 of 7, prepared by Westera Partners | 25/06/2021 |
| S20/081 C | C | *Civil Works Plan 2 of 3,* sheet 5 of 7, prepared by Westera Partners | 25/06/2021 |
| S20/081 C | E | *Civil Works Plan 3 of 3,* sheet 6 of 7, prepared by Westera Partners | 25/06/2021 |
| S20/081 C | B | *Stormwater Details,* sheet 7 of 7, prepared by Westera Partners | 24/06/2021 |
| S20/081 E | E | *Earthworks Plan,* sheet 1 of 2, prepared by Westera Partners | 25/06/2021 |
| S20/081 E | B | *Earthworks Sections,* sheet 2 of 2, prepared by Westera Partners | 1/06/2021 |

**Referenced Documents**

|  |  |  |  |
| --- | --- | --- | --- |
| **Doc No.** | **Rev.** | **Document Name** | **Date** |
| ADG1152.20 | 1 | Dewatering Management Plan, prepared by ADG Consulting Pty Ltd | 29/04/2021 |
| ADG1211.21 | 0 | Acid Sulfate Soil Management Plan, prepared by ADG Consulting Pty Ltd | 29/04/2021 |

**ADVISORY NOTES**

# General

Council has undertaken an audit check of the Operational Works drawings in relation to the proposed works. A detailed check of the calculations and drawings has not been undertaken, as they have been certified by a RPEQ. The RPEQ bears full responsibility for all aspects of the engineering design. Council reserves the right to require further amendments and/or additions at a later date, should design errors become apparent.

# Aboriginal Cultural Heritage Act 2003

There may be a requirement to establish a Cultural Heritage Management Plan and/or obtain approvals pursuant to the Aboriginal Cultural Heritage Act 2003. The ACH Act establishes a cultural heritage duty of care which provides that:

“A person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage.” It is an offence to fail to comply with the duty of care.  Substantial monetary penalties may apply to individuals or corporations breaching this duty of care. Injunctions may also be issued by the Land Court, and the Minister administering the Act can also issue stop orders for an activity that is harming or is likely to harm Aboriginal cultural heritage or the cultural heritage value of Aboriginal cultural heritage.

You should contact the Cultural Heritage Unit on 07 3247 6212 to discuss any obligations under the ACH Act.

**Pre-start, On and Off Maintenance Inspections Request**

Contact Council on (07) 5475 9866 to arrange a pre-start or an inspection giving a minimum of five business days’ notice.

If Council officers are required to undertake additional inspections of the same works, a re-inspection fee will be applicable in accordance with Council’s Fees and Charges Register applicable at the time.

A minimum maintenance period of 12 months will apply to all municipal works and thereafter until such time as the works are performing in accordance with the approved design unless notified otherwise.

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# Civil Engineering Advice Notes

A separate development permit for Operational Works must be obtained prior to any modification of existing property accesses, the construction of any new property access, or the commencement of any other works in the road reserve that do not form part of this approval.

# Environmental

The *Environmental Protection Act 1994* states that a person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm. Environmental harm includes environmental nuisance. In this regard persons and entities involved in the civil, earthworks, construction and landscaping phases of this development are to adhere to their ‘general environmental duty’ to minimise the risk of causing environmental harm.

# Environmental Health

***Clean earth*** means earth that has trace elements and contaminant levels within the interim ecologically-based investigation levels for urban land use under the document titled *Schedule B(1 )- Guideline on Investigation Levels for Soil and Groundwater,* forming part of the *National Environment Protection (Assessment of Site Contamination) Measure 1999, as varied 2011,* made by the National Environment Protection Council under the *National Environment Protection Council Act 1994* (Commonwealth), section 14(1).

Wasteincludes anything, other than a resource approved (i.e. recyclable) under the *Waste Reduction and Recycling Act 2011* (Chapter 8) that is:

* 1. Left over, or an unwanted by-product, from an industrial, commercial, domestic or other activity; or
  2. Surplus to the industrial, commercial, domestic or other activity generating the waste.

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| REFERRAL AGENCIES |

Not applicable.

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| PROPERTY NOTES |

Not applicable.

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| VARIATION APPROVAL |

Not applicable.

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| FURTHER DEVELOPMENT PERMITS REQUIRED |

1. Development Permit for Operational Work (Landscaping)
2. Development Permit for Operational Work (Ecology Rehabilitation of Sand Dunes for Turtles)
3. Development Permit for Operational Work (Electrical Reticulation, underground power to Iluka Ave & Pacific Blvd)

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| SUBMISSIONS |

Not applicable.

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| INCONSISTENCY WITH EARLIER APPROVAL |

Not applicable.

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| ENVIRONMENTAL AUTHORITY |

Not applicable.

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| RIGHTS OF APPEAL |

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

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| OTHER DETAILS |

If you wish to obtain more information about council’s decision, please refer to the approval package for the application on Council’s Development.i webpage at [www.sunshinecoast.qld.gov.au](http://www.sunshinecoast.qld.gov.au), using the application number referenced herein.

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| W:\SCC\RSP\DS\Quality_Assurance\Templates\Confidential\SCC_2014_Linear_BLK-70.jpg | **Appeal Rights**  *PLANNING ACT 2016 & THE PLANNING REGULATION 2017* |

**Chapter 6 Dispute resolution**

**Part 1 Appeal rights**

**229 Appeals to tribunal or P&E Court**

1. Schedule 1 of the *Planning Act 2016* states –
2. Matters that may be appealed to –
3. either a tribunal or the P&E Court; or
4. only a tribunal; or
5. only the P&E Court; and
6. The person-
7. who may appeal a matter (**the *appellant***); and
8. who is a respondent in an appeal of the matter; and
9. who is a co-respondent in an appeal of the matter; and
10. who may elect to be a co-respondent in an appeal of the matter.

(Refer to Schedule 1 of the *Planning Act 2016*)

1. An appellant may start an appeal within the appeal period.
2. The ***appeal period*** is –
3. for an appeal by a building advisory agency – 10 business days after a decision notice for the decision is given to the agency; or
4. for an appeal against a deemed refusal – at any time after the deemed refusal happens; or
5. 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 us published under section 269(3)(a) or (4); or
6. for an appeal against an infrastructure charges notice – 20 business days after the infrastructure charges notice is given to the person; or
7. 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
8. 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.*

1. Each respondent and co-respondent for an appeal may be heard in the appeal.
2. 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.
3. To remove any doubt. It is declared that an appeal against an infrastructure charges notice must not be about-
4. the adopted charge itself; or
5. for a decision about an offset or refund-
6. the establishment cost of trunk infrastructure identified in a LGIP; or
7. 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-
2. is in the approved form; and
3. succinctly states the grounds of the appeal.
4. The notice of appeal must be accompanied by the required fee.
5. 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 –
6. the respondent for the appeal ; and
7. each co-respondent for the appeal; and
8. 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
9. 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
10. 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
11. for an appeal to the P&E Court – the chief executive; and
12. for an appeal to a tribunal under another Act – any other person who the registrar considers appropriate.
13. The *service period* is –
14. if a submitter or advice agency started the appeal in the P&E Court – 2 business days after the appeal has started; or
15. otherwise – 10 business days after the appeal is started.
16. A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
17. A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
18. 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
19. otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
20. 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-

1. conduct engaged in for the purpose of making a decision; and
2. other conduct that relates to the making of a decision; and
3. the making of a decision or failure to make a decision; and
4. a purported decision ; and
5. a deemed refusal.

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

1. is final and conclusive; and
2. 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, a tribunal or another entity; and
3. is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a 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 the rules of the P&E Court.