

Officer: Alberto Mantilla
Contact: 07 3829 8999
Our Reference: OPW22/0034

05 January 2024

Redland City Council Infrastructure and Operations
C/- Water Technology Pty Ltd
PO Box 5700
WEST END QLD 4101

Dear Sir/Madam

Decision Notice
Planning Act 2016

The development application for a Operational Works for Prescribed Tidal Works at the below location has been assessed and after considering all relevant matters, a **Preliminary Approval** has been granted subject to conditions. The decision was made on 4 January 2024 by Council's delegate.

The following schedule provides all the relevant details.

APPLICATION DETAILS



Application number:	OPW22/0034
Proposal:	Prescribed Tidal Works
Primary street address:	1 Ballow Street, Amity
Related street addresses	9a, 11, 15, 17, 19 and 33 Ballow Street, Amity, 1, 1a, 2, 4 and 8 Birch Street, Amity, 8, 9a, 9b and 11 Cook Street, Amity, 1 and 4 Kindara Street, Amity, 3, 5, 7, 9 and 9a Millers Lane, Amity, 3 and 4 Mirimar Street, Amity, 6, 11 and 13 Toompany Street, Amity, 1A Llewellyn Street, Amity and Old Ballow Street, Amity
Primary Real property description:	Lot 7 on A 3395

Real property description:	Lots 9-10, 26, 29 on A3395, Lot 1 on SP307049, Lots 9 and 12 on A3393, Lot 16 on A33931, Lot 13 on A33910, Lots 51-52 on RP905457, Lots 1-4 on RP880797, Lots 16 and 17 on RP126450, Lots 505-507, 801, 805 and 806 on A3392, Lot 2 on SP307049, Lots 519-522 on A33912, Lot 3 on SP283824, Lot 1 on RP78617, Lot 2 on RP79135, Lot 1 on SP251716, Lots 6, 25 and 30 on AP14321 and Lots 508-509 on AP14322
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APPROVAL TYPE

	Development Permit	Preliminary Approval
Building works assessable against the planning scheme	<input type="checkbox"/>	<input type="checkbox"/>
Operational works	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Reconfiguring a lot	<input type="checkbox"/>	<input type="checkbox"/>
Material change of use	<input type="checkbox"/>	<input type="checkbox"/>

REFERRAL AGENCIES

Referral Agency	Advice or Concurrence	Address
Department of State Development, Infrastructure, Local Government and Planning	Concurrence	PO Box 3290 Australia Fair SOUTHPORT QLD 4215  07 5644 3210  SEQSouthPlanning@dsdilgp.qld.gov.au

CONDITIONS AND ADVICE

1. In order to upgrade to Development Approval, provide detailed design of the flow slide barrier protection signed by RPEQ with appropriate qualification (professional, trained, skilled and with experience in coastal protection) in accordance with the Coastal Protection and Management Regulation 2017 Schedule 3, Part 3 – PO's 7.1, 7.2, 7.3, 8.1, 9.1, 10.1, 12.1, 12.2, 12.3, 12.4, 12.5, 12.6, 12.7, 12.8, 19.1, 19.2, 19.3, 19.4. The information must include the following: survey, layout of works, level sections, rock top up area, stockpiles, access for construction, maintenance, and safety requirements.

Note: This detail should also demonstrate how the structure is managed with ongoing top up of rocks from reserve stockpiles as required after each flow slide event or following any subsidence or erosion of rock.

The plans are to generally be in accordance with the plans referred to in Table 1.

Plan/document title	Reference number	Prepared by	Plan/doc. date
COVER SHEET	WT-ZZ-XX-DR-C-0000/P2	Water Technology	20/12/2022
OVERLAY MAP	WT-ZZ-XX-DR-C-0001/P2	Water Technology	20/12/2022
ZONE 1	WT-ZZ-XX-DR-C-0002/P2	Water Technology	20/12/2022
ZONE 2	WT-ZZ-XX-DR-C-0003/P2	Water Technology	20/12/2022
ZONE 3	WT-ZZ-XX-DR-C-0004/P2	Water Technology	20/12/2022
ZONE 4	WT-ZZ-XX-DR-C-0005/P2	Water Technology	20/12/2022
ZONE 5	WT-ZZ-XX-DR-C-0006/P2	Water Technology	20/12/2022
ZONE 6	WT-ZZ-XX-DR-C-0007/P2	Water Technology	20/12/2022
ZONE 7	WT-ZZ-XX-DR-C-0008/P2	Water Technology	20/12/2022
ZONE 8	WT-ZZ-XX-DR-C-0009/P2	Water Technology	20/12/2022
ZONE 9	WT-ZZ-XX-DR-C-0010/P2	Water Technology	20/12/2022
ZONE 10	WT-ZZ-XX-DR-C-0011/P2	Water Technology	20/12/2022
ZONE 11	WT-ZZ-XX-DR-C-0012/P2	Water Technology	20/12/2022
ZONE 12	WT-ZZ-XX-DR-C-0013/P2	Water Technology	20/12/2022
ZONE 13	WT-ZZ-XX-DR-C-0014/P2	Water Technology	20/12/2022
ZONE 14	WT-ZZ-XX-DR-C-0015/P2	Water Technology	20/12/2022
ZONE 15	WT-ZZ-XX-DR-C-0016/P2	Water Technology	20/12/2022
ZONE 16	WT-ZZ-XX-DR-C-0017/P2	Water Technology	20/12/2022
ZONE 17	WT-ZZ-XX-DR-C-0018/P2	Water Technology	20/12/2022
TYPICAL CROSS SECTION A	WT-ZZ-XX-DR-C-0019/P2	Water Technology	20/12/2022
TYPICAL CROSS SECTION B	WT-ZZ-XX-DR-C-0020/P2	Water Technology	20/12/2022
TYPICAL CROSS SECTION C	WT-ZZ-XX-DR-C-0021/P2	Water Technology	20/12/2022

Table 1: Approved plans and documents

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2. The currency period of this approval is for 4 years starting the date of the decision notice.

REFERRAL AGENCY CONDITIONS

- **Queensland Department of State Development, Infrastructure, Local Government and Planning (DSDILGP)**
Refer to the attached correspondence from the DSDILGP dated 16/02/2023 (DSDILGP reference 2204-28313 SRA).

ASSESSMENT MANAGER ADVICE

- **Coastal processes and sea level rise**
Please be aware that development approvals issued by Redland City Council are based upon current lawful planning provisions, which do not necessarily respond immediately to new and developing information on coastal processes and sea level rise. Independent advice about this issue should be sought.
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- **Fire ants**
Areas within Redland City have been identified as having an infestation of the Red Imported Fire Ant (RIFA). It is recommended that you seek advice from the Department of Agriculture Fisheries (DAF) in regards to the movement of extracted or waste soil, retaining soil, turf, pot plants, plant material, baled hay/straw, mulch or green waste/fuel into, within and/or out of the City from a property inside a restricted area. Further information can be obtained from the DAF website [National Fire Ant Eradication Program \(fireants.org.au\)](http://fireants.org.au)
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- **Hours of construction**
Please be aware that you are required to comply with the *Environmental Protection Act* in regards to noise standards and hours of construction.
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- **Workplace health and safety**
Please be aware that you are required to comply with the *Work Health and Safety Act 2011* in regards to all works associated with this development approval. If the proposed works are a Notifiable Project, Council requires a copy of the application to be provided for record purposes.
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- ***Environmental Protection Act 1994***
Please be aware this approval does not remove obligations to comply with any of the requirements of the *Environmental Protection Act 1994*, including complying with the General Environmental Duty, section 440ZG and the Duty to Notify.
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- **Release of water contaminants**

Please be aware that prescribed water contaminants must not be released into waters. Refer to the *Environmental Protection Act 1994* for further information on the release of prescribed water contaminants.

STATEMENT OF REASONS

NOTICE ABOUT DECISION – STATEMENT OF REASONS

Assessment Benchmarks:	The proposed development was assessed against the following assessment benchmarks: <ul style="list-style-type: none">• Coastal Regulation Schedule 3
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The key issues identified in the assessment were:

- Design, construction and safety – revetments and seawalls

For these issues, the development meets the specific or overall outcomes, which therefore complies with the code as outlined below.

Issue	Performance assessment
Design, construction and safety – revetment wall and seawalls	P7.1 to P7.3, P8.1, P9.1, P10.1, P12.1 to P12.8 and P19.1 to P19.4

The development application is approved as it complies with all of the relevant assessment benchmarks or can be made to comply through the imposition of conditions on the approval.

NEGOTIATION OF A DECISION

You are entitled to make representations to Council about this decision in accordance with Section 75 of the *Planning Act 2016*.

DEEMED APPROVAL (UNDER S64)

The approval of this application has not been issued under section 64 of the *Planning Act 2016* (PA).

RIGHTS OF APPEAL

A copy of the rights of appeal under Section 229 and Section 230 of the *Planning Act 2016* for applicants is appended, together with Chapter 6, Part 1 of the Act which deals with the making of an appeal to the Planning and Environment Court.

A submitter for a development application may also appeal to the Planning and Environment Court. Information about submitter appeal rights for the Planning and Environment Court is set out in Sections 229, 230 and 231 of the *Planning Act 2016*.

Applicants and submitters may also have a right to appeal to the Building and Development Dispute Resolution Committee. For further details, please refer to the *Planning Act 2016* Chapter 6, Part 2.

OTHER DETAILS

Electronic copies of this Decision Notice are also available online at www.redland.qld.gov.au under 'Online Services' Development.i or at Council offices.

If you have any further queries in relation to the above, please do not hesitate to contact Alberto Mantilla on (07) 3829 8999.

Yours sincerely



Juan F Pardo
Team Leader Engineering Assessment
City Planning & Assessment
Redland City Council

Encl Copy of the rights of appeal
 Approved plans

Planning Act 2016; Chapter 6 Dispute Resolution; Part 1 Appeal rights (s229 to 232)

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the appellant); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The ***appeal period*** is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
 - (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and

Appeal rights provided for under the *Planning Act 2016*

- (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The **service period** is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department’s website for this purpose.

231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
decision includes—
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.**non-appealable**, for a decision or matter, means the decision or matter—
 - (a) is final and conclusive; and
 - (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

Planning Regulation 2017 Schedule 1 Appeals (for section 229 of the Act)

1 Appeal rights and parties to appeals

- (1) Table 1 states the matters that may be appealed to—
 - (a) the P&E court; or
 - (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
 - (a) the refusal, or deemed refusal of a development application, for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (b) a provision of a development approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (c) if a development permit was applied for—the decision to give a preliminary approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (d) a development condition if—
 - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and
 - (ii) the building is, or is proposed to be, not more than 3 storeys; and
 - (iii) the proposed development is for not more than 60 sole-occupancy units; or
 - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
 - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
 - (g) a matter under this Act, to the extent the matter 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
 - (h) a decision to give an enforcement notice—
 - (i) in relation to a matter under paragraphs (a) to (g); or
 - (ii) under the Plumbing and Drainage Act; or
 - (i) an infrastructure charges notice; or
 - (j) the refusal, or deemed refusal, of a conversion application; or
 - (l) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
 - (a) for a matter in subsection (2)(a) to (d)—
 - (i) a development approval for which the development application required impact assessment; and
 - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
 - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.
- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
 - (a) column 1 states the appellant in the appeal; and
 - (b) column 2 states the respondent in the appeal; and
 - (c) column 3 states the co-respondent (if any) in the appeal; and
 - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.
- (8) In this section—

storey see the Building Code, part A1.1.

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
1. Development applications For a development application other than a development application called in by the Minister, an appeal may be made against- <ul style="list-style-type: none"> (a) the refusal of all or part of the development application; or (b) the deemed refusal of the development application; or (c) a provision of the development approval; or (d) if a development permit was applied for—the decision to give a preliminary approval. 			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	<ul style="list-style-type: none"> 1 A concurrence agency that is not a co-respondent 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application