



GPC Document No. 1371063
GPC Ref: DA2017/06
Your Ref.:

Gladstone Ports Corporation
Growth, Prosperity, Community.

9 November 2017

Cedars Rest Pty Ltd trading as Australian Seafood.com
266 Cedars Road
SOUTH BINGERA QLD 4670

Email: denis.obrien@australianseafood.com

Dear Mr Obrien,

DECISION NOTICE – APPROVAL WITH CONDITIONS – DA2017/06

(GIVEN UNDER S63 PLANNING ACT 2016 AND THE PROVISIONS OF PORT OF BUNDABERG LAND USE PLAN 2009)

1. Application Details

This development application was properly made to the Gladstone Ports Corporation Limited on **28 September 2017**.

Application Number:	DA2017/06
Applicant Name:	Geoff and Susan Rodgers Cedars Rest Pty Ltd trading as Australian Seafood.com
Applicant Contact Details:	Mr Denis Obrien Cedars Rest Pty Ltd trading as Australian Seafood.com 266 Cedars Road SOUTH BINGERA QLD 4670 Email: denis.obrien@australianseafood.com
Approvals Sought:	Material Change of Use for smoked seafood production
Details of Proposed Development:	Smoked seafood production and distribution
Location Street Address:	145 Buss Street, Bundaberg Qld 4670
Location Real Property Description:	Lease AA, Part of Lot 501 on SP279707
Land Owner:	Gladstone Ports Corporation Limited
Present Zoning & Precinct	Strategic Port Land – Port Industry Precinct

2. Details Of Proposed Development

Smoked seafood production and distribution.

3. Details Of Decision

This development application was **decided** on **9 November 2017**.

This development application is **approved in full with conditions**. These conditions are set out in Attachment 1 and are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

4. Details Of Approval

This development approval is a **Development Permit** given for:

- a) Material Change of Use that is consistent with Port of Bundaberg Land Use Plan 2009 (*Planning Regulation 2017* reference Schedule 10, part 13, division 5); and
- b) Operational Works (*Port of Bundaberg Land Use Plan 2009*).

5. Conditions

This development approval is subject to the conditions in Attachment 1 - Part 1.

6. Further Development Permits

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

1. Building permits – as required.

7. Properly made submissions

Not applicable – No part of the application required public notification.

8. Approved Plans and Specifications –

Copies of the following plans, specifications and/or drawings are enclosed in **Attachment 2**:

Drawing/report title	Prepared by	Date	Reference no.	Version
Aspect of development: Operational Works				
Australian Seafood – Port Code Earthworks Code Application	AKEarth	31/01/2017	HP0029	2

9. Currency Period for the Approval

This development approval will lapse at the end of the periods set out below:

- For Material Change of Use this approval lapses 6 years after this approval decision date – reference section 85 of the *Planning Act 2016*;

10. Rights of Appeal

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

Attachment 3 is an extract from the *Planning Act 2016* that sets down the applicant's appeal rights and the appeal rights of a submitter.

For further information please contact Sarah Hunter, Senior Planning Officer, on 07 4976 1287 or via email hunters@gpcl.com.au.

Yours sincerely



Sarah Hunter
Senior Planning Officer
9 November 2017

Cc: relevant local government

- Enc. Attachment 1: Conditions of Approval
Part 1 – Conditions imposed by the assessment manager
- Attachment 2: Approved plans
- Attachment 3: Extract of appeal provisions

ATTACHMENT 1: CONDITIONS OF APPROVAL

PART 1: ASSESSMENT MANAGER CONDITIONS

In general the development proposal is in compliance with the requirements of Gladstone Ports Corporation Limited (GPC). This development approval is subject to each the following conditions which are stated by GPC, the assessment manager.

Part 1a: Approval sought under Planning Act 2016 – MCU made assessable under Land Use Plan and Approval sought under Land Use Plan – OW assessable under Land Use Plan

GENERAL

1. The proposed development must be carried out generally in accordance with the plans as lodged with the application except where modified by conditions of this permit.
2. Unless otherwise stated, all conditions must be completed prior to the commencement of the use.
3. Where additional “approval” is required under these conditions by the Gladstone Ports Corporation for drawings or documentation, the proponent must submit for review, amend to the satisfaction of, and obtain written acceptance from the Gladstone Ports Corporation. Only in this manner can compliance with the condition be achieved.
4. All other relevant regulatory approvals must be obtained before commencement of works or operation of the facility.
5. The proponent must inform GPC of completion of works within 14 days of practical completion and undertake a site inspection with GPC. The proponent must also certify that the development is constructed as per design and provide RPEQ certification that the development has been constructed in accordance with the approved plans.
6. The proponent must at its cost and expense, keep and maintain the subject area, including existing services, in a state that is satisfactory to the Port.

ENGINEERING

7. The proponent must supply the Port with “As Constructed” plans in both hard copy (2 of) and electronic (CAD format) which illustrates all new permanent infrastructure on port land and changes to port buildings which is associated with the activity.
8. The permit holder must obtain private certification of any structural modifications made to port buildings.
9. Any site lighting used during construction should not impact on the visibility of Navigational Aids utilised for the primary shipping channels nor illuminate a landward glare beyond the site boundary. Lighting will be continually reviewed during construction and operations with respect to navigation and will be revised as required in response to negative impacts as they arise.

ENVIRONMENT

10. The Environmental Management Plan - Prior to construction works commencing on site, an Environmental Management Plan (EMP) specific to this application is to be submitted to GPC for approval.

The activity must be undertaken in accordance with the approved EMP that ensures:

- a) environmental risks are identified, managed and continually assessed in relation to the activity (this includes construction, operations, and rehabilitation as applicable); and
- b) that staff are trained and aware of their obligations under the EMP; and
- c) that reviews of environmental performance are undertaken at least annually; and
- d) any amendments to the EMP are to be submitted to GPC for review and approval.

11. Incident Notification - Gladstone Ports Corporation Environment hotline (07) 4976 1617 is to be notified of the occurrence of any:

- a) reportable release/spill of contaminants (e.g. fuels/chemicals releases to water); and
- b) any environmental complaints received by the holder of this approval; and
- c) non-compliance with conditions of this approval or any other environmental approval obtained in relation to the approved activity.

ATTACHMENT 2: APPROVED PLANS AND SPECIFICATIONS



WWW.AKEARTH.COM.AU
info@akearth.com.au
ABN: 74 051 747 617
07 4159 6529
0400 890 949

Australian Seafood Bundaberg
Smoked Seafood Production Application for
Lot 501 SP279707 - Bundaberg Regional Council

Gladstone Port Authority



Prepared for G & S Rogers

By



AKEARTH
Environmental Consultants
13 Camilleri Court
Elliott Heads QLD 4670
07 4159 6529 or 0400 890 949
Email: info@akearth.com.au
WWW.AKEARTH.COM.AU

APPROVED

ATTACHMENT 3: EXTRACT OF APPEAL PROVISIONS

(2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.

(3) In this section—

conduct means an act or omission.

representative means—

(a) of a corporation—an executive officer, employee or agent of the corporation; or

(b) of an individual—an employee or agent of the individual.

state of mind, of a person, includes the person's—

(a) knowledge, intention, opinion, belief or purpose; and

(b) reasons for the intention, opinion, belief or purpose.

Chapter 6 Dispute resolution

Part 1 Appeal rights

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.

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- (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
 - (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

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- (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—

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- (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.