

Our Reference: MCUI/2016/5486  
Contact Officer: Mary Partridge  
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## Development Application Decision Notice APPROVAL

*Sustainable Planning Act 2009 Section 334*

Darling Downs Rifle Club Inc  
C/- Precinct Urban Planning  
PO Box 3038  
TOOWOOMBA QLD 4350

Email: [andrew@precinctplan.com.au](mailto:andrew@precinctplan.com.au)  
cc. [kerri@precinctplan.com.au](mailto:kerri@precinctplan.com.au)

23 March 2017

Dear Sir/Madam

**Location:** Bowenville-Acland Road, MALU QLD 4403  
**Property Description:** Lot 28 RP24709  
**Relevant Planning Scheme:** *Toowoomba Regional Planning Scheme 2012*

The Development Application for Material Change of Use – Impact – Outdoor Sport and Recreation (Rifle Range), for the abovementioned property has been assessed and approved with Conditions. The decision was made on 21 March 2017. The following provides all the relevant details:

### Details of Approval

Development Permit – Material Change of Use – Impact – Outdoor Sport and Recreation (Rifle Range)

### Referral Agencies

Concurrence Agencies Name & Address: N/A

Advice Agencies Name & Address: N/A

### Conditions and Advices

Assessment Manager's Conditions: As per attached Schedule 1

Concurrence Agency Conditions: N/A

**Further Development Permits and/or Compliance Permits Required**

- Nil

**Submissions**

Number of properly made submissions: 4 (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



Natalie Plumbe  
Principal Planner, Development Services

## SCHEDULE 1

### DEVELOPMENT PERMIT FOR MATERIAL CHANGE OF USE - IMPACT

<b>APPLICATION NUMBER:</b>	MCUI/2016/5486
<b>APPLICANT:</b>	Darling Downs Rifle Club Inc
<b>LOCATION:</b>	Bowenville-Acland Road, MALU QLD 4403
<b>PROPERTY DESCRIPTION:</b>	Lot 28 RP24709
<b>APPROVED USE:</b>	Outdoor Sport and Recreation(Rifle Range)
<b>ZONING / PRECINCT:</b>	Rural Zone, 100 Hectare Precinct

#### A. ASSESSMENT MANAGER'S CONDITIONS:

##### PLANNING

##### APPROVED USE

1. This Development Approval is for a material change of use for an Outdoor Sport and Recreation Facility being a Rifle Range.
2. Shooting is limited to the firing positions and the shotgun area identified on the approved plans listed within this Development Approval.
3. This Development Approval does not imply or comprise an approval for any use other than that listed in Condition 1.

##### CARRY OUT & MAINTAIN DEVELOPMENT

4. 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.
5. Unless otherwise stated, all conditions must be complied with prior to the commencement of use and thereafter.
6. 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, where the building work is assessable development, in accordance with a Building Works approval.
7. The development must be maintained in accordance with the Approved Plans subject to or modified by any conditions of this Development Approval.

## APPROVED PLANS

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

**Plan No:** 160033 A.001 Revision A

**Description:** Location Plan prepared by Building Design Professionals and dated 29.06.2016.

**Amendment:** Nil.

**Plan No:** 160033 A.002 Revision A

**Description:** Site Plan prepared by Building Design Professionals and dated 29.06.2016.

**Amendment:** As amended in red by Council to remove reference to Stage 2 Club Precinct.

**Plan No:** 160033 A.100 Revision A

**Description:** Existing Floor Plan prepared by Building Design Professionals and dated 29.06.2016.

**Amendment:** Nil.

**Plan No:** 160033 A.101 Revision A

**Description:** Proposed Floor Plan prepared by Building Design Professionals and dated 29.06.2016.

**Amendment:** Nil.

**Plan No:** 160033 A.102 Revision A

**Description:** Relocated Clubhouse prepared by Building Design Professionals and dated 29.06.2016.

**Amendment:** Nil.

**Plan No:** 160033 A.200 Revision A

**Description:** Shed Elevations prepared by Building Design Professionals and dated 29.06.2016.

**Amendment:** Nil.

**Plan No:** 13742-A3-D as Figure 3.1

**Description:** Plan of Proposed Rifle Range Development prepared by Parkinson Surveyors and dated 14.11.2016 extracted from Page 7 of the Noise Impact Assessment Report (8554R01V01.docx) prepared by Ask Consulting Engineers Pty Ltd and dated 2 August 2016.

**Amendment:** Nil.

## COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS (FOR ENDORSEMENT)

9. Prepare and submit the following documents in accordance with the conditions of this Development Approval and obtain Council's endorsement:

9.1 Bushfire Management Plan

## AVAILABILITY OF APPROVED DOCUMENTATION DURING WORKS

10. A legible copy of the Approved Plans bearing Council's approved stamp and this Development Approval must be available on the subject land and available for inspection at all times during construction.

## **DEVELOPMENT CONSTRAINTS**

### **BUSHFIRE MANAGEMENT - GENERAL**

11. Prior to any building works on site, submit to Council, and receive endorsement for, a Bushfire Management Plan prepared by a suitably qualified person.
12. The development must be carried out in accordance with the endorsed Bushfire Management Plan.
13. A copy of the approved Bushfire Management Plan must be provided to the nearest fire authority.

### **BUSHFIRE MANAGEMENT - SUPPLY OF WATER**

14. The development must be provided with a water storage reservoir having a minimum 10,000 litres of water for emergency firefighting purposes. Such storage must be provided in addition to the water supply capacity required for any domestic use and must be provided in the form of either a dam, swimming pool, or rainwater tank located within 40m of the clubhouse.
15. Where water storage is provided by way of rainwater tank, separate water storage for firefighting purposes must be provided either in a separate rainwater tank or a reserve section in the main water supply tank on which:
  - 15.1 The domestic take off from the tank is at or above the 10,000 litre point; and
  - 15.2 Standard rural fire brigade fittings (a 50mm male camlock coupling and ball valve) are fitted to the tank outlet for access by four wheel drive rural services vehicles.
16. The development must be provided with an auxiliary power supply such as a petrol driven fire fighter pump (or generator), together with a hose of sufficient length to easily reach around to all sides of the residence, shed and clubhouse.
17. A hard stand area within 6m of the water storage reservoir must be provided to ensure accessibility for fire fighting vehicles.

## **WORKS**

### **ENGINEER'S CERTIFICATION AND SUPERVISION OF WORKS**

18. Plans and specifications for all works associated with car parking, or any other works required on Council infrastructure, must be prepared and certified by a Registered Professional Engineer Queensland - Civil (RPEQ).
19. 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.
20. 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.
21. 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.

## **EROSION & SEDIMENT CONTROL**

22. 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.
23. 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.
24. 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.

## **SERVICES & UTILITIES**

### **ON-SITE WASTE WATER TREATMENT & DISPOSAL**

25. The development must be provided with an on-site waste water treatment and effluent disposal system having a capacity and land application area sufficient for the use.
26. The waste water treatment and effluent disposal system must comply with *Australian Standard AS3500.2 – National Plumbing and Drainage - Sanitary Plumbing and Drainage*; and *Australian Standard AS1547:2012 - On Site Domestic-Wastewater Management* where system size is not exceeded (ref. Part 1.2.1.2 of AS1547:2012).
27. All reasonable and practicable measures must be undertaken to prevent treated waste water and effluent from overflowing or seeping onto adjoining properties or into any natural watersource.

### **WATER SUPPLY**

28. The development must be provided with a potable water supply having a capacity sufficient for the use that complies with the *Australian Drinking Water Guidelines (NHMRC, 2011)*.

## **AMENITY & OPERATION OF USE**

### **ACOUSTIC AMENITY - GENERAL**

29. Unless otherwise approved in writing by Council, the approved use must not operate outside the hours of 6:00AM to 6:00PM.
30. Shooting must not occur on site prior to 9:00AM or after 5:00PM.

### **ACOUSTIC AMENITY - NOISE LIMITS**

31. Noise from activity associated with the use of the site must not exceed the Acoustic Criteria for a shooting range listed in Section 440ZC of the *Environment Protection Act (1994)* when measured at any sensitive receptor.

32. 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 - COMPLAINTS MANAGEMENT**

33. A noise complaints management procedure for the site must be prepared and submitted to Council for endorsement. The complaints management procedure must include the following:
- 33.1 A contact person with whom complaints can be lodged;
  - 33.2 A clearly defined procedure for responding to and investigating complaints; and
  - 33.3 A notification protocol to all complainants of the outcome of complaint investigations.
34. A record of all noise complaints and investigation results including corrective actions must be maintained and made available for inspection at any time upon request by Council.

#### **STORMWATER QUALITY**

35. Contaminants or contaminated water must not be directly or indirectly released from the site or to the ground or groundwater at the subject site at any time except:
- 35.1 Following treatment using an appropriate stormwater quality improvement device (SQID) as uncontaminated overland stormwater flow;
  - 35.2 Following treatment using an appropriate stormwater quality improvement device (SQID) as uncontaminated stormwater to the stormwater system.

#### **TRANSPORT, VEHICULAR ACCESS & PARKING**

##### **ON-SITE CAR PARKING, SERVICE BAYS & MANOEUVRING**

36. The development must be provided with a total of 12 on-site car parking spaces and required manoeuvring areas in accordance with the following:
- 36.1 Only the PWD parking spaces must be 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*;
  - 36.2 Designed and constructed in accordance with the requirements of AS2890; and
  - 36.3 Maintained as originally constructed and kept and used exclusively for vehicle parking and manoeuvring.

#### **ENVIRONMENT & WASTE**

##### **WASTE MANAGEMENT (GENERAL)**

37. 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*.
38. The shooting range area must be managed to prevent the accumulation of spent ammunition and associated waste.

## SITE REHABILITATION

39. Once the activity ceases to be conducted on this site, the site must be rehabilitated back to its original condition, so that it is fit for ongoing agricultural use.

## B. ADVICES:

### GENERAL ADVICES

#### INFRASTRUCTURE CHARGES

- 1) 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

- 2) This 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.
- 3) 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)
- 4) The development has only been assessed in accordance with the provisions of the *Toowoomba Regional Planning Scheme 2012*. No assessment has been made in respect of the provisions of the Building Code of Australia and/or the Queensland Development Code.

#### WHEN APPROVAL TAKES EFFECT

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

#### WHEN APPROVAL LAPSES

- 6) 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.

#### WASTE WATER TREATMENT & DISPOSAL SYSTEM

- 7) The establishment of a waste water treatment and disposal system for the site requires a Compliance Permit to be obtained from Council under the *Plumbing and Drainage Act 2002*. The system must be designed in accordance with the *Queensland Plumbing and Wastewater Code* (Department of State Development and Infrastructure & Planning, 2007) and the *Australian & New Zealand Standard AS/NZS1547 On-site domestic wastewater management*.

Please contact Council's Planning and Development Services Unit via the Customer Service Centre for further information in respect of a Compliance Permit. Where a development exceeds the accommodation or use of 21 or more equivalent persons an Environmental Authority from the Department of Environment & Heritage Protection will also be required.

## **EQUITABLE ACCESS & FACILITIES**

- 8) The plans for the 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:

- 8.1 The *Disability Discrimination Act 1992* (Cth);
- 8.2 The *Anti-Discrimination Act 1991* (Qld); and
- 8.3 The *Disability (Access to Premises - Buildings) Standards*.

## **CONTAMINATED LAND**

- 9) It is a requirement of the *Environmental Protection Act 1994* that if an owner or occupier of land becomes aware that a Notifiable Activity (as defined by Schedule 2 of the *Environmental Protection Act 1994*) is being carried out on the land, or that the land is or has been affected by a hazardous contaminant, they must, within 22 business days after becoming so aware, give notice to the Department of Environment and Heritage Protection's Waste and Contaminated Land Assessment Unit.

## **ENVIRONMENTAL HARM**

- 10) The *Environmental Protection Act 1994* states that a person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm.

Environmental harm includes environmental nuisance. In this regard persons and entities involved in the civil, earthworks, construction and 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 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 *Sustainable Planning Act 2009* before such use commences.

## **WATER POLLUTION**

- 12) In accordance with the *Environmental Protection Act 1994*, all sand, silt, mud, paint, cement, concrete, construction and demolition, 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.

### **WORKS WITHIN A WATERCOURSE**

- 13) The approved development proposal may involve works within a watercourse which will require referral to the Department of Natural Resources & Mines under the *Water Act 2000* and *Sustainable Planning Act 2009* at the time of making an application for Operational Works.

### **FIRE ANTS**

- 14) 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**

- 15) Placing an advertising device on premises is self-assessable development where complying with the Advertising Devices Code in the *Toowoomba Regional Planning Scheme 2012*. A separate Operational Works approval will be required for any Advertising Devices not complying with the acceptable outcomes of the Advertising Devices Code.

### **BUILDINGS**

- 16) The proposed development has only been assessed in accordance with the provisions of the *Toowoomba Regional Planning Scheme 2012*. No assessment has been made in respect of the provisions of the *Building Code of Australia* and/or *Queensland Development Code*.

### **QUALIFIED PERSON**

- 17) For the purpose of preparing a Bushfire Management Plan, and for certifying compliance with the bushfire management conditions, a qualified person is considered to be an ecologist or a person with formal qualifications relating to bushfire planning and design or fire safety engineering, with a minimum of 3 years current experience in the field of bushfire assessment and management.

### **C. ATTACHMENTS:**

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

**List of Submitters:-**

Groom & Lavers Solicitors  
C/- Amanda Boyce  
PO Box 52  
TOOWOOMBA QLD 4350

Wooroolah Grazing Comp Pty Ltd  
Attention: Wendy Manning  
1327 Emmett Road  
BLACKALL QLD 4472

Lloyd and Estelle Janetzki  
561 Jondaryan-Nungil Road  
JONDARYAN QLD 4403

Rodger and Helen Johnston  
379 Richards Road  
JONDARYAN QLD 4403

**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.