



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

Our reference: SPD-0813-000939

Date: 06/09/2013

Dear

Notice of decision—changed approval (responsible entity)

(Given under section 376 of the *Sustainable Planning Act 2009*)

The Department of State Development, Infrastructure and Planning received a request under section 369 of the *Sustainable Planning Act 2009* (SPA) on 16 August 2013 for the original decision described below.

The request sought to change conditions of the original Decision Notice by the Department of Agriculture, Fisheries and Forestry. Specifically, you requested the deletion of condition 4, which provides an expiry date.

The department has assessed and decided your request under sections 374 and 375 of SPA, and advises your request as been approved. A change has also been made to condition 11, to reference current regulation in place of repealed regulation. As per section 376 of SPA, the original decision notice is attached, showing the changes.

Applicant details

Applicant name:

Site details

Real property description:

Local government area: Moreton Bay

Application details

Proposed development: Development Permit for Material Change of Use
(Aquaculture)

Original decision

Date of original decision: 30 June 1998
Original decision details: Approved subject to conditions

Copies of the following documents are also attached:

relevant appeal provisions in the *Sustainable Planning Act 2009*.

If you require any further information, please contact Caroline Plank, Senior Planning Officer, Regional Services (SEQ North) on who will be pleased to assist.

Yours sincerely



Garth Nolan
Manager (Planning)

enc: Attachment 1—Original decision notice showing the changes
SPA appeal provisions

Our reference: SPD-0813-000939

Permissible change notice

(Given under section 376 of the *Sustainable Planning Act 2009*)

Applicant details

Applicant name:
Applicant contact details:

Application details

Level of assessment: Code assessment
Date of request for change: 16 August 2013

Site details

Street address:
Real property description:

Nature of the changes

The following condition has been deleted:

4. This Development Approval is for the period Tuesday 30 June 1998 until Monday 30 September 2013.

The following condition has been amended:

11. This development Approval authorises the possession and use of "regulated fishing apparatus" under the Fisheries Regulation 1995, Schedule 8, Part 1 and Part 2 (marine), and the Fisheries (Freshwater) Management Plan 1999, Part 6 (freshwater) (excluding an electrofisher) at the approved Aquaculture Area.

Condition 11 now reads:

11. The possession and use of "regulated fishing apparatus" under the Fisheries Regulation 2008, Chapter 4, Part 1, Division 4, Subdivision 1 (freshwater) and Subdivision 2, sections 188 and 189 (marine), are authorised at the approved Aquaculture Area.

Conditions

This approval is subject to:

the changed assessment manager conditions in Attachment 1

The department has, for particular conditions of this approval, nominated an entity to be the assessing authority for that condition under section 255D(3) of the *Sustainable Planning Act 2009*.

Rights of appeal

The rights of applicants to appeal to the Planning and Environment Court against decisions about a development application are set out in chapter 7, part 1, division 8 of the *Sustainable Planning Act 2009*. For particular applications, there may also be a right to appeal to the Building and Development Dispute Resolution Committee (see chapter 7, part 2 of the *Sustainable Planning Act 2009*).

Copies of the relevant appeal provisions are attached



**DEPARTMENT OF AGRICULTURE, FISHERIES AND
FORESTRY CONDITIONS**

Applicant(s)/Address:

Purpose: Aquaculture Freshwater - Growout

DAFF Reference: 2005BC0664

File Number: NRM/030/000(657)

The Department of Agriculture, Fisheries and Forestry has assessed the above development application against the purpose of the *Fisheries Act 1994*.

It has been determined that the approval should be a Development Permit to which the following conditions apply:

- 1 The operator is authorised to conduct aquaculture on and harvest the following approved species:

<u>Common Name</u>	<u>Scientific Name</u>
African mono	<i>Monodactylus sebae</i>
Agassiz's olive glassfish	<i>Ambassis agassizi</i>
Angelfish	<i>Pterophyllum spp.</i>
Archer fish	<i>Toxotes chatareus</i>
Archer fish	<i>Toxotes jaculatrix</i>
Argentine bloodfin (tetra)	<i>Aphyocharax anisitsi</i>
Armoured catfish	<i>Corydoras spp.</i>
Asoka barb	<i>Puntius asoka</i>
Auratus	<i>Melanochromis auratus</i>
Australian bass	<i>Macquaria novemaculeata</i>
Banded barb	<i>Puntius pentazona (Barbodes pentazona)</i>
Banded leporinus	<i>Leporinus fasciatus</i>
Banded rainbowfish	<i>Melanotaenia trifasciata</i>
Barcoo grunter	<i>Scortum barcoo</i>
Barramundi	<i>Lates calcarifer</i>
Betta	<i>Betta spp.</i>

Big headed gudgeon	<i>Philypnodon grandiceps</i>
Big-spot rasbora	<i>Rasbora kalochroma</i>
Bitterling	<i>Rhodeus amarus</i>
Bitterling	<i>Rhodeus sericeus</i>
Black banded grunter	<i>Amniataba percoides</i>
Black banded rainbowfish	<i>Melanotaenia nigrans</i>
Black ghost knife fish	<i>Apteronotus albifrons</i>
Black line silver hatchet fish	<i>Gasteropelecus spp.</i>
Black phantom tetra	<i>Hyphessobrycon megalopterus (Megalampodus megalopterus)</i>
Black ruby barb	<i>Puntius nigrofasciatus</i>
Black shark	<i>Labeo chrysophekadion (Morulius chrysophekadion)</i>
Black spotted upsidedown catfish	<i>Synodontis nigriventris</i>
Black tetra	<i>Gymnocorymbus ternetzi</i>
Black-banded headstander	<i>Chilodus punctatus</i>
Black-banded osteochilus	<i>Osteochilus vittatus</i>
Black-finned rummy-nose	<i>Petitella georgiae</i>
Black-spot filament barb	<i>Puntius filamentosus</i>
Blind cave tetra	<i>Astyanax mexicanus</i>
Blue acara	<i>Aequidens pulcher</i>
Blue gourami	<i>Trichogaster trichopterus</i>
Blue line rasbora	<i>Rasbora taeniata</i>
Blue rams	<i>Mikrogeophagus ramirezi (Microgeophagus ramirezi)</i>
Brichardi	<i>Neolamprologus brichardi (Lamprologus brichardi)</i>
Bumble bee	<i>Brachygnathus spp.</i>
Butlers grunter	<i>Syncomistes butleri</i>
Butterfly fish	<i>Pantodon buchholzi</i>
Cardinal tetra	<i>Paracheirodon axelrodi</i>
Celebes rainbow	<i>Merosatherina ladigesii (Telmatherina ladigesii)</i>
Chalinochromis	<i>Chalinochromis spp.</i>
Checkerboard bard	<i>Puntius oligolepis (Capoeta oligolepis)</i>
Checkered rainbowfish	<i>Melanotaenia splendida inornata</i>
Cherry barb	<i>Puntius titteya (Capoeta titteya)</i>
Chinese algae eater	<i>Gyrinocheilus aymonieri</i>
Chocolate gourami	<i>Sphaerichthys osphromenoides</i>
Clown barb	<i>Puntius everetti (Barbodes everetti)</i>
Clown loach	<i>Chromobotia macracanthus</i>
Coal grunter	<i>Hephaestus carbo</i>
Cochus blue tetra	<i>Boehlkea fredcochui</i>
Common brochis	<i>Brochis splendens</i>
Congo tetra	<i>Phenacogrammus interruptus (Micralestes)</i>
Copper striped rosborra	<i>Rasbora leptosoma</i>

Croaking gourami	<i>Trichopsis vittatus</i>
Cummings barb	<i>Puntius cumingii</i>
Delicate Blue-eye	<i>Pseudomugil tenellus</i>
Desert goby	<i>Chlamydogobius eremius</i>
Desert rainbowfish	<i>Melanotaenia splendida tatei</i>
Discus	<i>Symphysodon spp.</i>
Duboisii	<i>Tropheus duboisi</i>
Duboulays rainbowfish	<i>Melanotaenia duboulayi</i>
Dusky kribensis (krib)	<i>Pelvicachromis pulcher</i>
Dwarf cichlid	<i>Apistogramma spp.</i>
Dwarf flag cichlid	<i>Laetacara curviceps (Aequidens curviceps)</i>
Dwarf gourami	<i>Colisa lalia</i>
Dwarf lattice cichlid	<i>Nannacara spp.</i>
Dwarf loach	<i>Botia sidthimunki</i>
Eastern rainbowfish	<i>Melanotaenia splendida splendida</i>
Eel tail catfish	<i>Neosilurus ater</i>
Eel tail catfish	<i>Neosilurus hyrtlii</i>
Eel tail catfish	<i>Tandanus tandanus</i>
Elegant rasbora	<i>Rasbora elegans</i>
Elephant nose	<i>Gnathonemus macrolepidatus</i>
Elephantnose (Peters)	<i>Gnathonemus petersii</i>
Emperor tetra	<i>Nematobrycon palmeri</i>
Empire gudgeon	<i>Hypseleotris compressa</i>
Exquisite rainbowfish	<i>Melanotaenia exquisita</i>
False mapificant rasbora	<i>Rasbora borapetensis</i>
Firetail gudgeon	<i>Hypseleotris galii</i>
Flag cichlid	<i>Mesonauta festivus (Cichlasoma festivum)</i>
Fly specked hardyhead	<i>Craterocephalus stercusmuscarum stercusmuscarum</i>
Flying fox	<i>Epalzeorhynchus kalopterus</i>
Freshwater flounder	<i>Trinectes maculatus</i>
Freshwater shrimp	<i>Macrobrachium rosenbergii</i>
Freshwater shrimp	<i>Macrobrachium australiensis</i>
Freshwater shrimp	<i>Macrobrachium lar</i>
Friderics leporinus	<i>Leporinus friderici</i>
Giant danio	<i>Danio aequipinnatus</i>
Giant perchlet	<i>Parambassis gulliveri</i>
Gilberts grunter	<i>Pingalla gilberti</i>
Glass barb	<i>Puntius puellus</i>
Glass bloodfin	<i>Prionobrama filigera</i>
Glass catfish	<i>Kryptopterus bicirrhis</i>
Glassfish	<i>Chanda spp.</i>
Gold-cheek krib	<i>Pelvicachromis subocellatus</i>

Golden dwarf cichlid	<i>Nannacara anomala</i>
Golden perch (Cooper Creek strain)	<i>Macquaria ambigua n.sp</i>
Golden perch (Dawson River strain)	<i>Macquaria ambigua oriens</i>
Golden perch (Murray-Darling strain)	<i>Macquaria ambigua ambigua</i>
Goldfish	<i>Carassius auratus</i>
Gold-line rasbora	<i>Rasbora steineri</i>
Graeffes salmon catfish	<i>Arius graeffei</i>
Gulf Saratoga	<i>Scleropages jardinii</i>
Guppy	<i>Poecilia reticulata</i>
Hard lipped barb	<i>Osteochilus hasseltii</i>
Harlequin rasbora	<i>Trigonostigma heteromorpha</i>
Hatchetfish	<i>Carnegiella spp.</i>
Hatchetfish	<i>Thoracocharax spp.</i>
Headstander	<i>Anostomus spp.</i>
Headstander	<i>Abramites hypselonotus</i>
Hi-spot rasbora	<i>Rasbora dorsiocellata</i>
Honey dwarf gourami	<i>Trichogaster chuna (Colisa chuna)</i>
Indian hatchetfish	<i>Chela laubuca</i>
Javanese rice fish	<i>Oryzias javanicus</i>
Julie	<i>Julidochromis spp.</i>
Kerrs danio	<i>Brachydanio kerri</i>
Keyhole cichlid	<i>Cleithracara maroni (Aequidens maronii)</i>
Killiefish	<i>Aphyosemion spp.</i>
Kissing gourami	<i>Helostoma temmincki</i>
Kooli barb	<i>Puntius vittatus</i>
Kuhli loach	<i>Pangio kuhli (Acanthopthalmus kuhli)</i>
Lake Grunter	<i>Variichthys lacustris</i>
Latticed cichlid	<i>Limnotilapia dardennii</i>
Leopard danio	<i>Danio frankei (Brachydanio frankei)</i>
Lipstick leporinus	<i>Leporinus arcus</i>
Little giant gourami	<i>Colisa fasciatus (Colisa fasciata)</i>
Long-band rasbora	<i>Rasbora einthovenii</i>
Longfin barb	<i>Puntius arulius (Capoeta arulis)</i>
Long-finned african tetra	<i>Brycinus longipinnis</i>
Lorentz grunter	<i>Pingalla lorentzi</i>
MacCullochs rainbowfish	<i>Melanotaenia maccullochi</i>
Malayan flying barb	<i>Esomus malayensis</i>
Malayan halfbeak	<i>Dermogenys pusillus</i>
Medaka	<i>Oryzias latipes</i>
Melanochromis	<i>Melanochromis similis</i>
Microbrycon	<i>Boehlkea fredcochui (Microbrycon fredcochui)</i>
Midgleys grunter	<i>Pingalla midgleyi</i>

Midgleys gudgeon	<i>Hypseleotris sp.A</i>
Mono	<i>Monodactylus argenteus</i>
Moonlight gourami	<i>Trichogaster microlepis</i>
Moori	<i>Tropheus moorii</i>
Multi-banded leporinus	<i>Leporinus multifasciatus</i>
Murray cod	<i>Maccullochella peeli peeli</i>
Murray river rainbowfish	<i>Melanotaenia fluviatilis</i>
Myers hillstream loach	<i>Pseudogastromyzon myersi</i>
Neon blue-eye	<i>Pseudomugil cyanodorsalis</i>
Neon tetra	<i>Paracheirodon innesi</i>
New Guinea rainbowfish	<i>Melanotaenia spp.</i>
New Guinea rainbowfish	<i>Chilatherina spp.</i>
New Guinea rainbowfish	<i>Glossolepis spp.</i>
Orange-finned rasbora	<i>Rasbora vaterifloris</i>
Ornate pimelodus	<i>Pimelodus ornatus</i>
Ornate rainbowfish	<i>Rhadinocentrus ornatus</i>
Oscar	<i>Astronotus ocellatus</i>
Pacific blue eye	<i>Pseudomugil signifer</i>
Panchax	<i>Aplocheilus spp.</i>
Panchax	<i>Epiplatys spp</i>
Paradise fish	<i>Macropodus opercularis</i>
Pearl danio	<i>Brachydanio albolineatus</i>
Pearl gourami	<i>Trichogaster leeri</i>
Pencilfish	<i>Nannostomus spp.</i>
Pencilfish	<i>Poecilibrycon spp.</i>
Penguin fish	<i>Thayeria spp.</i>
Pennyfish	<i>Denarius bandata</i>
Platy	<i>Xiphophorus maculatus</i>
Platy variatus	<i>Xiphophorus variatus</i>
Poormans glass catfish	<i>Kryptopterus macrocephalus</i>
Poreless gudgeon	<i>Oxyeleotris nullipora</i>
Primitive archer fish	<i>Toxotes lorentzi</i>
Pristella	<i>Pristella maxillaris</i>
Purple spotted gudgeon	<i>Mogurnda adpersa</i>
Pygmy gourami	<i>Trichopsis pumilus</i>
Pygmy rainbowfish	<i>Melanotaenia pygmaea</i>
Rainbow shark	<i>Epalzeorhynchus munense (Labeo erythrurus)</i>
Rainbowfish	<i>Melanotaenia spp.</i>
Rainbowfish	<i>Glossolepis spp</i>
Rainbowfish	<i>Chilatherina spp</i>
Red striped barb	<i>Puntius bimaculatus</i>
Redclaw crayfish	<i>Cherax quadricarinatus</i>

Red-finned black shark	<i>Epalzeorhynchus bicolor (Labeo bicolor)</i>
Red-finned shark	<i>Epalzeorhynchus frenatus (Labeo frenatus)</i>
Red-line rasbora	<i>Rasbora pauciperforata</i>
Rendahls tandan	<i>Neosilurus rendahli</i>
Rosy barb	<i>Puntius conchonius</i>
Saddled hillstream loach	<i>Homaloptera orthogoniata</i>
Sailfin glassfish	<i>Ambassis agrammus</i>
Sailfin molly	<i>Poecilia latipinna</i>
Sarawak rasbora	<i>Rasbora sarawakensis</i>
Scissor-tail rasbora	<i>Rasbora trilineata</i>
Siamese flying fox	<i>Crossocheilus siamensis (Epalzeorhynchus siamensis)</i>
Silver perch	<i>Bidyanus bidyanus</i>
Silver prochilodus	<i>Semaprochilodus insignis</i>
Silver rasbora	<i>Rasbora argyrotaenia</i>
Sleepy cod	<i>Oxyeleotris lineolatus</i>
Slender rainbowfish	<i>Melanotaenia gracilis</i>
Snakehead gudgeon	<i>Ophieleotris aporos</i>
Sooty grunter	<i>Hephaestus fuliginosus</i>
Southern saratoga	<i>Scleropages leichardti</i>
Spangled perch	<i>Leiopotherapon unicolor</i>
Sphenops mollie	<i>Poecilia sphenops</i>
Spiny eel	<i>Macrognathus aculeatus</i>
Spot-tailed leporinus	<i>Leporinus melanopleura</i>
Spot-tailed rasbora	<i>Rasbora caudimaculata</i>
Spotted blue eye	<i>Pseudomugil gertrudae</i>
Spotted danio	<i>Danio nigrofasciatus (Brachydanio nigrofasciatus)</i>
Spotted leporinus	<i>Leporinus maculatus</i>
Spotted rasbora	<i>Boraras maculatus (Rasbora maculata)</i>
Strawman	<i>Craterocephalus stramineus</i>
Striped barb	<i>Puntius lineatus</i>
Striped kribensis	<i>Pelvicachromis taeniatus</i>
Striped leporinus	<i>Leporinus striatus</i>
Sucker catfish	<i>Otocinclus flexilis (Otocinclus arnoldi)</i>
Swegles tetra	<i>Hyphessobrycon sweglesi (Megalamphodus sweglesi)</i>
Swordtail	<i>Xiphophorus helleri</i>
Tetra	<i>Hyphessobrycon spp.</i>
Tetra	<i>Hemigrammus spp.</i>
Tetra	<i>Moenkhausia spp</i>
Thick lipped gourami	<i>Trichogaster labiosus (Colisa labiosa)</i>
Thin-banded barb	<i>Puntius semifasciolatus (Capoeta semifasciolatus)</i>
Threadfin rainbowfish	<i>Iriatherina werneri</i>
Tic-tac-toe barb	<i>Puntius ticto</i>

Tiger barb	<i>Puntius tetrazona (Capoeta tetrazona)</i>
Tricolor shark	<i>Balantiocheilos melanopterus</i>
Twig catfish	<i>Farlowella acus</i>
Variegated shark	<i>Labeo variegatus</i>
Western rainbowfish	<i>Melanotaenia australis</i>
Whiptail catfish	<i>Loricaria filamentosa</i>
White cloud mountain minnow	<i>Tanichthys albonubes</i>
Yabby	<i>Cherax destructor</i>
Yellow tail rasbora	<i>Rasbora dusonensis</i>
Yucatan molly	<i>Poecilia velifera</i>
Zebra danio	<i>Danio rerio (Brachydanio rerio)</i>

- 2 This development approval authorises activities within an approved Aquaculture Area of 0.02 hectares as defined within
- 3 Aquaculture authorised under this approval is limited by the following:

Proposal Details: Conduct aquaculture on an approved Aquaculture Area of 0.02 hectares (production area) on a total land area of 7.3 hectares.

Location:

Address:

- 4 ~~This Development Approval is for the period Tuesday 30 June 1998 until Monday 30 September 2013.~~
- 4 DAFF must be informed of any changes to the personal contact details for this Development Approval within 28 working days.
- 5 An Aquaculture Production Return must be submitted to the chief executive of the DAFF, by close of business on 31 July each year during the term of this Development Approval. This includes lodging a "nil return" when no activity has occurred.
- 6 Under this approval aquaculture fisheries resources must not be released into Queensland waters other than those waters approved under this Development Approval.
- 7 Unless otherwise authorised, fisheries resources that are to be aquacultured and subject to this Development Approval must not be sold, traded, or given away for the purposes of using for bait. This includes the use of whole fish and any part of the fish
- 8 Any Development Approval and/or Resource Allocation Authority area, and any associated areas which are used for activities related to the approved aquaculture operation (including processing), and all records relating to the aquaculture activity, must be made available for inspection by an inspector under the Fisheries Act 1994 during reasonable hours.
- 9 The species approved under this Authority must not be brought into Queensland for rearing without a health certificate or Pathology Report, issued by the exporting State or Territory's Fisheries or Veterinary authority certifying the animal's health, which

must include a statement that the specimens originate from:

- a) a hatchery, farm, aquaculture premises or region which is recognised as free from infection by the diseases on the Queensland Declared Disease List based on the requirements listed in the OIE Manual of Diagnostic Tests for Aquatic Animals, current edition (Fourth Edition 2003 or later) for recognition as free from infection; or
- b) a hatchery, farm, aquaculture premises or region in which an appropriate targeted surveillance scheme over two years has been undertaken under the supervision of State or Territory Fisheries agencies or fisheries approved Veterinary authorities and where the requirements for recognition as free from infection by diseases of concern for that species on the OIE Manual of Diagnostic Tests for Aquatic Animals, current edition (Fourth Edition 2003 or later) have been met; or
- c) a single batch of gametes, larvae, fry, post-larvae, spat or early juvenile or adult of a species of finfish, crustaceans or molluscs, isolated from open waters, which has been tested using suitable techniques (refer to DAFF Health Translocation Protocols appropriate for the approved species) to provide evidence that the batch is free from infection by diseases of concern on the Queensland Declared Disease List for that species.

A species of aquatic animal that is not finfish, crustacean or mollusc must not be brought into Queensland for rearing without a specific risk assessment and under a specific translocation protocol for that species

- 10 The species to be farmed under this approval must not be brought into Queensland for rearing unless an "Application to allow the Translocation of Live Aquatic Animals into and within Queensland form"(FDU1398) and Pathology Report has been completed and a DAFF officer has provided written acknowledgement and approval of the "Details of translocation form" and the Pathology Report.

The "Application to allow the Translocation of Live Aquatic Animals into and within Queensland form" and a signed copy of the Pathology Report (as detailed above) must be given to the DAFF office nearest to the approved Aquaculture Area, a minimum of three (3) working days prior to all shipments into Queensland. It is a requirement that the pathology report/health certificate is dated no more than 14 days before shipment date.

After arrival, any unusual clinical signs or mortalities in the stock must be reported immediately to the District Officer of the nearest Queensland Boating & Fisheries Patrol. If directed by a DAFF officer, specimens must be forwarded to a veterinary laboratory as directed by the officer.

- 11 ~~This development Approval authorises the possession and use of "regulated fishing apparatus" under the Fisheries Regulation 1995, Schedule 8, Part 1 and Part 2 (marine), and the Fisheries (Freshwater) Management Plan 1999, Part 6 (freshwater) (excluding an electrofisher) at the approved Aquaculture Area.~~

Insert:

The possession and use of "regulated fishing apparatus" under the Fisheries Regulation 2008, Chapter 4, Part 1, Division 4, Subdivision 1 (freshwater) and Subdivision 2, sections 188 and 189 (marine), are authorised at the approved Aquaculture Area.

- 12 The control over the release of water from all ponds, tanks and drainage systems

within the approved Aquaculture Area must be maintained at all times.

- 13 A perimeter barrier/fence, which is impervious, must be maintained, for all size classes of the species that are approved under this Authority which are capable of overland escape.
- 14 All reasonable and practicable measures to ensure that all waters (ponds, tanks, aquaria etc.) and associated plumbing, pumps etc. on the approved Aquaculture Area must be implemented and secured in such a way as to prevent the escape of any specimens (eggs, juveniles or adults) into Queensland waters.
- 15 Where waters are introduced for the aquaculture of the approved species, the developer must implement all reasonable measures to ensure all waters are sufficiently screened to prevent the movement of any juvenile or adult wild fauna (excepting zooplankton) into the approved Aquaculture Area.
- 16 This Development Approval authorises the purchase of broodstock and/or culture stock from the holder of a commercial fishing boat licence, a Commercial Fisher, or holder of any other authority that allows the sale of the approved species.
- 17 The movement of all barramundi must comply with DAFF 'Health Protocol for the Importation and Movement of Live Barramundi'.
- 18 No organisms originating from the aquaculture of exotic species is permitted to reach Queensland waters (as defined in the *Acts Interpretation Act 1954*).
- 19 No water originating from the aquaculture of exotic species is permitted to reach Queensland waters (as defined in the *Acts Interpretation Act 1954*) with the exception of constructed storage dams located above Q100 limits and used for the purposes of water storage and reuse only.
- 20 All containers used to aquaculture exotic species are to be screened to exclude vertebrate predators (eg. Birds)
- 21 Containers used for the aquaculture of exotic species must be constructed on land that is situated above the 1:100 (Q100) flood level.
- 22 Filters or screens must be installed to ensure that all waters leaving containers used for the aquaculture of exotic species are treated to prevent the escape of eggs, juveniles or adults into Queensland waters (as defined in the *Acts Interpretation Act 1954*).

Sustainable Planning Act 2009—Representation and appeal provisions

The following relevant appeal provisions are provided in accordance with s336(a) of the *Sustainable Planning Act 2009*.

Chapter 6 Integrated development assessment system (IDAS)

Part 8 Dealing with decision notices and approvals

Division 1 Changing decision notices and approvals during applicant's appeal period

360 Application of div 1

This division applies only during the applicant's appeal period.

361 Applicant may make representations about decision

- (1) The applicant may make written representations to the assessment manager about—
 - (a) a matter stated in the decision notice, other than a refusal or a matter about which a concurrence agency told the assessment manager under section 287(1) or (5); or
 - (b) the standard conditions applying to a deemed approval.
- (2) However, the applicant can not make representations under subsection (1)(a) about a condition attached to an approval under the direction of the Minister.

362 Assessment manager to consider representations

The assessment manager must consider any representations made to the assessment manager under section 361.

363 Decision about representations

- (1) If the assessment manager agrees with any of the representations about a decision notice or a deemed approval, the assessment manager must give a new decision notice (the ***negotiated decision notice***) to—
 - (a) the applicant; and
 - (b) each principal submitter; and
 - (c) each referral agency; and
 - (d) if the assessment manager is not the local government and the development is in a local government area—the local government.
- (2) Before the assessment manager agrees to a change under this section, the assessment manager must consider the matters the assessment manager was required to consider in assessing the application, to the extent the matters are relevant.
- (3) Only 1 negotiated decision notice may be given.
- (4) The negotiated decision notice—
 - (a) must be given within 5 business days after the day the assessment manager agrees with the representations; and
 - (b) must comply with section 335; and
 - (c) must state the nature of the changes; and
 - (d) replaces—
 - (i) the decision notice previously given; or
 - (ii) if a decision notice was not previously given and the negotiated decision notice relates to a deemed approval—the standard conditions applying to the deemed approval.
- (5) If the assessment manager does not agree with any of the representations, the assessment manager must, within 5 business days after the day the assessment manager decides not to agree with any of the representations, give written notice to the applicant stating the decision about the representations.

364 Giving new notice about charges for infrastructure

- (1) This section applies if the development approved by the negotiated decision notice is different from the development approved in the decision notice or deemed approval in

a way that affects the amount of an infrastructure charge, regulated infrastructure charge or adopted infrastructure charge.

- (2) The local government may give the applicant a new infrastructure charges notice under section 633, regulated infrastructure charges notice under section 643 or adopted infrastructure charges notice under section 648F to replace the original notice.

366 Applicant may suspend applicant's appeal period

- (1) If the applicant needs more time to make the representations, the applicant may, by written notice given to the assessment manager, suspend the applicant's appeal period.
- (2) The applicant may act under subsection (1) only once.
- (3) If the representations are not made within 20 business days after the day written notice was given to the assessment manager, the balance of the applicant's appeal period restarts.
- (4) If the representations are made within 20 business days after the day written notice was given to the assessment manager—
 - (a) if the applicant gives the assessment manager a notice withdrawing the notice under subsection (1)—the balance of the applicant's appeal period restarts the day after the assessment manager receives the notice of withdrawal; or
 - (b) if the assessment manager gives the applicant a notice under section 363(5)—the balance of the applicant's appeal period restarts the day after the applicant receives the notice; or
 - (c) if the assessment manager gives the applicant a negotiated decision notice—the applicant's appeal.

Chapter 7 Appeals, offences and enforcement

Part 1 Planning and Environment Court

Division 8 Appeals to court relating to development applications and approvals

461 Appeals by applicants

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

462 Appeals by submitters—general

- (1) A submitter for a development application may appeal to the court only against—
 - (a) the part of the approval relating to the assessment manager's decision about any part of the application requiring impact assessment under section 314; or
 - (b) the part of the approval relating to the assessment manager's decision under section 327.
- (2) To the extent an appeal may be made under subsection (1), the appeal may be against 1 or more of the following—
 - (a) the giving of a development approval;
 - (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 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.
- (3) 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.

Division 11 Making and 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.

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.

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.

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.