



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

Our reference: SDA-0214-008018

Date: 16/04/2014

Mr Scott Alexander Harris
9 Main Street
Strathmore Station
Georgetown, Qld, 4871

Dear Mr Harris

Notice of decision

Kingvale Station – Lot 1 on KG3

The Department of State Development, Infrastructure and Planning advises that the development application described below has been approved subject to conditions.

Applicant details

Applicant name:	Scott Alexander Harris
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Site details

Real property description:	Lot 1 on KG3
Local government area:	Cook Shire Council

Application details

Proposed development:	Development permit for operational work –vegetation clearing for the purposes of high value agriculture (dryland sorghum)
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A decision notice for this application is attached.

Copies of the following documents are also attached:

- # relevant appeal provisions in the *Sustainable Planning Act 2009*
- # any plans and specifications approved in relation to the decision notice.

If you require any further information, please contact Joanne Manson, A/Principal Planning Officer, Regional Services – Far North Queensland on (07) 4048 1498 who will be pleased to assist.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Darren Cleland', written in a cursive style.

Darren Cleland
Regional Director

enc: Decision notice
Approved plans and specifications
Attachment 1—Assessment manager conditions and general advice
SPA appeal provisions

Decision notice(Given under section 334 of the *Sustainable Planning Act 2009*)**Applicant details**

Applicant name: Scott Alexander Harris
 Applicant contact details: 9 Main Street
 Strathmore Station
 Georgetown , Qld, 4870

Application details

Level of assessment: Code assessment
 Properly made date: 10 March 2014

Site details

Address: Kingvale Station
 Real property description: Lot 1 on KG3
 Site area (clearing): 2 863 hectares
 Name of owner: Cook Shire Council

Decision

Date of decision: 16 April 2014
 Decision details: Approved subject to conditions

Referral agencies

There were no referral agencies for this application.

Conditions

This approval is subject to:

- # the assessment manager conditions in Attachment 1
- # there are no concurrence agency conditions for this approval.

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*.

Aspects of development and development approval granted

Nature of Development	Approval Type	Brief Description of Proposal	Level of Assessment
Operational Work	Development permit	Vegetation clearing for the purpose of high value agriculture (dryland sorghum)	Code Assessment

Further development permits or compliance permits

Please be advised that the following development permits or compliance permits are required to be obtained before the development can be carried out:

- 1 Not applicable

Self-assessable codes

Please be advised that the following codes may need to be complied with for self-assessable development related to the approved development:

1 Not applicable

Compliance assessment

Compliance assessment is required under chapter 6, part 10 of the *Sustainable Planning Act 2009* for the following documents or works in relation to the development:

1. Not applicable

Properly made submissions

Not applicable—No part of the application required impact assessment.

Findings on material questions of fact

- # The development application was properly made by the Department of State Development, Infrastructure and Planning on 10 March 2014.
- # The development application contained proposal details, a suitably qualified person report (Spies, 2014) and supporting information which the department relied on in making its assessment.
- # The proposed development seeks to clear vegetation for the purposes of high value agriculture (dryland sorghum crops).
- # The Department of Natural Resources and Mines determined the proposed development is for a relevant purpose in accordance with Section 22A of the *Vegetation Management Act 1999*.
- # The proposed development is considered to meet or proposes acceptable outcomes that meet with the performance outcomes specified in the State Development Assessment Provisions being a statutory planning instrument.

Evidence or other material on which the findings were based

- # All supporting material submitted by the applicant.
- # The development triggers referral agency assessment under the *Sustainable Planning Regulation 2009*.
- # The department undertook an assessment in accordance with the provisions of Section 282 of the *Sustainable Planning Act 2009*.
- # State Development Assessment Provisions; published by the Department of State Development, Infrastructure and Planning version 1.1, dated 22 November 2013 (in effect 2 December 2013) – Module 8.
- # State Assessment and Referral Agency mapping.
- # State Planning Policy December 2013 mapping.
- # Biggs, AJW, Philip, SR 1995a, Soils of Cape York Peninsula, online resource, Queensland Department of Primary Industries, Mareeba.
- # Biggs, AJW, Philip, SR 1995b, Soil survey and agricultural suitability of Cape York Peninsula, CYPLUS land use strategy, online resource, Department of Primary Industries.
- # Bioregion layer, subject lot is contained within a non-coastal bioregion (subregion is Laura Lowlands, Battle Camp Sandstones and Coen Yambo Inlier), see SDAP module 8.4 glossary of terms.
- # Bureau of Meteorology 2014, Rainfall statistics for all years: Pinnacle Station, (www.bom.qld.gov.au) (accessed 13/02/2014).

- # *Department of Natural Resources and Mines 1990, Guidelines for Agricultural Land Evaluation in Queensland, Queensland Government, Coorparoo.*
- # Horne, K 2010, 'Better business feature: six principles for freeing up cash in your business', *Irrigation Australia: The Official Journal of Irrigation Australia*, vol. 25, no. 3, Informit database.
- # Horne, K 2012, Lending to Australian agriculture: financing the farm', viewed 13 November 2013, www.daff.gov.au.
- # *Land Protection (Pest and Stock Route Management) Act 2002.*
- # McDonald, RC, Isbell, RF, Speight, JG, Walker, J & Hopkins MS 1998, *Australian soil and land survey: field handbook*, CSIRO, Canberra.
- # McKenzie, NJ 2008, *Guidelines for surveying soils and land resources*, 2nd edn, CSIRO Publishing, Collingwood.
- # National Australia Bank (NAB) 2013, 'Agribusiness', viewed 13 November 2013, www.nab.com.au.
- # *SA Harris family trust*, business plan for Strathmore Station, no date.
- # *Salinity Management Handbook* (Department of Natural Resources, 1997).
- # *Salinity Management Handbook* (online resource: Department of Natural Resources, 2nd edn, 2011).
- # Shapefiles provided by P Spies, Pinnacle Pocket Consulting.
- # SIRWEB VM databases (Wetland, watercourses, essential habitat, slope, relief).
- # SmartMap Information Services.
- # Spies P 2014, 'Proposed dryland cropping of sorghum and forage sorghum for green chop at Kingvale Station west of Laura', Consultant report, dated 5 February 2014.

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.

Relevant period for the approval

This development approval will lapse if development is not started within the relevant periods stated in section 341 of SPA; being two (2) years starting the day the approval takes effect.

Native title considerations

No requirements

Approved plans and specifications**Copies of the following approved plans and specifications are attached:**

Drawing or document	Reference no.	Version	Date
Referral Agency Response (Vegetation) Response Plan	2014/000805	N/A	3 March 2014
Proposed Dryland Cropping of Sorghum and Forage Sorghum for green chop at Kingvale Station west of Laura, prepared by Peter Spies, Pinnacle Pocket Consulting	N/A	N/A	5 February 2014

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Attachment 1—Assessment manager conditions

No.	Conditions of development approval	Condition timing
Development permit for operational work – clearing vegetation for the purposes of high value agriculture		
Vegetation clearing - Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i> , the chief executive administering the <i>Sustainable Planning Act 2009</i> nominates the Director-General of the Department of Natural Resources and Mines to be the assessing authority for the development to which the development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	Vegetation clearing must only occur for high value agriculture to establish dryland sorghum crops within the area identified as Area A on the accompanying Referral Agency (Vegetation) Response Plan 2014/000805, dated 3 March 2014.	From the date this approval takes effect and to be maintained at all times.
2.	Vegetation clearing debris must not be pushed into gullies, watercourses, other drainage lines or waterlogged areas.	From the date this approval takes effect and to be maintained at all times.
3.	Where contractors, employees, subcontractors, agents or any other person, that is not the applicant or the permittee, are to be engaged or employed to carry out the clearing of any vegetation under this development permit, the permittee is to provide them with a copy of this permit, including the attached conditions and attached Referral Agency (Vegetation) Response Plan 2014/000805, dated 3 March 2014 and ensure that they are aware of what clearing is authorised by this development permit.	From the date this approval takes effect and to be maintained at all times.
4.	Vegetation clearing must be undertaken in accordance with erosion management actions outlined in the document 'Proposed dryland cropping of sorghum and forage sorghum for green chop at Kingvale Station west of Laura', prepared by Consultant Peter Spies, dated 5 February 2014.	From the date this approval takes effect and to be maintained at all times.

General advice

1.	These conditions do not prevent vegetation being cleared for a purpose prescribed in Schedule 24 of the Sustainable Planning Regulation 2009 or if cleared in accordance with any subsequent development approval.
2.	Approval under the <i>Forestry Act 1959</i> may be required if the clearing involves commercial timber species. The Forestry unit at the Department of Agriculture, Fisheries and Forestry can be contacted on 13 25 23 to discuss the process.

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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
 - (iii) 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.