



Department of Infrastructure,
Local Government and Planning

Our reference: SPD-0216-024934
Your reference: 16025
Assessment manager: D-R705-2008

30 March 2016

JHG Nominees Pty Ltd
C/- Vision Surveys Pty Ltd
PO Box 1337
Rockhampton Qld 4700

Attention: Marcus Fossey

Dear Sir/Madam,

Changed concurrence agency response (with conditions)

229-237 German Street, Norman Gardens (Lot 2 on RP614467)

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

The Department of Infrastructure, Local Government and Planning received representations under section 369 of the *Sustainable Planning Act 2009* on 8 March 2016 for the original decision described below.

Applicant details

Applicant name: JHG Nominees Pty Ltd
Applicant contact details: C/- Vision Surveys Pty Ltd
PO Box 1337
Rockhampton Qld 4700

Site details

Street address: 229-237 German Street, Norman Gardens
Lot on plan: Lot 2 on RP614467
Local government area: Rockhampton Regional Council

Application details

Proposed development: Permissible change to a development permit for Reconfiguring a Lot (one lot into thirty seven lots and reserve/s for drainage)

Nature of the changes

The nature of the changes agreed to are:

1. Changes to approved plans to reflect amendments in staging.

Original concurrence agency response

Date of original concurrence agency response: 11 June 2008 (Department of Natural Resources and Water)

Original concurrence agency response details: Approved subject to conditions

Changed concurrence agency response

Date of changed concurrence agency response: 30 March 2016

Changed concurrence agency response details: Approved subject to changed conditions

Conditions

This approval is subject to:

- the changed concurrence agency 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 Act).

Copies of the relevant appeal provisions are attached.

Changed approved plans and specifications

Copies of the following changed approved plans and specifications are attached:

Drawing/Report Title	Prepared by	Date	Reference no.	Version/Issue
Aspect of development: Permissible change to a development permit for Reconfiguring a Lot (one lot into thirty seven lots and reserve/s for drainage)				
Proposed Survey of Lots 1-35 & 101 Cancelling of Lot 2 on RP614467 German Street ROCKHAMPTON Proposal plan	Schlencker Surveying Vision Surveys Queensland	6 June 2008 8 March 2016	2112-07 14227-PP-01 Sheets 1-3 of 5	Revision H Revision B

For further information please contact Rebecca Curtis, Planning Officer on (07) 4924 2915 or via email at RockhamptonSARA@dilgp.qld.gov.au who will be pleased to assist.

Yours sincerely,



Anthony Walsh
A/Regional Director
Northern Region

enc: Changed decision notice
Attachment 1 - Changed Concurrence agency conditions
Attachment 2 – Changed approved plans and specifications
Attachment 3 - SPA appeal provisions

cc: Rockhampton Regional Council, enquiries@rrc.qld.gov.au

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Attachment 1 - Changed concurrence agency conditions

No.	Conditions of development approval	Condition timing
Aspect of development: Permissible change to a development permit for Reconfiguring a Lot (one lot into thirty seven lots and reserve/s for drainage)		
<i>Clearing vegetation</i> - Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i> , the chief executive administering the Act nominates the Director-General of the Department of Natural Resources and Mines to be the assessing authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	Any native vegetation may only be cleared for urban purposes.	At all times
2.	<p>Amended 30 March 2016</p> <p>The development is only approved for the plan of "Proposed Survey of Lots 1-35 & 101 Cancelling of Lot 2 on RP614467 German Street ROCKHAMPTON", Ref. 2112-07 Rev. H, and Dated on 06/06/08 by SCHLENCKER SURVEYING.</p> <p>The development must be carried out generally in accordance with the following plans:</p> <ul style="list-style-type: none"> • 'Proposal plan' prepared by Vision Surveys Queensland, Referenced. 14227-PP-01 Sheets 1-3 of 5 (Revision B), and dated 8 March 2016. 	Prior to submitting the Plan of Survey to the local government for approval and to be maintained at all times
3.	In the absence of an approval, clearing other than for infrastructure associated with the RaL is to occur only where exempt by Schedule 8 of the <i>Integrated Planning Act 1997</i> .	At all times

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Attachment 2 – Changed plans and specifications

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STAGING DETAILS

Stage 1A	Lot 35 & Balance Lot
Stage 1B	Lots 28-34 & Balance Lot
Stage 2	Lots 1-4, 17-27, 36 & Balance Lot
Stage 3	Lots 5-16

NOTES:

1. Sewerline, powerline & U/G waterline services have been derived from local records.
2. Location of Q100 drainage easements shown are indicative only.
3. See Sheets 4-5 for pavement information.

PLANS AND DOCUMENTS
 Referred to in the
DEVELOPMENT APPROVAL

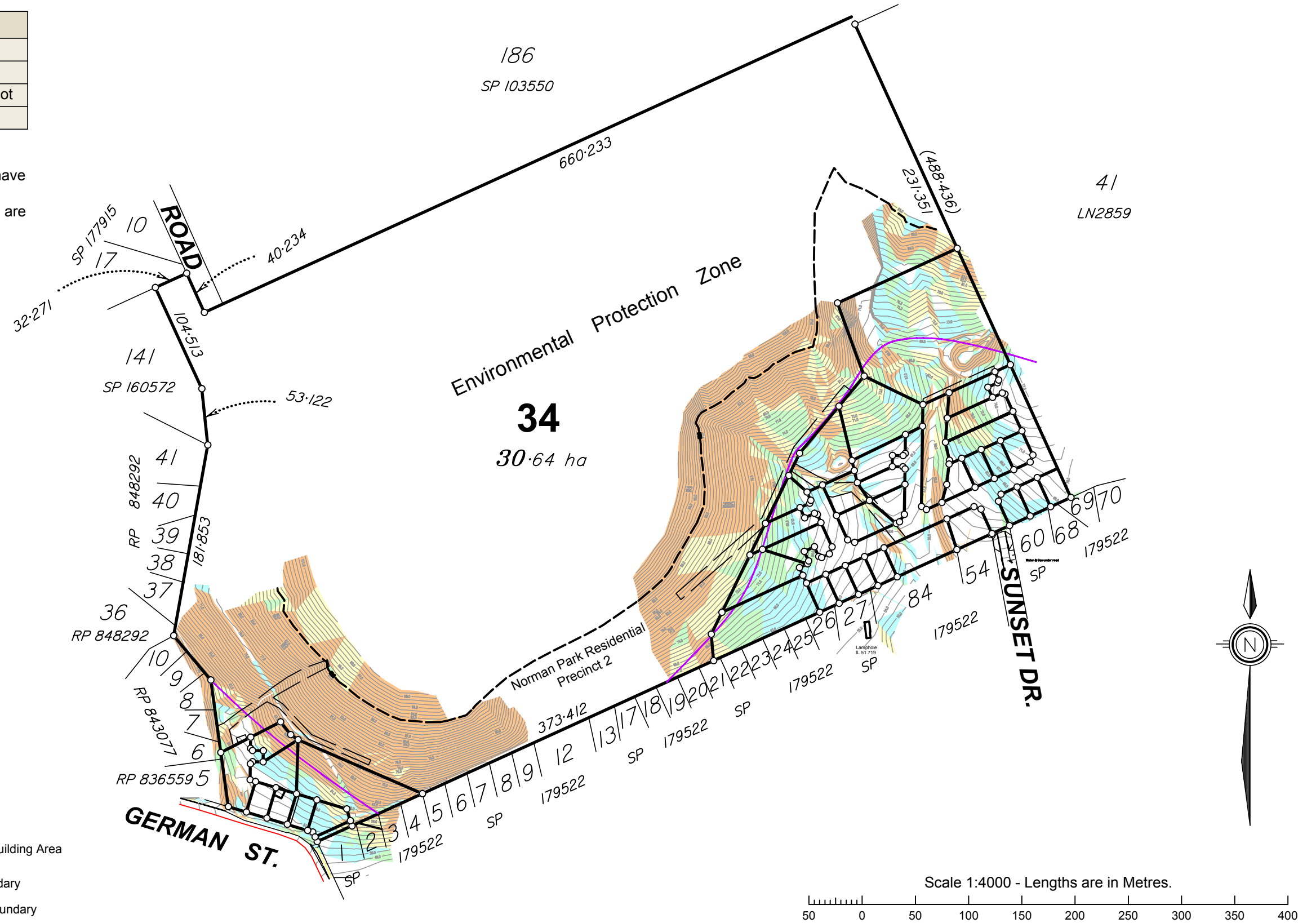
 Date: 30/03/2016

QUEENSLAND GOVERNMENT

SLOPE LEGEND

- 0%–15% Slope
- 15%–20% Slope
- 20%–25% Slope
- 25%–30% Slope
- > 30% Slope

- ABA Available Building Area
- 92.0 Zone Boundary
- Precinct Boundary



Rev	Description	Drawn	Checked	Date
B	Updated lot layout, various other amendments.	AD	BF	8/03/2016
A	Original Issue	AD	BF	19/01/2016

This plan was prepared as a proposed subdivision and should not be used for any other purpose. The dimensions, areas and total number of lots shown hereon are subject to field survey and also to the requirements of Council and any other authority which may have requirements under any relevant legislation. In particular, no reliance should be placed on the information on this plan for any financial dealing involving the land. This note is an integral part of the plan.

PROPOSAL PLAN

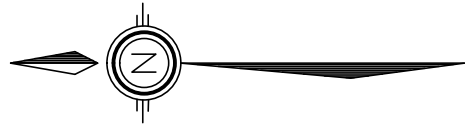
PROJECT: Proposed Development	
LOCATION: German Street, Norman Gardens	
Real Property Description: Lot 2 on RP614467	
CLIENT: Tony Grieve	
Parish:	Horiz. Datum: MGA Zone 56
County:	Vert. Datum: AHD
Local Authority: Rockhampton Regional	Contour Interval: N/A



Airlie Beach | Mackay | Townsville | Rockhampton
 07 4948 3781 | 07 4951 0768 | 07 4721 0410 | 07 4927 1744
 Email: admin@visionsurveysqld.com.au

Scale: 1:4000 @ A3	Drawing No: 14227-PP-01
Drawn: KB / AR / AD	Sheet: 1 of 5
Surveyor: N/A	Revision: B

Slope Legend	
	0%–15% Slope
	15%–20% Slope
	20%–25% Slope
	25%–30% Slope
	> 30% Slope

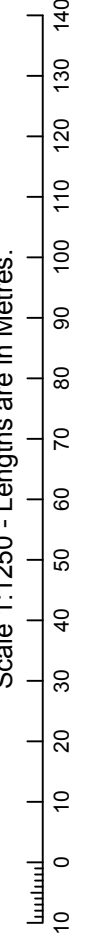
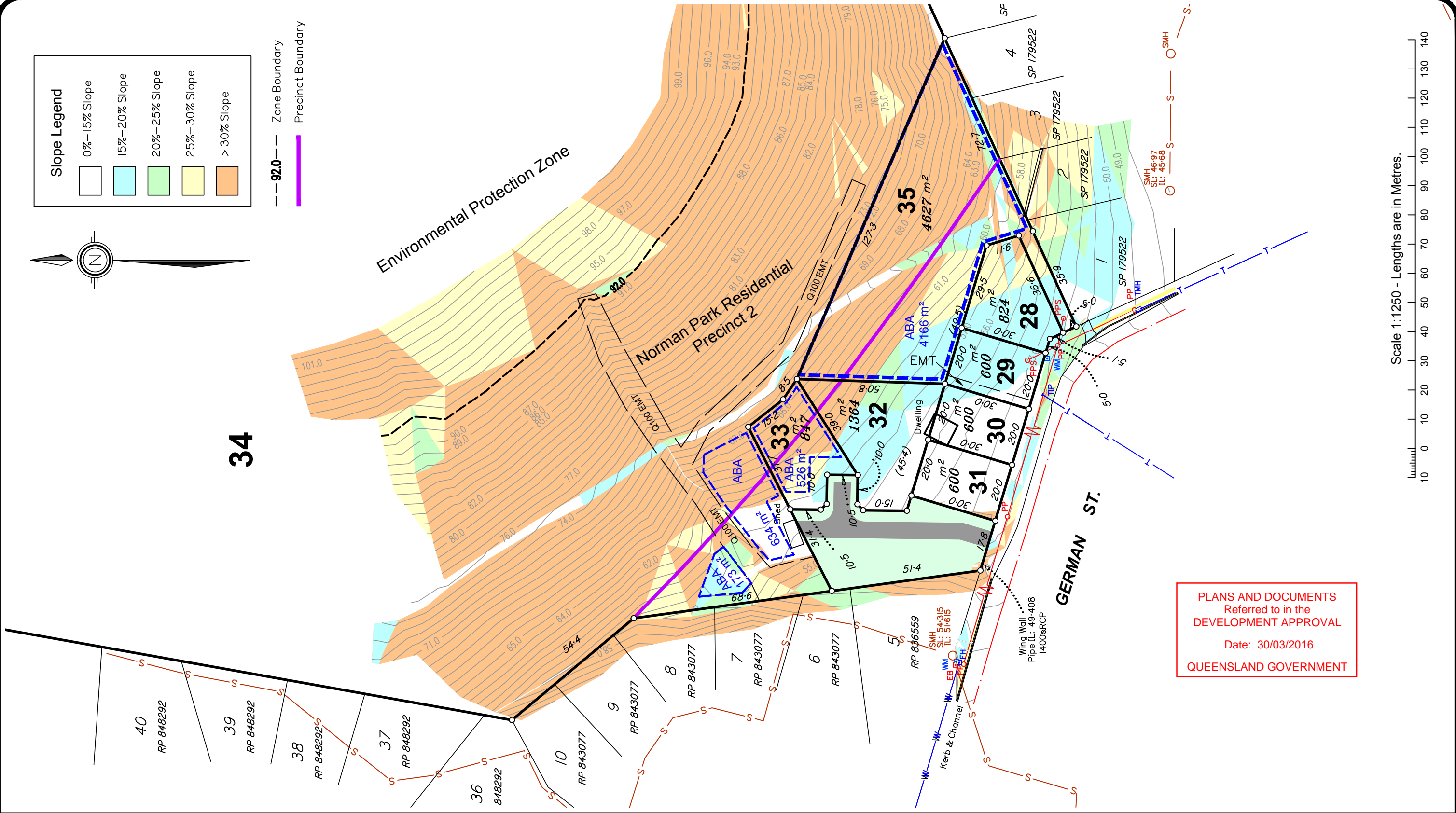


--- 92.0 --- Zone Boundary
 --- Precinct Boundary

Environmental Protection Zone

Norman Park Residential Precinct 2

GERMAN ST.



PLANS AND DOCUMENTS
 Referred to in the
 DEVELOPMENT APPROVAL
 Date: 30/03/2016
 QUEENSLAND GOVERNMENT

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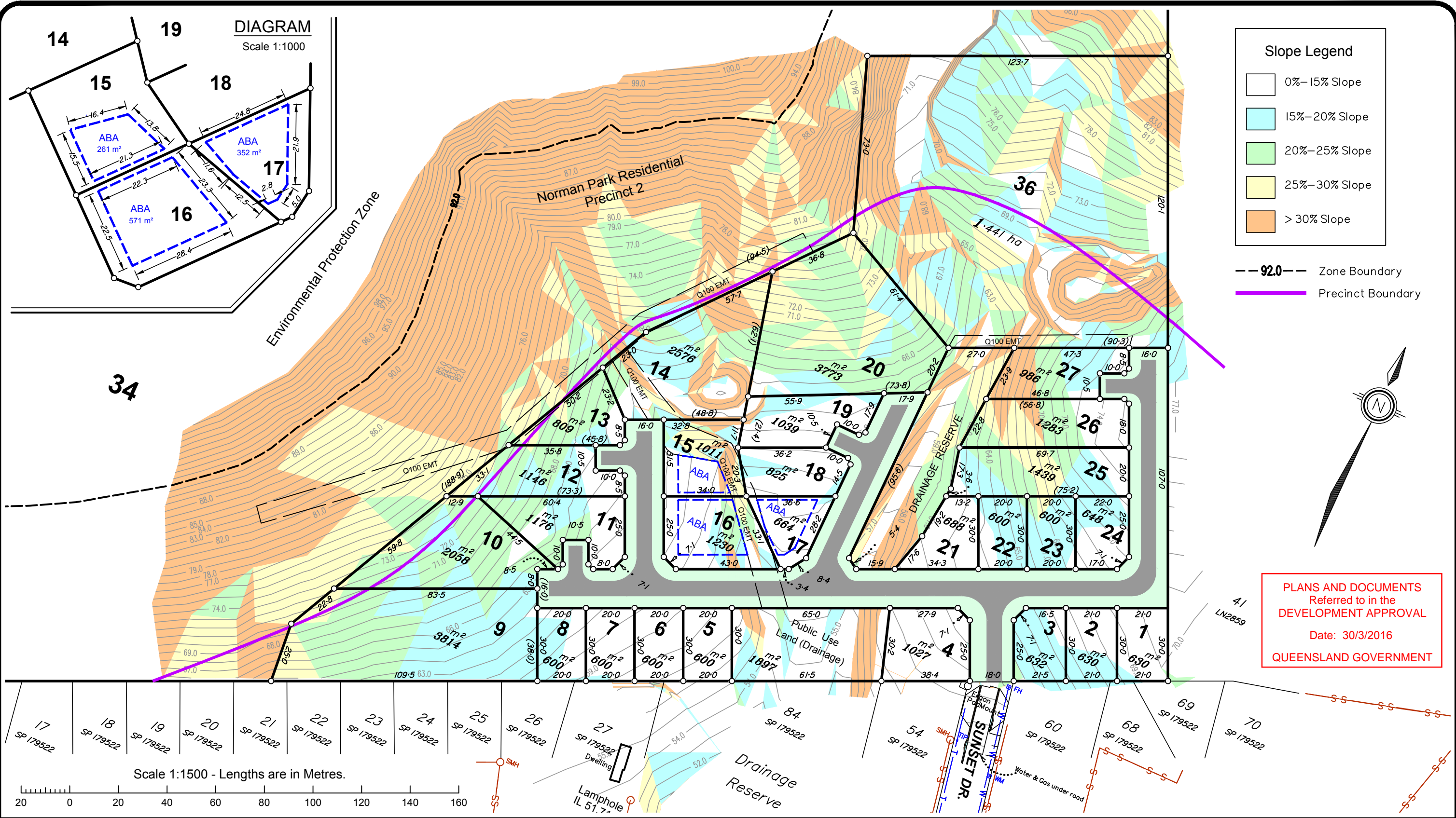
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VISION SURVEYS QUEENSLAND

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Scale: 1:1250 @ A3	Drawing No: 14227-PP-01
Drawn: KB / AR / AD	Sheet: 2 of 5
Surveyor: N/A	Revision: B



Rev	Description	Drawn	Checked	Date
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A	Original Issue	AD	BF	19/01/2016

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Attachment 3 - SPA Appeal Provisions

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)
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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.