

Our Reference: MCUI/2016/7117/A
Contact Officer: Krys Den Hertog
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Request for a Negotiated Decision Notice APPROVAL

Sustainable Planning Act 2009 Section 363

ALDI Stores
PO Box 206
NOBBY BEACH QLD 4218

Email: cselten@planitconsulting.com.au

11 April 2018

Dear Sir

Location: 71 Highfields Road, HIGHFIELDS QLD 4352
Property Description: Lot 2 SP296102, Emt G SP225620
Relevant Planning Scheme: Toowoomba Regional Planning Scheme 2012

The Development Application for Request for Negotiated Decision Notice – Shop was received by Council on 1 February 2018. A decision was made on 4 April 2018 to issue a Negotiated Decision Notice. This Negotiated Decision Notice replaces the Decision Notice previously issued and dated 19 December 2017.

Nature of Changes

All deletions are identified by **bolded** strikethrough of text in the attached Schedule/s.

All additions are identified by **bolded** text in the attached Schedule/s.

Details of Approval

Development Permit – Material Change of Use - Impact - Shop

Referral Agencies

Concurrence Agencies Name & Address: N/A

Advice Agencies Name & Address: N/A

Conditions, Advices and Notices

Assessment Manager's Conditions: As per attached Schedule 1

Concurrence Agency Conditions: N/A

Infrastructure Charges Notice: As per attached Schedule 2

Further Development Permits and/or Compliance Permits Required

- Building Works
- Plumbing and Drainage Works
- Operational Works
- **Special Note:** A development permit may be required for Operational Works for clearing of vegetation designated as "endangered" on freehold land. Such application will need to be made to the Department of Environment and Resource Management. Please seek clarification from the Department **before** undertaking any detailed design work.

Compliance Assessment Required under Part 10 of the *Sustainable Planning Act 2009* for Documents or Work in Relation to the Development

Compliance assessment is required in relation to the following documents or works related to the development approved:

- Landscaping
- Acoustic
- Survey Plans

Submissions

Number of properly made submissions: 1 (see attached list of names and addresses)

Rights of Appeal

Attached is an extract from the *Sustainable Planning Act 2009* which details your appeal rights regarding this decision.

Yours faithfully



Richard Green
Senior Planner, Development Services

SCHEDULE 1

DEVELOPMENT PERMIT FOR MATERIAL CHANGE OF USE - IMPACT

APPLICATION NUMBER:	MCUI/2016/7117/A
APPLICANT:	ALDI Stores
LOCATION:	71 Highfields Road, HIGHFIELDS QLD 4352
PROPERTY DESCRIPTION:	Lot 2 SP296102, Emt G SP225620
DECISION DATE:	4 April 2018
APPROVED USE:	Request for Negotiated Decision Notice Shop
ZONING / PRECINCT:	Major Centre Zone/ Highfields Town Centre Precinct

A. ASSESSMENT MANAGER'S CONDITIONS:

PLANNING

APPROVED USE

1. This Development Approval is for a material change of use for:
 - 1.1 Shop, being a supermarket with maximum gross floor area of 1,740m².

CARRY OUT & MAINTAIN DEVELOPMENT

2. The development must comply with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they are not varied by this Development Approval.
3. Unless otherwise stated, all conditions must be complied with prior to the commencement of use and thereafter.
4. Complete all building work associated with this Development Approval, including work required by any of the conditions of this Development Approval prior to the commencement of use. Such building work is to be carried out generally in accordance with the Approved Plans and Documents and, where the building work is assessable development, in accordance with a current Building Works approval.
5. The development must be maintained generally in accordance with the Approved and Amended Plans and Documents subject to or modified by any conditions of this Development Approval.

APPROVED PLANS

6. The development must be carried out generally in accordance with the Approved Plans listed below, subject to the conditions of this Development Approval and the amendments listed below:

Plan No: ALD144 DA-004 Revision C
Description: Development Site Plan prepared by DC8 Studio and dated 13 April 2017
Amendments: Accommodation of a single lane roundabout as required by Condition 12 and Condition 72.

Plan No: ALD144 DA-005 J
Description: Site Plan prepared by DC8 dated 9 June 2017
Amendments: As listed.

- Include a pedestrian path linking building entrance to path along eastern boundary
- Revise the pedestrian ramp around the Highfields Road and Access Road intersection to comply with disabled access and facilitate mobility scooter manoeuvrability including at least two passing areas in locations that are visible from both directions of travel
- Accommodation of a single lane roundabout as required by Condition 12 and Condition 72
- Landscaping to be shown in accordance with the conditions of approval

Plan No: ADL144 DA-006 Revision D
Description: Services Site Plan prepared by DC8 Studio and dated 13 April 2017
Amendments: Accommodation of a single lane roundabout as required by Condition 12 and Condition 72

Plan No: ALD144 DA-160 B
Description: Roof Plan prepared by DC8 dated 13 April 2017
Amendments: Nil

Plan No: ALD144 DA-170 B
Description: Elevations - Site prepared by DC8 dated 13 April 2017
Amendments: Nil

Plan No: ALD144 DA-172 B
Description: Elevations prepared by DC8 dated 13 April 2017
Amendments: Nil

Plan No: ALD144 DA-172A B
Description: Elevations (Coloured) prepared by DC8 dated 13 April 2017
Amendments: Nil

7. Plans to be amended must only incorporate the amendments listed within this Development Approval and must be resubmitted to Council for approval prior to the issue of any Operational Works approval, Building Works approval or Council's approval of plumbing and drainage works, or prior to commencement of use, or prior to Council's approval of the Plan of Subdivision, whichever occurs first.

COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS (OPERATIONALWORKS)

8. Prepare and submit applications to Council and obtain Operational Works approval for the following:
 - 8.1 Roadworks;
 - 8.2 Footpaths;
 - 8.3 Bulk earthworks; and
 - 8.4 Stormwater infrastructure.

COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS (FORENDORSEMENT)

9. Prepare and submit the following documents in accordance with the conditions of this Development Approval and obtain Council's endorsement prior to commencement of any works on site:
 - 9.1 Traffic Control Plan.

COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS (COMPLIANCEASSESSMENT)

10. Prepare and submit a Landscape Plan to Council for compliance assessment against the relevant standards and requirements listed in the Landscaping Code contained within the *Toowoomba Regional Planning Scheme* and the landscaping conditions of this Development Approval.

AVAILABILITY OF APPROVED DOCUMENTATION DURING WORKS

11. A legible copy of the Development Approval, including the Approved and Amended Plans and Documents bearing Council's approved stamp must be available on the subject land for inspection at all times during earthworks and construction.

DEDICATION OF LAND

12. Any additional land required on Highfields Road to effect the roundabout treatment as required by Condition 71, must be dedicated as road reserve in accordance with the requirements of the Department of Natural Resources and Mines.
Note: This condition is imposed pursuant to Section 665 of the Sustainable Planning Act 2009.
13. Meet all costs associated with the transfer of land dedicated as road reserve.
14. Ensure that all land dedicated for road purposes is not encumbered by permanent structures, services such as pump stations, services easements or similar operational uses, unless otherwise approved by the conditions of this Development Approval.

DEVELOPMENT CONSTRAINTS

AIRPORT ENVIRONS

15. As the land is within the 13km Bird and Bat Strike Zone, all food and waste holding areas and receptacles must be contained and covered.

WORKS

ENGINEER'S CERTIFICATION AND SUPERVISION OF WORKS

16. Plans and specifications for all works associated with roadworks, vehicular access, stormwater drainage, sewerage, or any other works required on Council infrastructure, must be prepared and certified by a Registered Professional Engineer Queensland - Civil (RPEQ).
17. Any works that have been certified by an RPEQ must be carried out under the supervision of an RPEQ with all executed works being detailed on a Construction Supervision Certificate. A copy of the Construction Supervision Certificate must be submitted to Council upon completion of the works.
18. A Construction Supervision Certificate must be provided by a RPEQ upon completion of the works certifying that works are in accordance with the approved plans and specifications.
19. Where any condition refers to, or requires, an Engineer to perform a task or function, the Engineer must hold professional indemnity insurance to the value of \$2,000,000. A Certificate of Currency must be submitted with any Design Certificate or Construction Supervision Certificate.

STORMWATER DRAINAGE

20. All stormwater infrastructure necessary to convey run-off from roof and developed surface areas, and any run-off onto the site from adjacent areas, must be provided in accordance with an Operational Works approval.

Note: This condition is imposed pursuant to Section 665 of the Sustainable Planning Act 2009.

21. Prior to the commencement of any works on site, an Operational Works application must be submitted to and be approved by Council for the internal and any external stormwater infrastructure. The design and the construction of the works must be certified by a RPEQ - Civil as follows:
 - 21.1 A Design Certificate must be submitted with the application; and
 - 21.2 A Construction Supervision certificate must be submitted at the completion of the approved works.
22. As part of the Operational Works application, submit to Council for approval, a Detailed Stormwater Management Plan prepared by a Registered Professional Engineer Queensland - Civil (RPEQ) in accordance with the relevant standards in *Planning Scheme Policy No. 2 - Engineering Standards – Roads and Drainage Infrastructure* (PSP No.2) and *State Planning Policy – July 2017* demonstrating the following:
 - 22.1 Stormwater is conveyed to a lawful point of discharge in accordance with the stormwater discharge conditions of this Development Approval; and
 - 22.2 The achievement of Water Sensitive Urban Design objectives listed in PSP No. 2 and *State Planning Policy – July 2017*.

Advice Note: Rain water tanks as required in accordance with the Queensland Development Code MP4.3 can form part of the stormwater quality treatment train.

Note: A monetary contribution may be accepted in lieu of on-site stormwater quality treatment at Council's sole discretion.

BULK EARTHWORKS OVER 50M³ OR OVER 1M CUT OR FILL

23. All cut, fill and associated batters must be undertaken in accordance with an Operational Works approval (where not building works) or a Building Works approval, and contained entirely within the subject site.

In conjunction with an application for an Operational Works approval for bulk earthworks, submit to Council a Design Certificate by a Registered Professional Engineer of Queensland - Civil (RPEQ) certifying that the proposed bulk earthworks comply with Council's Planning Scheme Policy SC6.2.5 Earthworks and any referenced documents. The following details **need to be provided and approved by Council prior to the conduct of a prestart meeting ~~must be included in the application~~**:

- 24.1 Details of the location of any material to be sourced for fill, including the volume of fill to be moved from any particular source site;
- 24.2 Details of the final location for any material to be exported from the site from excavations;
- 24.3 The haulage routes that will be used **and haulage truck sizes**; ~~Approval for the haulage truck sizes and the final haul routes is to be obtained prior to works commencing~~; and
- 24.4 As relevant, details identifying the source and disposal sites for material imported or exported as part of the development. Source sites and receiving sites must have a current development approval enabling them to export and accept any material, respectively.

EROSION & SEDIMENT CONTROL

25. Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by the action of wind or running water must be stored clear of drainage paths and not within the road reserve at any time.
26. Measures such as sediment fences, earth berms, temporary drainage, temporary sediment basins, dewatering or stormwater filtering devices to prevent eroded material, sediment or sediment laden water from being transported to adjoining properties, roads or stormwater drainage systems must be provided.
27. Where erosion and sediment control measures have been damaged, fail or are inadequate and erosion or the release of sediment or sediment laden stormwater has occurred from the site or associated works, any resultant property or environmental damage or interference caused must be repaired or cleaned up within 24 hours or upon the direction of Council, at no cost to the affected parties.
28. All disturbed areas must be mulched or turfed as soon as possible during construction.
29. Measures such as vehicle baths, wash-down and construction matting together with dust suppressants and wraps, exposed ground and stockpile sprinkling must be put in place to prevent site vehicles tracking sediment onto adjoining streets during the course of the construction period, and to prevent dust nuisance during construction and, where applicable the ensuing 'on-maintenance' period.

DAMAGE TO SERVICES & ASSETS

30. Undertake all reasonable measures to protect Council and public utility services and assets during construction of the development.

31. Any damage caused to existing services and assets as a result of the development works must be repaired at no cost to the asset owner in accordance with the following timing:
 - 31.1 Where the damage would cause a hazard to pedestrian or vehicle safety or interrupts a service to the community, immediately; or
 - 31.2 Where otherwise, as soon as reasonably possible, but no later than completion of the works associated with the development.
32. Any repair work which includes alteration to the alignment or the level of existing services and assets must first be referred to the relevant service authority for approval.
33. Any damage which is incurred to underground services, signs, footpaths, roadways and/or kerb and channelling abutting the subject land as a result of the proposed development must be repaired immediately should hazards exist for pedestrian or vehicular safety. Otherwise, all damage must be repaired immediately upon completion of works associated with the development and prior to acceptance of the works on-maintenance.
34. Construction, alterations and any repairs to Council infrastructure is undertaken in accordance with the *Planning Scheme Policy PSP No. 4 – Development Near Utility Services*.

SERVICES & UTILITIES

SEWERAGE INFRASTRUCTURE (GENERAL)

35. The development must be connected to Council's existing sewerage reticulation system (via manhole - Asset ID: S9364M08) at no cost to Council.

Note: This condition is imposed pursuant to Section 665 of the Sustainable Planning Act 2009.
36. The design and construction of the works must be in accordance with Council's *Waste Water Infrastructure Policy 2.04*.
37. Any connection to or modification of Council's live sewerage infrastructure must be undertaken by Council.

Note: Please note any new connection or reconnection to a Council sewer requires a Form 1 Plumbing approval prior to house drainage being installed.

Note: To arrange for a private works quotation for the required works contact Council's Water & Wastewater Department on Ph 131 872.
38. Maintenance Hole (MH) lids located in driveways must be upgraded to a heavy duty trafficable system. This may include replacement of the MH (or part of) structure. Any such works must be undertaken by Council at no cost to Council.
39. All sewer house drainage connection points located in driveways will require the vertical shaft to be capped with a heavy duty, trafficable system finished flush with the finished surface level of the driveway.
40. Maintenance holes (MH) are to be fully protected during the full construction period of the development. Protection must include spanning slabs or beams and matting to ensure direct loads from all heavy plant during construction are not transmitted onto the MH structure.

WATER SUPPLY

41. The development must be connected to Council's reticulated water supply in accordance with Council's *Water Infrastructure Policy 2.03* and at no cost to Council.

Note: This condition is imposed pursuant to Section 665 of the Sustainable Planning Act 2009.

42. All water main fittings, services and meters must be located 1m clear of the proposed driveway footpath crossover. Any relocation of fittings clear of driveways must be undertaken by Council.
43. Any connection to or modification of Council's live water supply infrastructure must be undertaken by Council. A Private Works Quotation must be requested from Council, payment made for the works, and the works completed by Council.

TELECOMMUNICATION

44. Install telecommunications infrastructure to service the premises which complies with the following:

44.1 The requirements of *the Telecommunications Act 1997 (Cth)*;

44.2 For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and

44.3 For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line is located underground.

45. Unless otherwise stipulated by telecommunications legislation at the time of installation, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

46. Provide to Council written evidence from all relevant service providers that the telecommunications infrastructure is installed in accordance with telecommunication conditions of this Development Approval and all applicable legislation at the time of installation.

Note: The Telecommunications Act 1997 (Cth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required.

Note: For telecommunication services, written evidence must be in the form of either a "Telecommunications Infrastructure Provisioning Confirmation" where such services are provided by Telstra or a "Notice of Practical Completion" where such services are provided by NBN Co.

ELECTRICITY

47. An electricity supply must be made available to service the development. This supply must be in accordance with the relevant standards of the electricity distributor.

BUILDING WORKS & ARCHITECTURE

HIGHLY REFLECTIVE GLAZING

48. Any reflective glass material utilised in the development must not have a light reflectivity greater than 20% and heat reflectivity transmission of greater than 20%.

ACTIVE FRONTAGES

49. Windows and glazed doors used within the approved uses must be clear to such a degree that visibility through windows and doors is not adversely affected.
50. The glazing along the active frontage facing Highfields Road must not be blocked off, obscured (in whole or in part), painted over, or covered by shelving or the like.
51. Pedestrian pathways along the northeast and northwest frontages of buildings must be a minimum width of 2.5m (clear of bollards) with a shade and weather protection awning provided and maintained at a minimum width of 2.5m.

AMENITY & OPERATION OF USE

VISUAL AMENITY

52. Any graffiti on buildings, structures or fences on the subject land visible from public viewing locations must be removed within 24 hours or upon direction by Council.
53. All buildings, structures and fences as well as the subject land must be maintained in a clean and tidy manner at all times.
54. All fixed mechanical plant must be contained within the building or visually screened to all street frontages, public viewing locations and adjoining premises.
55. Open storage areas, loading areas, bin storage areas and other unsightly areas, must be screened from view from all street frontages and public places.

FENCING & WALLS (GENERAL)

56. Any existing fence or wall not meeting the requirements of this Development Approval must be removed and replaced with a fence or wall that meets the requirements of this Development Approval.
57. Unless otherwise approved in writing by Council, boundary fences or walls must not be erected in a parallel arrangement with any existing fence or wall erected along the same boundary. The existing fence or wall is to be completely removed and replaced.
58. Unless otherwise specified elsewhere within this Development Approval, the required height of a fence or wall is measured from the highest adjacent finished ground level.
59. Where there is a change in level between adjoining properties at the boundary that exceeds 1m, the overall total height of any combination of fence and wall must not exceed 3m from the lowest adjacent finished ground level.
60. A minimum 2m high solid screen fence, which may be a 'butt-jointed' timber paling fence, must be erected along the full length of the western boundary (abutting the school) and southern boundary (abutting 67 Highfields Road) of the subject land.

STREET IDENTIFICATION

61. The street number of all buildings must be clearly identifiable and located in a prominent position near the site entry, either on the kerb or a letterbox, or viewable from the site entry and located by signage on buildings or the subject land.

ACCESS FOR PEOPLE WITH DISABILITIES

62. Access must be provided for people with disabilities in accordance with *Australian Standard AS1428.1: Design for Access and Mobility* by means of an unimpeded continuous path of travel from any adjacent roadway, adjoining public open space and from any disabled access car parking bay, to all parts of the development that are normally open to the public.

SAFETY, SECURITY & PUBLICLY ACCESSIBLE FACILITIES

63. The development and hard landscaping must not comprise of highly reflective materials that create slippery or otherwise hazardous conditions.
64. Safety and security lighting must be provided to the following areas of the subject land:
- 64.1 All entries and exits of buildings; and
 - 64.2 All pathways linking car parking areas to the entrances and exits of buildings; and
 - 64.3 Throughout car parking areas.
65. Where constructing an awning or other overhead device over a footpath, a lighting system must be installed to light the covered footpath to a minimum of 20 lux, when measured at the footpath level and plane.
66. Safety and security lighting must be designed, sited, and installed in accordance with *Australian Standard AS 1158.3.1 - Road Lighting - Pedestrian Area (Category P) Lighting - Performance and Installation Design Requirements*.
- Note: All lighting provided for safety and security purposes must also consider its impact on surrounding land uses and in accordance with the Outdoor Lighting Impact Mitigation Conditions must be designed, sited, installed and tested to comply with Australian Standard AS4282-1997 Control of the obtrusive effects of outdoor lighting*
67. Pedestrian routes between car parking areas and buildings must be clearly signed and marked.
68. Parking spaces must be available for use by employees and visitors during the approved hours of operation for the business.
69. Any automatic teller machines must be provided within the approved building(s) and must not be accessible from outside of the building.

PEDESTRIAN & CYCLIST FACILITIES

70. Pedestrian and cyclist facilities must be provided for the development in accordance with the following:
- 70.1 Bicycle parking facilities for the secure on-site storage for bicycles in accordance with the *Austrroads Guide to Traffic Management - Part 11: Parking* (Section 7.8.5), and designed to meet *Australian and New Zealand Standard AS/NZ 2890.3 - Parking Facilities - Bicycle Parking Facilities*. A total of three (3) security level 3 devices (e.g. bike rails) able to accommodate six (6) bicycles must be provided in well-lit areas and where passive surveillance is available; and
 - 70.2 A taxi pick-up and set-down area parallel to the building in close proximity to the main entrance that includes an area provided for shelter and seating.

TRANSPORT, VEHICULAR ACCESS & PARKING

71. **Unless otherwise agreed by Council**, existing ~~Existing~~ roads must be constructed, as follows:

Street: Highfields Road

Classification: Sub-arterial (urban)

Construction Standard: Single lane roundabout as defined in Condition 72

Note: This condition is imposed pursuant to Section 665 of the Sustainable Planning Act 2009.

Note: Council may, at its sole discretion, consider the provision of a signalised intersection at no cost to Council, subject to the school crossing being retained and demonstration that the traffic queues for the intersection would be similar to those predicted to occur for the roundabout and would not impact on adjacent driveways and intersections. An assessment must consider the 10 year design horizon.

72. The design and construction of the intersection of Highfields road with the access road onto the site (access easement L) must comply with *Planning Scheme Policy No. 2 - Engineering Standards - Roads and Drainage Infrastructure* (PSP No.2) and must include in particular:

72.1 Design of a single lane roundabout in accordance with Austroads *AGRD04B-15 Guide to Road Design part 4B: Roundabouts*;

72.2 Design of a central island radius with entry geometry for a desired driver speed on the fastest leg prior to the roundabout of 50km/h, allowing for pedestrian cross road movement on all four legs and splitter islands for storage of pedestrians. The circulating carriageway must be sufficient to accommodate the turning movements of a 19.5m articulated vehicle (AV);

72.3 Consideration of safety for cyclists at the roundabout in accordance with the *Department of Transport and Main Roads Technical Note 136 Providing for Cyclists at Roundabouts August 2015*;

72.4 Provision of sufficient road reserve to accommodate the roundabout and verge;

72.5 Concrete kerbing and channeling;

72.6 Temporary asphalt kerbing to tapers;

72.7 Underground stormwater drainage;

72.8 Relocation of utility and Council services; and

72.9 Street lighting.

73. Any pavement widening must join neatly to the existing pavement so that there are no specific irregularities in line or level resulting at or adjacent to the join for the length of the construction. ~~Where necessary the existing pavement must be brought to a satisfactory standard in accordance with PSP No. 2 to allow for the above.~~

74. All street surfacing must be in accordance with the pavement construction standards in PSP No. 2.

75. An Operational Works approval for the road works must be submitted to and approved by Council prior to the commencement of the works or as otherwise indicated.

Note: A pre-lodgement meeting is recommended prior to finalisation and lodgement of operational works drawings.

76. The design and construction of the works must be certified by a Registered Professional Engineer Queensland (RPEQ) – Civil as follows:

76.1 A Design Certificate must be submitted with the application; and

76.2 A Construction Supervision Certificate must be submitted at the completion of the approved works.

ROADWORKS SIGNAGE AND PEDESTRIAN SAFETY

77. All works carried out on or near roadways must be adequately signed in accordance with the *Manual for Uniform Traffic Control Devices – Part 3, Works on Roads*.

Note: Road or lane works or closures require approval from Council's Principal Engineer Road Operations Branch on 131 872, and all conditions of that approval complied with during construction of the works.

78. Safe pedestrian access along Council's footpaths must be maintained at all times.

Note: Should access to footpaths need to be restricted, a separate 'Temporary road or footpath closure' must be obtained from Council's Principal Engineer Road Operations Branch on 131 872, prior to the commencement of the works.

REMOVAL OR MODIFICATION OF COUNCIL TRAFFIC SIGNS OR PARKING BAYS

79. Obtain the written approval of Council's Coordinator Traffic Management for any works involving the removal or modification of existing Council traffic signs or parking bays prior to the works commencing. Where approved by Council such works are to be undertaken at no cost to Council.

80. The installation or modification of any street signs or line marking must be in accordance with the Manual of Uniform Traffic Control Device (MUTCD).

EXTERNAL PEDESTRIAN & CYCLE PATHS

81. The following works must be constructed in accordance with *Planning Scheme Policy No. 2 - Engineering Standards – Roads and Drainage Infrastructure (PSP No.2)*

81.1 A 2m wide concrete pedestrian path for the full development frontage connecting the school with the roundabout crossing facilities at Highfields Road, the pedestrian access ramp serving the development site and the future path to the east of the development site;

81.2 The required work includes any surface earthworks, grinding or saw cutting 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; and

- 81.3 Any concrete footpath must comply with SEQ R-065. Where necessary, reprofiling of the verge area must be undertaken to enable the construction of concrete pathways with a maximum cross fall less than 2.5%.

Note: This condition is imposed pursuant to Section 647 665 of the Sustainable Planning Act 2009.

82. An Operational Works approval must be submitted to and be approved by Council for the construction of the concrete footpaths. The design and the construction of the works must be certified by a RPEQ - Civil as follows:

82.1 A Design Certificate must be submitted with the application; and

82.2 A Construction Supervision certificate must be submitted at the completion of the approved works.

ON-SITE CAR PARKING, SERVICE BAYS & MANOEUVRING

- 83 The premises must be provided with a minimum of seventy-five (75) on-site car parking spaces including two spaces for people with disabilities and 1 space for taxi set down, together with standing and manoeuvring for an articulated vehicle (AV) service vehicle. Car parking and manoeuvring areas must be:

83.1 Constructed generally as shown on the Approved Plans listed within this Development Approval (or as amended and approved);

83.2 Provided with a sealed surface and be line marked or otherwise delineated to the minimum dimensions detailed in the *Toowoomba Regional Planning Scheme and Australian Standard AS2890 - Parking Facilities*;

83.3 Designed and constructed in accordance with the requirements of AS2890, and the lighting requirements of 1158.3.1;

83.4 Designed to ensure parking spaces for people with disabilities are located in close proximity to a primary building entrance and meet the requirements of AS2890.1, AS1428.1 and AS2890.6:2009;

83.5 Accessible and available to the general public and staff during approved hours of operation;

83.6 Provided with signage and pavement markings that indicate the location of parking areas and the proposed flow of traffic through the site;

83.7 Maintained as originally constructed and kept and used exclusively for vehicle parking and manoeuvring; and

83.8 Designed to enable all vehicles to enter and leave the site in a forward gear.

ENVIRONMENT & WASTE

ACOUSTIC AMENITY - NOISE LIMITS

84. Noise from activity associated with the use of the site must not exceed the Acoustic Quality Objectives listed in the *Environment Protection (Noise) Policy 2008* when measured at any sensitive receptor.

85. Where considered warranted by Council and when requested in writing to do so, a noise investigation must be undertaken to investigate a complaint of noise nuisance. In such instances, a qualified person must monitor, interpret and record all parameters that are required to be monitored in order to determine whether or not the Noise Emission Limits listed within this Development Approval have been exceeded. The results of the investigation must be provided to Council within 28 days of the request or a longer period if specified in any such request. Measurement of noise emissions (adjusted for tonality and impulse) must be generally in accordance with the most recent version of *Australian Standard AS1055.1 Acoustics - Description and measurement of environmental noise - General procedures*.

ACOUSTIC AMENITY - MECHANICAL PLANT

86. All "refrigeration equipment", "pumps", "regulated devices", and "air conditioning equipment" as defined by *the Environmental Protection Act 1994* must be designed, installed, operated and maintained to comply with the noise standards as specified within the *Environmental Protection Act 1994*.

AIR QUALITY & AMENITY - AIR RELEASE LIMITS

87. Odours or airborne contaminants which are noxious or offensive to public amenity or safety, likely to cause environmental harm or environmental nuisance or exceed the Air Quality Objectives listed in the *Environmental Protection (Air) Policy 2008* as measured at any sensitive receptor place must not be released to the atmosphere.
88. To avoid conflict with the adjacent childcare facility, unless otherwise approved in writing by Council, ~~service vehicle movements (including loading and unloading) associated with the approved use must not occur on site between the hours of:~~
- 88.1 ~~6:30AM to 9AM and 4:30PM to 7PM Monday to Friday.~~
- 88.2 Signage to deter extended engine idling must be provided at the loading bay. Signage to include wording such as "Notice – Engines must be turned off during loading and unloading".

OUTDOOR LIGHTING IMPACT MITIGATION

89. Outdoor lighting associated with the use must be designed, sited, and installed to comply with the relevant parameters of *Australian Standard AS4282-1997 Control of the obtrusive effects of outdoor lighting*.
90. All flood lighting must be of a type that gives no upward component of light when mounted horizontally (i.e. a full cut off luminaire).

WASTE MANAGEMENT (GENERAL)

91. All waste generated on site must be managed in accordance with the waste management hierarchy as detailed in the *Waste Reduction and Recycling Act 2011*.

WASTE MANAGEMENT (BIN PROVISION & STORAGE)

92. Refuse storage facilities must be provided generally in accordance with the Approved Plans listed within this Development Approval and the following:
- 92.1 The size, mix and capacity of bins provided must be sufficient to accommodate the type and level of waste likely to be generated from the development having regard to the frequency of disposal or collection;

- 92.2 Provision of separate bins for general and recyclable waste for the site with an equal number of each being provided;
- 92.3 Provision of a constructed bulk bin store with an impervious hardstand base for the permanent storage location and service collection of all bulk bins, having minimum dimensions which exceed the combined size of bins by at least 300mm at the rear and both sides and 600mm at the front and no closer than 2m to any fresh air intake of a habitable room; and
- 92.4 Refuse storage facilities must be screened from public vantage points with a minimum 1.5m high built enclosure or solid screen fencing.

LANDSCAPING

PROVISION OF STREET TREES

93. Unless otherwise agreed by Council, plant and maintain for a period of 12 months, four (4) *Acer rubrum* street trees within the new Highfields road reserve.

LANDSCAPING WORKS

94. Prior to the commencement of any works on site or the issue of a Building Works approval (whichever occurs first) submit to Council for compliance assessment, a detailed Landscape Plan prepared by a qualified Landscape Architect prepared generally in accordance with the conditions of this Development Approval and Approved and Approved Amended Plans and generally in accordance with Landscape Concept Plan Issue E Date June 2017 7881 LC 02 , that details in particular:
- 94.1 Additional canopy tree planting that attains a minimum height of 8m at maturity within the proposed landscape to achieve a high degree of shading by way of:
- i. one additional tree within the central carparking group (making a total of three) on the northern aspect of the development;
 - ii. one additional tree and garden bed (replacing an existing carpark) within the carparking adjoining the northern landscape buffer;
 - iii. four additional trees in the northern landscape buffer;
 - iv. ~~one additional tree and garden bed replacing a carpark on the western carparking adjoining the landscape buffer; and~~
 - v. an additional two trees and garden bed sited within the concrete forecourt of the store entrance sequence to provide shading for pedestrians;
- 94.2 Designates variation in pavement colours and/or materials to define safe pedestrian movement areas;
- 94.3 Utilises plant species which are characteristic of the local area and provides seasonal variation, colour and texture;
- 94.4 Provides irrigation to all planted areas;
- 94.5 The species to be planted and their location;
- 94.6 The number and container size of plants;

- 94.7 The typical planting detail including preparation, backfill, staking and mulching;
 - 94.8 Internal dimensions of all planting areas;
 - 94.9 Location, height and finish of fencing fronting public land (including streetfrontages);
 - 94.10 Where street tree(s) are proposed or required as a condition of this Development Approval, the Landscape Plan must include the following additional information:
 - i. Location and species of the proposed or required street tree(s);
 - ii. Typical cross section through each street typology indicating clearance of street trees from underground services, kerbs and footpaths in accordance with PSP2 Engineering Standards; and
 - iii. A planting schedule indicating the number of each species type; and
- Note: Street trees required to be supplied as a condition if this Development approval must be supplied in 45L containers or as otherwise specified. Proposed street trees, if approved, are expected to be supplied in 45L containers;
- 94.11 Landscaping associated with each stage where relevant;
 - 94.12 North point, scale and drawing number; and
 - 94.13 Vegetated screening of the acoustic barriers in accordance with the conditions of this Development Approval.

Note: The Landscape Work Information Sheet provides further detail on the level of information required. To reference this article visit Council website <http://www.tr.qld.gov.au>

- 95. All landscape works must be established by a qualified person and maintained in accordance with the conditions of this Development Approval for the life of the development, and in a manner that ensures healthy, sustained and vigorous plant growth. All plant material must be allowed to grow to full form and be refurbished when its life expectancy is reached.
- 96. Certification must be submitted to Council from a qualified person who certifies that landscaping established complies with the requirements of this Development Approval.
- 97. The development site must be landscaped and maintained in accordance with works shown on the approved Landscape Plan and the following:
 - 97.1 All trees must be supplied in 45 litre or larger containers;
 - 97.2 All other plant material must be supplied in 200mm or larger containers;
 - 97.3 Garden areas must be cultivated to minimum 450mm depth and be clear of any rubbish, rocks or building rubble;
 - 97.4 All planting beds and individual trees must be mulched with minimum 100mm depth organic mulch;
 - 97.5 An irrigation system or watering points must be provided to all garden areas; and

- 97.6 Sight lines at pedestrian and vehicle entrance points must be maintained through the use of trees with a clean trunk to 1.8m height and shrubs to a maximum height of 0.75m.

TRADE WASTE

98. Development Approval does not infer or give approval to the owners or occupiers of the subject land to discharge trade waste to Council's sewerage infrastructure. The *Water Supply (Safety & Reliability) Act 2008* requires Council to approve all trade waste discharges to its sewerage system in accordance with Council's Trade Waste Policy and Trade Waste Plan. A copy of the Plan may be downloaded from Council's web site.
99. A person intending to discharge trade waste to sewer must obtain a Trade Waste Approval prior to commencing the discharge and must comply with the terms and conditions of the Trade Waste Plan. Contact Council's Trade Waste Services on telephone 131 872 to obtain advice about pre-treatment requirements and compliance matters before Building and Plumbing plans are submitted for approval.

B. ADVICES:

GENERAL ADVICES - MATERIAL CHANGE OF USE

RESUBMISSION OF PLANS REQUIRING AMENDMENT

- 1) The conditions of this Development Approval require resubmission of plans to Council with amendments. Please address the amended plans to Council's Development Assessment Branch with the Reference No. MCUI/2016/7117, and send to development@tr.qld.gov.au.

SUBMISSION OF PLANS FOR ENDORSEMENT

- 2) The conditions of this Development Approval require submission of plans to Council for endorsement.
Please address the plans for endorsement to Council's Development Assessment Branch with the Reference No. MCUI/2016/7117, and send to development@tr.qld.gov.au.

INFRASTRUCTURE CHARGES

- 3) Infrastructure charges are now levied by way of an infrastructure charges notice, issued pursuant to section 635 of the *Sustainable Planning Act 2009*.

OTHER LAWS & REQUIREMENTS

- 4) This Development Approval relates to development requiring approval under the *Sustainable Planning Act 2009* only. It is the approval holder's responsibility to obtain any other necessary approvals, licenses or permits required under State and Federal legislation or Council local law, prior to carrying out the development. Information with respect to other Council approvals, licenses or permits may be found on the Toowoomba Regional Council website. For information about State and Federal requirements please consult with these agencies directly.
- 5) Any works impacting outside the property boundary will require a permit under Subordinate Local Law 1.15 (Carrying Out Works on a Road or Interfering with a Road or its Operation) 2011. Please contact Council's Road Operations Branch through our Customer Service Centre on 131 872. The application can be found on Council's website at www.tr.qld.gov.au <<http://www.tr.qld.gov.au>>.

- 6) The development has only been assessed in accordance with the provisions of the *Toowoomba Regional Planning Scheme*. No assessment has been made in respect of the provisions of the *Building Code of Australia* and/or the *Queensland Development Code*.

WHEN APPROVAL STARTS TO HAVE EFFECT

- 7) This approval takes effect in accordance with the provisions of Section 339 of the *Sustainable Planning Act 2009*.

WHEN APPROVAL LAPSES

- 8) This approval will lapse in accordance with the provisions contained in Sections 341 and 342 of the *Sustainable Planning Act 2009*, unless otherwise stated elsewhere within this Development Approval.

EQUITABLE ACCESS & FACILITIES

- 9) The plans for the proposed building work have NOT been assessed for compliance with the requirements of the *National Construction Code - Building Code of Australia (Volume 1)* as they relate to people with disabilities.

In addition to the requirements of the National Construction Code as they relate to people with disabilities, one or more of the following may impact on the proposed building work:

- 9.1 The *Disability Discrimination Act 1992* (Cth);
9.2 The *Anti-Discrimination Act 1991* (Qld); and
9.3 The *Disability (Access to Premises - Buildings) Standards*.

ENVIRONMENTAL HARM

- 10) The *Environmental Protection Act 1994* (EP Act) 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 operational phases of this development are to adhere to their 'general environmental duty' to minimise the risk of causing environmental harm. Environmental harm is defined by the EP Act as any adverse effect, or potential adverse effect (whether temporary or permanent and of whatever magnitude, duration or frequency) on an environmental value, and includes environmental nuisance.

Therefore, no person should cause any interference with the environment or amenity of the area by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, sediment, oil or otherwise, or cause hazards likely in the opinion of the Administering Authority to cause undue disturbance or annoyance to persons or affect property not connected with the use.

ENVIRONMENTALLY RELEVANT ACTIVITIES

- 11) Should the premises, or any part of the premises, be used for an "Environmentally Relevant Activity" as defined under Schedule 2 the *Environmental Protection Regulation 2008*, separate approval is required by the relevant Administering Authority in accordance with the *Environmental Protection Act 1994* and where applicable the *Planning Act 2016* before such use commences.

WATER POLLUTION

- 12) In accordance with the *Environmental Protection Act 1994*, all sand, silt, mud, paint, cement, concrete, construction material and demolition material, and other such waste material must not be deposited or placed where it could reasonably be expected to travel into a roadside gutter, stormwater drain or watercourse. On the spot fines apply for such offences.

ABORIGINAL CULTURAL HERITAGE ACT 2003

- 13) There may be a requirement to establish a Cultural Heritage Management Plan and/or obtain approvals pursuant to the *Aboriginal Cultural Heritage Act 2003* ("ACH Act").

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 ACH Act may 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 Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP) Cultural Heritage Unit on 07 3247 6212 to discuss any obligations under the ACH Act.

FOOD PREMISES

- 14) The approved use may involve a food premises. If this is the case, in accordance with the *Food Act 2006* and the *Food Standards Code* the premises must be registered and the operator licensed. Please contact Council's Environment & Health Services Branch via the Customer Service Centre for further information in respect of registration and a license.

RE ANTS

- 15) The State of Queensland has been declared a quarantine area for the Red Imported Fire Ant. Should this approval involve the movement of restricted items from areas of known infestation the provisions of the *Plant Protection Act 1989* apply, compliance with statutory provisions must be achieved.

ADVERTISING SIGNS

- 16) Placing an advertising device on premises is accepted development where complying with the assessment benchmarks that form the requirements for accepted development in the Advertising Devices Code in the *Toowoomba Regional Planning Scheme*. A separate Operational Works approval will be required for any Advertising Devices not complying with the assessment benchmarks that form the requirements for accepted development in the Advertising Devices Code.

BUILDING OVER, OR NEAR, COUNCIL INFRASTRUCTURE

- 17) Any construction carried out near or over existing Council services should be in accordance with Council's adopted Policy (Queensland Development Code NMP 1.4 – Excavation and Piling Near Sewers, Stormwater Drains and Water Mains) and Council's Planning Scheme Policy SC4.4 PSP No. 4 – Development Near Utility Services. A Concurrence Agency referral of the Building Works Application to Council's Water and Waste Water Services Branch may be required.

TRADE WASTE APPROVAL

- 18) This Development Approval does not infer or give approval to the owners or occupiers of the subject land to discharge trade waste to Council's sewers. Council administers trade waste regulation as defined in the *Water Supply (Safety & Reliability) Act 2008* through its *Trade Waste Policy* and *Trade Waste Environmental Management Plan*. A separate Trade Waste Permit is required where trade waste is expected to be discharged to Council's sewers.

Please note that a Trade Waste Approval may require the installation of a pre-treatment arrestor and a metering device and it is suggested that where it is likely a sewer connection would be occurring in the near future, the final design of any wastewater treatment train give consideration to Council's Trade waste connection and discharge requirements. Please contact Council's Trade Waste Services from the Water Operations Branch via the Customer Service Centre for further information in respect of trade waste.

SUITABLY QUALIFIED PERSON

- 19) For the purpose of preparing a Landscape Plan, a suitably qualified person is considered to be a Registered Landscape Architect or Landscape Designer with a minimum of 3 years current experience in the field of landscape design.
- 20) For the purpose of certifying acoustic treatments for the development, a suitably qualified person is considered to be either:
- 20.1 A Registered Professional Engineer of Queensland (RPEQ); or
- 20.2 An environmental consultant with a minimum of 3 years current experience in the field of acoustics.
- 21) For the purpose of certifying outdoor lighting devices for the development, a suitably qualified person is considered to be either:
- 21.1 A Registered Professional Engineer of Queensland (RPEQ); or
- 21.2 An environmental or electrical design consultant with a minimum of 3 years current experience in the field of outdoor lighting.

C. ATTACHMENTS:

- Approved Development Plans
- Appeal provisions pursuant to the *Sustainable Planning Act 2009*.

List of Submitters:-

Andrew Bullen Precinct Urban Planning, PO Box 3038, TOOWOOMBA QLD 4350

Chapter 7, Part 1, Division 8 of the Sustainable Planning Act 2009
Appeals to court relating to development applications and approvals

461 Appeals by applicants

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

462 Appeals by submitters—general

- (1) A submitter for a development application may appeal to the court only against—
 - (a) the part of the approval relating to the assessment manager's decision about any part of the application requiring impact assessment under section 314; or
 - (b) the part of the approval relating to the assessment manager's decision under section 327.
- (2) To the extent an appeal may be made under subsection (1), the appeal may be against 1 or more of the following—
 - (a) the giving of a development approval;
 - (b) any provision of the approval including—
 - (i) a condition of, or lack of condition for, the approval; or
 - (ii) the length of a period mentioned in section 341 for the approval.
- (3) However, a submitter may not appeal if the submitter—
 - (a) withdraws the submission before the application is decided; or
 - (b) has given the assessment manager a notice under section 339(1)(b)(ii).
- (4) The appeal must be started within 20 business days (the **submitter's appeal period**) after the decision notice or negotiated decision notice is given to the submitter.

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

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

464 Appeals by advice agency submitters

- (1) Subsection (2) applies if an advice agency, in its response for an application, told the assessment manager to treat the response as a properly made submission.

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

465 Appeals about decisions relating to extensions for approvals

- (1) For a development approval given for a development application, a person to whom a notice is given under section 389, other than a notice for a decision under section 386(2), may appeal to the court against the decision in the notice.
- (2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.
- (3) Also, a person who has made a request under section 383 may appeal to the court against a deemed refusal of the request.
- (4) An appeal under subsection (3) may be started at any time after the last day the decision on the matter should have been made.

466 Appeals about decisions relating to permissible changes

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

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

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

Chapter 7, Part 1, Division 9 of the Sustainable Planning Act 2009
Appeals to court about compliance assessment

468 Appeals against decision on request for compliance assessment

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

469 Appeals against condition imposed on compliance permit or certificate

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

470 Appeals against particular decisions about compliance assessment

- (1) A person to whom any of the following notices have been given may appeal to the court against the decision in the notice:
 - (a) a notice of a decision on a request to change or withdraw an action notice;
 - (b) a notice under section 413(2)(c) about a decision to refuse a request to change a compliance permit or compliance certificate.
- (2) The appeal must be started within 20 business days after the day the notice is given to the person.

Chapter 7, Part 1, Division 10 of the Sustainable Planning Act 2009 Appeals to court about other matters

472 Appeal about extension of period under s 98

- (1) A person who has requested an extension under section 98(2) may appeal to the court against a refusal of the request.
- (2) An appeal under subsection (1) must be started within 20 business days after the day the person is given notice of the refusal.
- (3) Also, a person who has made a request under section 98(2) may appeal to the court against a deemed refusal of the request.
- (4) An appeal under subsection (3) may be started at any time after the last day the decision on the matter should have been made.
- (5) However, an appeal under this section may only be about whether the refusal is so unreasonable that no reasonable relevant local government could have refused the request.

473 Appeals against enforcement notices

- (1) A person who is given an enforcement notice may appeal to the court against the giving of the notice.
- (2) The appeal must be started within 20 business days after the day notice is given to the person.

474 Stay of operation of enforcement notice

- (1) The lodging of a notice of appeal about an enforcement notice stays the operation of the enforcement notice until—
 - (a) the court, on the application of the entity issuing the notice, decides otherwise; or
 - (b) the appeal is withdrawn; or
 - (c) the appeal is dismissed.
- (2) However, subsection (1) does not apply if the enforcement notice is about—
 - (a) a work, if the enforcement notice states the entity believes the work is a danger to persons or a risk to public health; or
 - (b) stopping the demolition of a work; or
 - (c) clearing vegetation on freehold land; or
 - (d) the removal of quarry material allocated under the Water Act 2000; or
 - (e) extracting clay, gravel, rock, sand or soil, not mentioned in paragraph (d), from Queensland waters; or
 - (f) development the assessing authority reasonably believe is causing erosion or sedimentation; or
 - (g) development the assessing authority reasonably believes is causing an environmental nuisance.

475 Appeals against local laws

- (1) This section applies if—
 - (a) an applicant is dissatisfied with a decision of a local government or the conditions applied under a local law about the use of premises or the erection of a building or other structure; and
 - (b) the use is not prohibited development under the planning scheme or a temporary local planning instrument for the planning scheme area.

- (2) The applicant may appeal to the court against the decision or the conditions applied.
- (3) The appeal must be started within 20 business days after the day notice of the decision is given to the applicant.

475A Appeals against decisions under ch 8A

- (1) A person who has been given an information notice for a decision of the Minister under chapter 8A, part 3 may appeal to the court against the decision.
- (2) An appeal under subsection (1) must be started within 20 business days after the day the information notice is given.
- (3) If the Minister decides, under chapter 8A, part 3, to register premises or to renew the registration of premises, a relevant person for the premises who is dissatisfied with the decision may appeal to the court against the decision.
- (4) An appeal under subsection (3) must be started within 20 business days after the day notice about the registration or renewal is published under section 680Y.
- (5) In this section—
relevant person, for premises, means any owner or occupier of land in the affected area for the premises.

476 Appeals against decisions on compensation claims

- (1) A person who is dissatisfied with a decision under section 710 or 716 for the payment of compensation may appeal to the court against—
 - (a) the decision; or
 - (b) a deemed refusal of the claim.
- (2) An appeal under subsection (1)(a) must be started within 20 business days after the day notice of the decision is given to the person.
- (3) An appeal under subsection (1)(b) may be started at any time after the last day a decision on the matter should have been made.

477 Appeals against decisions on requests to acquire designated land under hardship

- (1) A person who is dissatisfied with a designator's decision to refuse a request made by the person under section 222 may appeal to the court against—
 - (a) the decision; or
 - (b) a deemed refusal of the request.
- (2) An appeal under subsection (1)(a) must be started within 20 business days after the day notice of the decision is given to the person.

478 Appeals about infrastructure charges notice

- (1) The recipient of an infrastructure charges notice may appeal to the court about the decision to give the notice.
- (2) However, the appeal may be made only on 1 or more of the following grounds—
 - (a) the charge in the notice is so unreasonable that no reasonable relevant local government could have imposed it;
 - (b) the decision involved an error relating to—
 - (i) the application of the relevant adopted charge; or
 - (ii) the working out, for section 636, of additional demand; or
 - (iii) an offset or refund;
 - (c) there was no decision about an offset or refund;

Examples of possible errors in applying an adopted charge—

 - *the incorrect application of gross floor area for non-residential development*
 - *applying an incorrect 'use category' under an SPRP (adopted charges) to the development*
 - (d) if the infrastructure charges notice states a refund will be given—the timing for giving the refund.
- (3) To remove any doubt, it is declared that the appeal must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of infrastructure identified in an LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.
- (4) The appeal must be started within 20 business days after the day the recipient is given the relevant infrastructure charges notice.

478A Appeals against refusal of conversion application

- (1) The applicant for a conversion application may appeal to the court against a refusal, or deemed refusal, of the application.
- (2) The appeal must be started within the following period—
 - (a) if the applicant is given written notice of the refusal—20 business days after the day the applicant is given the notice;
 - (b) otherwise—20 business days after the end of the required period under section 660(5) for the application.

479 Appeals from building and development committees

- (1) A party to a proceeding decided by a building and development committee may appeal to the court against the committee's decision, but only on the ground—
 - (a) of an error or mistake in law on the part of the committee; or
 - (b) that the committee had no jurisdiction to make the decision or exceeded its jurisdiction in making the decision.
- (2) An appeal against a building and development committee's decision must be started within 20 business days after the day notice of the committee's decision is given to the party.

480 Court may remit matter to building and development committee

If an appeal includes a matter within the jurisdiction of a building and development committee and the court is satisfied the matter should be dealt with by a building and development committee, the court must remit the matter to the committee for decision.

Chapter 7, Part 2, Division 11 of the Sustainable Planning Act 2009 Making an appeal to court

481 How appeals to the court are started

- (1) An appeal is started by lodging written notice of appeal with the registrar of the court.
- (2) The notice of appeal must state the grounds of the appeal.
- (3) The person starting the appeal must also comply with the rules of the court applying to the appeal.
- (4) However, the court may hear and decide an appeal even if the person has not complied with subsection (3).

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

- (1) An appellant under division 8 must give written notice of the appeal to—
 - (a) if the appellant is an applicant—
 - (i) the chief executive; and
 - (ii) the assessment manager; and
 - (iii) any concurrence agency; and
 - (iv) any principal submitter whose submission has not been withdrawn; and
 - (v) any advice agency treated as a submitter whose submission has not been withdrawn; or
 - (b) if the appellant is a submitter or an advice agency whose response to the development application is treated as a submission for an appeal—
 - (i) the chief executive; and
 - (ii) the assessment manager; and
 - (iii) any referral agency; and
 - (iv) the applicant; or
 - (c) if the appellant is a person to whom a notice mentioned in section 465(1) has been given—
 - (i) the chief executive; and
 - (ii) the assessment manager for the development application to which the notice relates; and
 - (iii) any entity that was a concurrence agency for the development application to which the notice relates; and
 - (iv) the person who made the request under section 383 to which the notice relates, if the person is not the appellant; or
 - (d) if the appellant is a person mentioned in section 466(1)—
 - (i) the chief executive; and
 - (ii) the responsible entity for making the change to which the appeal relates; and

- (iii) the person who made the request to which the appeal relates under section 369, if the person is not the appellant; and
- (iv) if the responsible entity is the assessment manager—any entity that was a concurrence agency for the development application to which the notice of the decision on the request relates; or
- (e) if the appellant is a person to whom a notice mentioned in section 467 has been given—the entity that gave the notice.

- (2) The notice must be given within—
 - (a) if the appellant is a submitter or advice agency whose response to the development application is treated as a submission for an appeal—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (3) The notice must state—
 - (a) the grounds of the appeal; and
 - (b) if the person given the notice is not the respondent or a co-respondent under section 485—that the person may, within 10 business days after the notice is given, elect to become a co-respondent to the appeal by filing in the court a notice of election in the approved form.

483 Notice of appeals to other parties—compliance Assessment

- (1) An appellant under division 9 must, within 10 business days after the day the appeal is started, give written notice of the appeal to—
 - (a) if the appellant is a person to whom an action notice, compliance permit or compliance certificate has been given—
 - (i) the compliance assessor who gave the notice, permit or certificate; and
 - (ii) if the compliance assessor was a nominated entity of a local government and a copy of the request for compliance assessment was given to the local government under section 402—the local government; or
 - (b) if the appellant is a person to whom a notice mentioned in section 470(1) has been given—
 - (i) the entity that gave the notice; and
 - (ii) if the entity that gave the notice was a nominated entity of a local government and the written agreement of the local government was required to give the notice—the local government.
- (2) The notice must state the grounds of the appeal.

484 Notice of appeal to other parties—other matters

- (1) An appellant under division 10 must, within 10 business days after the day the appeal is started, give written notice of the appeal to—
 - (a) if the appeal is under section 472 or 475—the local government; or
 - (b) if the appeal is under section 475A(1)—the Minister; or
 - (c) if the appeal is under section 475A(3)—the Minister and the owner of the registered premises; or
 - (d) if the appeal is under section 478—the entity that gave the notice the subject of the appeal; or
 - (e) if the appellant is a person to whom an enforcement notice is given—the entity that gave the notice and if the entity is not the local government, the local government; or
 - (f) if the appellant is a person dissatisfied with a decision about compensation—the local government that decided the claim; or
 - (g) if the appellant is a person dissatisfied with a decision about acquiring designated land—the designator; or
 - (h) if the appellant is a party to a proceeding decided by a building and development committee—the other party to the proceeding.
- (2) The notice must state the grounds of the appeal.

485 Respondent and co-respondents for appeals under div 8

- (1) Subsections (2) to (8) apply for appeals under sections 461 to 464.
- (2) The assessment manager is the respondent for the appeal.
- (3) If the appeal is started by a submitter, the applicant is a co-respondent for the appeal.
- (4) Any submitter may elect to become a co-respondent for the appeal.

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

486 Respondent and co-respondents for appeals under div 9

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

487 Respondent and co-respondents for appeals under div 10

- (1) This section applies if an entity is required under section 484 to be given a notice of an appeal.
- (2) The entity given notice is the respondent for the appeal.
- (3) However, if under a provision of the section more than 1 entity is required to be given notice, only the first entity mentioned in the provision is the respondent.
- (4) The second entity mentioned in the provision may elect to be a co-respondent.

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

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

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

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

490 Lodging appeal stops particular actions

- (1) If an appeal, other than an appeal under section 465, 466 or 467, is started under division 8, the development must not be started until the appeal is decided or withdrawn.
- (2) If an appeal is about a condition imposed on a compliance permit, the development must not be started until the appeal is decided or withdrawn.
- (3) Despite subsections (1) and (2), if the court is satisfied the outcome of the appeal would not be affected if the development or part of the development is started before the appeal is decided, the court may allow the development or part of the development to start before the appeal is decided.

Chapter 7, Part 2, Division 12 of the Sustainable Planning Act 2009 Alternative dispute resolution

491 ADR process applies to proceedings started under this Part

- (1) The Civil Proceedings Act 2011, part 6 (the *ADR provisions*) applies to proceedings started under this part.
- (2) To the extent there is any inconsistency between the cost provisions of the ADR provisions and the cost provisions of this Act, the cost provisions of the ADR provisions prevail.
- (3) If a dispute in a proceeding under this part is referred to a dispute resolution process under the ADR provisions—
 - (a) the proceeding is not stayed unless the court orders otherwise; and
 - (b) the court must not decide the proceeding until the dispute resolution process under the ADR provisions has been finalised.
- (4) In applying the ADR provisions to a proceeding under this part—
 - (a) a reference to a court is taken to be a reference to the Planning and Environment Court; and
 - (b) definitions and other interpretative provisions of the Civil Proceedings Act 2011 relevant to the ADR provisions apply.

Chapter 7, Part 2, Division 12A of the Sustainable Planning Act 2009 ADR registrar

491A Definition for div 12A

In this division—
ADR registrar means a registrar or court officer of the District Court appointed as an ADR registrar of the court by the principal registrar of the court, in consultation with the Chief Judge of the District Court.

491B Power of ADR registrar

- (1) The Chief Judge of the District Court may issue directions about the matters in which the ADR registrar may exercise a power of the court under this part.
- (2) The court may direct the ADR registrar in a particular matter to hear and decide a proceeding started under this part.
- (3) Despite section 457(1), (4) and (9) to (14), if the court directs the ADR registrar under subsection (2) and the ADR registrar decides the proceeding, each party to the proceeding bears the party's own costs for the proceeding.
- (4) In exercising a power of the court under this division, the ADR registrar must act as quickly, and with as little formality and technicality, as is consistent with a fair and appropriate consideration of the issues.
- (5) A decision, direction or act of the ADR registrar made, given or done under this part, may be reviewed by the court.
- (6) An application for the review of a decision, direction or act of the ADR registrar made, given or done under this part, must be made within—
 - (a) 21 days after the decision, direction or act complained of is made, given or done; or
 - (b) any further period allowed by the court.

491C Reference by ADR registrar

- (1) If a proceeding before the ADR registrar appears to the ADR registrar to be proper for the decision of the court, the ADR registrar may refer the matter to the court.
- (2) If the ADR registrar refers a matter to the court, the court may dispose of the matter or refer it back to the ADR registrar with any direction that the court considers appropriate.

Chapter 7, Part 2, Division 4 of the Sustainable Planning Act 2009
Appeals to committees about development applications and approvals

Subdivision 1 Appeals about particular material changes of use

519 Appeal by applicant—particular development application for material change of use of premises

- (1) This section applies to a development application if the application is only for a material change of use of premises that involves the use of a prescribed building.
- (2) However, this section does not apply to the development application if any part of the application required impact assessment and any properly made submissions were received by the assessment manager for the application.
- (3) The applicant for the development application may appeal to a building and development committee against any of the following—
 - (a) the refusal, or the refusal in part, of the application;
 - (b) any condition of the development approval and another matter, other than the identification or inclusion of a code under section 242, stated in the development approval;
 - (c) the decision to give a preliminary approval when a development permit was applied for;
 - (d) the length of a period mentioned in section 341;
 - (e) a deemed refusal of the application.
- (4) An appeal under subsection (3)(a), (b), (c) or (d) must be started within 20 business days (the **applicant's appeal period**) after—
 - (a) if a decision notice or negotiated decision notice is given—the day the decision notice or negotiated decision notice is given to the applicant; or
 - (b) otherwise—the day a decision notice was required to be given to the applicant.
- (5) An appeal under subsection (3)(e) may be started at any time after the last day a decision on the matter should have been made.

520 Appeal about decision relating to extension for development approval

- (1) This section applies to a development approval if the approval is only for a material change of use of premises that involves the use of a prescribed building.
- (2) A person to whom a notice is given under section 389 in relation to the development approval, other than a notice for a decision under section 386(2), may appeal to a building and development committee against a decision in the notice.
- (3) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.

521 Appeal about decisions relating to permissible changes

- (1) This section applies to a development approval if the approval is only for a material change of use of premises that involves the use of a prescribed building.
- (2) The following persons may appeal to a building and development committee against a decision on a request to make a permissible change to the development approval, other than a deemed refusal of the request—
 - (a) if the responsible entity for making the change is the assessment manager for the development application to which the approval relates—
 - (i) the person who made the request; or
 - (ii) an entity that gave a notice under section 373 or a pre-request response notice about the request;
 - (b) if the responsible entity for making the change is a concurrence agency for the development application—the person who made the request.
- (3) The appeal must be started within 20 business days after the day the person is given notice of the decision on the request under section 376.

Subdivision 2 Appeals about conditions of particular development approvals

522 Appeal by applicant—condition of particular development approval

- (1) This section applies to a development application if—

- (a) the application is only for a material change of use that involves the use of a building classified under the BCA as a class 2 building; and
- (b) the proposed development is for premises of not more than 3 storeys; and
- (c) the proposed development is for not more than 60 sole occupancy units.

- (2) However, this section does not apply to the development application if any part of the application required impact assessment and any properly made submissions were received by the assessment manager for the application.
- (3) The applicant for the development application may appeal to a building and development committee against a condition of the development approval.
- (4) The appeal must be started within 20 business days (the **applicant's appeal period**) after—
 - (a) if a decision notice or negotiated decision notice is given—the day the decision notice or negotiated decision notice is given to the applicant; or
 - (b) otherwise—the day a decision notice was required to be given to the applicant.
- (5) In this section—**sole-occupancy unit**, in relation to a class 2 building, means a room or other part of the building used as a dwelling by a person to the exclusion of any other person. **storey** means a space within a building between 2 floor levels, or a floor level and a ceiling or roof, other than—
 - (a) a space containing only—
 - (i) a lift shaft, stairway or meter room; or
 - (ii) a bathroom, shower room, laundry, water closet or other sanitary compartment; or
 - (iii) accommodation for not more than 3 motor vehicles; or
 - (iv) a combination of any things mentioned in subparagraph (i), (ii) or (iii); or
 - (b) a mezzanine.

Division 5 Appeals to committees about compliance assessment

523 Appeal against decision on request for compliance assessment

- (1) A person who is given an action notice about a request for compliance assessment of development, a document or work may appeal to a building and development committee against the decision in the notice.
- (2) The appeal must be started within 20 business days after the day the notice is given to the person.

524 Appeal against condition imposed on compliance permit or certificate

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

525 Appeals against particular decisions about compliance assessment

- (1) A person who is given any of the following notices may appeal to a building and development committee against the decision in the notice—
 - (a) a notice of a decision on a request to change or withdraw an action notice;
 - (b) a notice under section 413(2)(c) about a decision to refuse to change a compliance permit or compliance certificate.
- (2) The appeal must be started within 20 business days after the day the notice is given to the person.

Division 6 Appeals to committees about building, plumbing and drainage and other matters

Subdivision 1 Preliminary

526 Matters about which a person may appeal under div 6
An appeal to a building and development committee under this division may only be about—

- (a) a matter under this Act that relates to the Building Act, other than a matter under that Act that may or must be decided by the *Queensland Building and Construction*

- Commission, or the *Plumbing and Drainage Act 2002*;
or
- (b) a matter that under another Act may be appealed to a building and development committee; or
- (c) a matter prescribed under a regulation.

Subdivision 2 Appeals about development applications and approvals

527 Appeals by applicants

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

528 Appeal by advice agency

- (1) An advice agency may, within the limits of its jurisdiction, appeal to a building and development committee about the giving of a development approval if the development application involves code assessment for the aspect of building work to be assessed against the Building Act.
- (2) The appeal must be started—
 - (a) within 10 business days after the day the decision notice or negotiated decision notice is given to the advice agency; or
 - (b) for a deemed approval for which a decision notice or negotiated decision notice has not been given—within 20 business days after receiving a copy of the deemed approval notice for the application from the applicant.

529 Appeal about decision relating to extension for development approval

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

530 Appeal about decision relating to permissible changes

- (1) For a development approval given for a development application, the following persons may appeal to a building and development committee against a decision on a request to make a permissible change to the approval, other than a deemed refusal of the request—
 - (a) if the responsible entity for making the change is the assessment manager for the application to which the approval relates—
 - (i) the person who made the request; or
 - (ii) an entity that gave a notice under section 373 or a pre-request response notice about the request;
 - (b) if the responsible entity for making the change is a concurrence agency for the application to which the approval relates—the person who made the request.
- (2) The appeal must be started within 20 business days after the day the person is given notice of the decision on the request under section 376.

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

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

Subdivision 3 Other matters

532 Appeals for building and plumbing and drainage matters

- (1) If—
 - (a) a person has been given, or is entitled to be given—
 - (i) an information notice under the Building Act about a decision other than a decision under that Act made by the *Queensland Building and Construction Commission*; or
 - (ii) an information notice under the *Plumbing and Drainage Act 2002* about a decision under part 4 or 5 of that Act; or
 - (b) a person—
 - (i) was an applicant for a building development approval; and
 - (ii) is dissatisfied with a decision under the Building Act by a building certifier or referral agency about inspection of building work the subject of the approval;
 the person may appeal against the decision to a building and development committee.
- (2) An appeal under subsection (1) must be started within 20 business days after the day the person is given notice of the decision.
- (3) If—
 - (a) under the Building Act, a person makes an application other than a building development application to a local government; and
 - (b) the period required under that Act for the local government to decide the application (the **decision period**) has passed; and
 - (c) the local government has not decided the application; the person may appeal to a building and development committee against the lack of the decision and for the committee to decide the application as if it were the local government.
- (4) An appeal under subsection (3) must be started within 20 business days after the end of the decision period.

533 Appeals against enforcement notices

- (1) A person who is given an enforcement notice may appeal to a building and development committee against the giving of the notice.
- (2) The appeal must be started within 20 business days after the day the notice is given to the person.

534 Stay of operation of enforcement notice

- (1) The lodging of a notice of appeal about an enforcement notice stays the operation of the enforcement notice until—
 - (a) the building and development committee, on the application of the entity issuing the notice, decides otherwise; or
 - (b) the appeal is withdrawn; or
 - (c) the appeal is dismissed.
- (2) However, subsection (1) does not apply if the enforcement notice is about—
 - (a) a work, if the enforcement notice states the entity believes the work is a danger to persons or a risk to public health; or
 - (b) stopping the demolition of a work; or
 - (c) clearing vegetation on freehold land; or
 - (d) the removal of quarry material allocated under the Water Act 2000; or
 - (e) extracting clay, gravel, rock, sand or soil, not mentioned in paragraph (d), from Queensland waters; or
 - (f) development the assessing authority reasonably believes is causing erosion or sedimentation; or
 - (g) development the assessing authority reasonably believes is causing an environmental nuisance.

Division 7 Appeals about particular charges

535 Appeals about infrastructure charges decisions

- (1) The recipient of an infrastructure charges notice may appeal to a building and development committee about the decision to give the notice.
- (2) However, the appeal may be made only on 1 or more of the following grounds—
 - (a) the decision involved an error relating to—
 - (i) the application of the relevant adopted charge; or
 - (ii) the working out, for section 636, of additional demand; or
 - (iii) an offset or refund;
 - (b) there was no decision about an offset or refund;

Examples of possible errors in applying an adopted charge—

 - the incorrect application of gross floor area for a non-residential development
 - applying an incorrect 'use category' under an SPRP (adopted charges) to the development
- (c) if the infrastructure charges notice states a refund will be given—the timing for giving the refund.
- (3) To remove any doubt, it is declared that the appeal must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of infrastructure in an LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.
- (4) The appeal must be started within 20 business days after the day the recipient is given the relevant infrastructure charges notice.

535A Appeals against refusal of conversion application

- (1) The applicant for a conversion application may appeal to a building and development committee against a refusal, or deemed refusal, of the application.
- (2) The appeal must be started within the following period—
 - (a) if the applicant is given written notice of the refusal—20 business days after the day the applicant is given the notice;
 - (b) otherwise—20 business days after the end of the required period under section 660(5) for the application.

Division 8 Making appeals to building and development committees

536 How appeals to committees are started

- (1) A person starts an appeal by lodging written notice of appeal, in the approved form, with the registrar of building development committees.
- (2) The notice of appeal must state the grounds of the appeal and be accompanied by the fee prescribed under a regulation.

537 Fast-track appeals

- (1) A person who is entitled to start an appeal under this part, may, by written request, ask the chief executive to appoint a building and development committee to start hearing the appeal within 2 business days after starting the appeal.
- (2) A request made under subsection (1) must be accompanied by the fee prescribed under a regulation.
- (3) The chief executive may grant or refuse the request.
- (4) The chief executive may grant the request only if all the parties to the appeal, including any person who could elect to become a co-respondent, have agreed in writing to the request.
- (5) If the chief executive grants the request, the chief executive may as a condition of granting the request require the person making the request to pay—
 - (a) the reasonable costs of the respondent and any co-respondents for the appeal after the request is granted; and
 - (b) an additional fee prescribed under a regulation.
- (6) If the request is granted, any notice of appeal to be given and any election to be a co-respondent to the appeal under this part must be given or made before any hearing for the appeal starts.