Queensland Government

Enquiries Warwick Fegan
Telephone (07) 4046 6724
Your reference Lady Annie Mine Site
Our reference STAT449 / ISA658

Department of
Environment and Resource Management

17 August 2009

Lady Annie Operations Pty Ltd and Savannah Resources Pty Ltd
Attention Messrs Gary Peter Doran and David John Frank Lombe
Receiver Managers for Lady Annie Operations Pty Ltd
Deloitte Touche Tohmatsu
Woodside Plaza Level 14
240 St George Terrace
PERTH WA 6000

Dear Sirs,

I refer you to the letter from Parsons Brinckerhoff Australia Pty Ltd (PB) dated 5 August 2009 in response to the Department of Environment and Resource Management's (DERM) request on 22 July 2009 to provide urgent advice on the measures proposed to prevent the discharge of contaminants from Lady Annie Mine Site.

DERM has reviewed the proposed actions and considers that the actions may not be sufficient to contain contaminants on site during the 2009/2010 wet season.

Due to the complex nature of issues on site, DERM requests the water balance report required under Environmental Evaluation (STAT449) to be submitted as soon as possible. DERM will review your proposal in light of the water balance to assess whether the proposed actions will be sufficient.

Until a determination is made on the works required to prevent the release of contaminants, please continue undertaking all available measures to increase water storage capacity on site.

If you have any queries with regards to the content of this letter please contact Warwick Fegan on (07) 4046 6724.

Yours sincerely

s.49 - Signature

Rob Lawrence
Regional Manager
Department of Environment and Resource Management

5b Sheridan Street Cairns
Queensland 4870 Australia
PO Box 2066 Cairns
Queensland 4870 Australia
Telephone (07) 4046 6734
Facsimile (070 4046 6606
Website www.derm.qld.gov.au
ABN 46 640 294 485

C/c
Matthew Jeffs and Brian Fainton
Parsons Brinckerhoff Australia Pty Ltd
GPO Box 2907
BRISBANE QLD 4001

Released

From: Kanevsky, Glen (AU - Perth) [gkanevsky@deloitte.com.au]
Sent: Wednesday, 26 August 2009 5:24 PM
To: Warwick Fegan
CC: Rob Lawrence; Doran, Gary (AU - Perth); Fiona Taylor; Lim, Teck Eu (AU - Perth); Langmead, Jade (AU - Perth)
Subject: RE: Claim on Financial Assurance

Warwick

A cheque for this amount will be placed in an express mail envelope tonight. Thanks for your help.

Glen

From: Warwick Fegan [mailto:warwick.fegan@derm.qld.gov.au]
Sent: Wednesday, 26 August 2009 3:13 PM
To: Kanevsky, Glen (AU - Perth)
Cc: Rob Lawrence
Subject: Claim on Financial Assurance

Glen,

As discussed this afternoon, DERM will release the Macquarie Bank Guarantee held against the Lady Annie Project upon receipt of the money claimed by the department in relation to expenses encountered as part of the 2009 mine site discharges.

To facilitate a quick process (as per our discussion), we would request a cheque for $41,998 is written to: **Department of Environment and Resource Management**

If you send the cheque to the below contact and address, I will inform Qld Mines and Energy (DEEDI) to release the bank guarantee for Macquarie Bank (this will allow us to not hold up the process by internal financial systems):

Rob Lawrence

Regional Manager

Department of Environment and Resource Management

PO Box 2066

CAIRNS QLD 4870

If you have any questions, please don't hesitate to give me a call.

I will let you know once we receive the cheque and have advised Qld Mines and Energy (DEEDI) to release that Bank Guarantee in question.

Kind Regards,
Warwick

Warwick Fegan
Principal Environmental Officer
Environmental Services - Northern Region
Telephone: (07) 4046 6724 Facsimile: (07) 4046 6606
www.derm.qld.gov.au

Department of Environment and Resource Management

5b Sheridan St Cairns QLD 4870

PO Box 2066 Cairns QLD 4870

As of 26 March 2009 the Department of Natural Resources and Water/Environmental Protection Agency integrated to form the Department of Environment and Resource Management

+----------+
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+----------+

!DEPTSTAMP1!

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5B Sheridan Street, Cairns, QLD 4870
Ph: (07) 40466734 FAX: (07) 40466606
www.derm.qld.gov.au ABN: 46 640 294 485

Environmental Protection Order

Section 360 *Environmental Protection Act 1994*

This Environmental Protection Order is issued in accordance with section 360 of the Environmental Protection Act 1994.

Under the provisions of the *Environmental Protection Act 1994* an Environmental Protection Order is issued:

To: Lady Annie Operations Pty Ltd (ACN 076289097)
Attention Messrs Gary Peter Doran and David John Frank Lombe
Receiver Managers for Lady Annie Operations Pty Ltd
Deloitte Touche Tohmatsu

of: Woodside Plaza Level 14
240 St Georges Terrace
PERTH WA 6000

TAKE NOTICE that under the provisions of the ***Environmental Protection Act 1994***, an Environmental Protection Order is issued to you by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Resource Management (referred to below as DERM).

The Environmental Protection Order (STAT ###) is issued in respect of the activities of Lady Annie Operations Pty Ltd and Savannah Resources Pty Ltd and related entities conducted under Environmental Authority MIN100401006 (the EA) at premises/place on land described as ML5426, ML5435, ML5446, ML5447, ML5448, ML5474, ML5476, ML5478, ML90168, ML90169, ML90170, ML90178, ML901079, ML90184 (the mine), which is located approximately 100 kilometres north of Mount Isa to secure compliance by the person with the general environmental duty under section 319 of the *Environmental Protection Act 1994*.

A. Grounds

The Environmental Protection Order is issued on the following grounds:-

1. To secure compliance with the general environmental duty, which pursuant to section 319 of the *Environmental Protection Act 1994* ('the Act'), requires that a person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm.

The facts and circumstances forming the grounds are:

1. Lady Annie Operations Pty Ltd and Savannah Pty Ltd formerly carry out mining activities on the mine.

2. During normal operating conditions, the mining activities cause, or are likely to cause, environmental harm. The EA authorises the mining activity and limits the actual and potential environmental harm that can lawfully be caused.

3. Rainfall records indicate that between 1 January 2009 and 17 February 2009, approximately 1000 mm of rain fell on, or in the vicinity of, the mine.

4. On 30 January 2009 and 7 February 2009 the then Environmental Protection Agency (now referred to as DERM) was advised by Jason Alexander of Lady Annie Mine that discharges had occurred from the mine into Saga Creek Saga Creek which flows into Inca Creek, and then the Buckley River.

5. DERM took water samples from Inca Creek, downstream of the mine, on 23 February 2009. *In situ* analysis of the water samples indicate that the water had low pH levels when compared with reference sites.

6. On 30 January 2009, Lady Annie Mine provided DERM with data relating to discharge water over the pond spillways. That data indicated that:

    a. water in Stormwater Pond 2 contained 0.04 g/l copper and had a pH of 4.26;

    b. water in the Stormwater Pond 2 spillway contained 0.22 g/l copper and had a pH of 2.51.

    c. the depth of the water over the spillways was approximately 200mm and flow was approximately 12. cubic metres per second.

    d. the water at monitoring point MKDSO4 had a pH of 3.45 and Electrical Conductivity of 862 µS/cm.

7. On 21 February 2009, an owner of land located 20 kilometres downstream from the mine advised the DERM of poor water quality in Inca Creek.

8. DERM staff, who are also Authorised Persons took water samples from Saga and Inca Creeks at locations downstream of the mine, and carried out *in situ* water quality monitoring.

9. The *in situ* water quality monitoring indicated that the water was acidic with pH ranging from 3.3 to 4.7.

10. DERM Officers also made observations that the water in Saga and Inca Creek was clear, with an obvious green discolouration, and had a strong and unusual odour. The water in Saga and Inca Creeks is usually turbid.

11. DERM Officers observed dead fish (species included spangled perch and catfish) and a dead crab. They collected six (6) dead fish for investigation and post mortem.

12. On 25 February 2009, DERM officers took water samples from Saga and Inca Creeks and carried out *in situ* water quality monitoring in the waters from the mine and downstream for a distance of approximately 30 kilometres.

13. I*n situ* testing indicated that the water in Inca Creek at the point closest to the mine was acidic with a pH of 2.2.

14. *In situ* testing conducted at the sites downstream of the mine discharge indicated that the pH value in the water gradually increased as distance from the mine increased. *In situ* testing at the monitoring point 30 kilometres from the mine indicated pH at 5.7.

15. Compared to the ANZECC 2000 guidelines for livestock drinking water (table 4.3.2) the water quality results showed:

    a. Copper exceeding guidelines at all sites within Saga and Inca Creeks;and
    b. Aluminium and Cobalt exceeded the guideline at various sites in Saga Creek and Inca Creek; and
    c. Nickel exceeded the guideline in Saga Creek

16. Compared to the ANZECC 2000 water quality guidelines for the protection of ecosystems (95%) the guidelines were exceeded for various water quality parameters within Saga and Inca creek

including Aluminium, Chromium, Beryllium (LR), Cobalt (LR), Copper, Iron (LR), Lead, Manganese, Nickel, Vanadium (LR), Uranium (LR), Zinc, pH

17. On 5 January 2009, Lady Annie advised DERM of subsidence in the wall of Stormwater Pond 2 on the mine.

18. On 17 February 2009, DERM Officers attended the mine and inspected the wall of Stormwater Pond 2. They observed subsidence of the pond wall and waters discharging from the pond to Inca Creek. The subsidence was observed to be significant, and to have greatly reduced the capacity of the pond to contain hazardous material, as intended.

19. The information provided to DERM and investigations undertaken by DERM indicate that:

    a. A large volume of water with a low pH has been released from Stormwater Pond 2 on the mine to Inca Creek;

    b. Environmental harm has been caused.

20. On 20 March 2009 DERM issued an Environmental Protection Order to Lady Annie Operations Pty Ltd to undertake remediation of Saga and Inca Creek.

21. Following a meeting on 24 April 2009, DERM negotiated with the Receiver Managers for Lady Annie Operations Pty Ltd and Savannah Resources Pty Ltd a remediation strategy for Saga and Inca Creek.

22. On 22 May 2009, Parsons Brinckerhoff Australia Pty Ltd (PB), submitted a report of behalf of the Receiver Managers which detailed the off-site remediation works and the sediment and water quality benchmarks to be achieved.

23. The remediation strategy agreed to involve the flushing of clean water down Saga and Inca Creek, and the treatment of contaminated material using Bauxsol (aluminium refining by-product) in off-stream dams. The contaminated sludge generated in the dams was required to be removed and disposed of at the mine site.

24. On 6 November 2009, the consultants acting for the Receiver managers identified that the flushing of water had finished and the water reached approximately 20km downstream of the mine, with contamination remaining in up to 32km of Inca Creek.

25. On 23 November 2009, DERM officers inspected 2 farm dams on Inca Creek that had been treated with the Bauxsol product. The inspection identified that One Mile Dam had minimal water and the Bauxsol sludge had not been removed. ~~Wide~~ Wire Yard Dam contained large volumes of water and the Bauxsol sludge product had settled at the base of the dam.

B. Requirements

Pursuant to this Environmental Protection Order you are required to:

1. As soon as possible, and by no later than 5.00 pm (AEST) on Friday 18 December 2009, remove any Bauxsol sludge and contaminated sediments from One Mile Dam on Yelvertoft Station to achieve sediment quality in One ~~Mine~~ Mile Dam below the nominated adopted sediment quality values detailed in the Parsons Brinckerhoff Australia Pty Ltd letter dated 22 May 2009 titled "Off-site remedial works – Lady Annie Mine".

2. As soon as possible, and by no later than 5.00 pm (AEST) on ~~Wednesday~~ **(THURSDAY)** 24 December 2009, remove any Bauxsol sludge and contaminated sediments from ~~Wide~~ Wire Yard Dam on Yelvertoft Station to achieve sediment quality in ~~Wide~~ Wire Yard Dam below the nominated adopted sediment quality values detailed in the Parsons Brinckerhoff Australia Pty Ltd letter dated 22 May 2009 titled "Off-site remedial works – Lady Annie Mine".

3. During the first flows in Inca Creek, capture the first flows in the final dam constructed by ~~Parsons Brinckerhoff Australia Pty Ltd~~ A.C.N. 073 222 045 (formerly Lady Annie Operations Pty Ltd) (Receivers and Managers Appointed) (In Liquidation) on Flora Downs and treat with Bauxsol if the water quality exceeds ANZECC water quality guidelines 2000 for livestock drinking water quality.

4. Obtain prior permission from the respective landholders of Yelvertoft and Flora Downs Station, for entry to those places to comply with the requirements of this order.

Definitions:

ANZECC 2000 - Australian and New Zealand Guidelines for Fresh and Marine Water Quality (2000)

ANZECC water quality guidelines 2000 livestock drinking water quality:

- For metals and metalloids – refer to ANZECC 2000 - table 4.3.2
- For pH - 6-8
- For major Ions and dissolved salts – limits outlined in sections 4.3.3

And also **TAKE NOTICE** that:

1. The requirements of this Order take effect immediately upon service of the Order.

2. Failure to comply with this Environmental Protection Order is an offence under the *Environmental Protection Act 1994 (Qld)*.

3. This Order remains in force until further notice from the administering authority.

4. You may apply for a review of or appeal against the decision to issue the Environmental Protection Order within ten business days of the service of the order. Information regarding the reviews and appeals are attached to this order.

Obligations

Should you propose to dispose of the place or business to which this Environmental Protection Order relates, you must advise the buyer of the existence of this Environmental Protection Order (Section 362).

…….. ……
(Signed) (Date)

Rob Lawrence
Delegate of Administering Authority
(Environmental Protection Act 1994)

EXTRACTS FROM THE ACT REGARDING REVIEWS AND APPEALS

Procedure for review

521.(1) A dissatisfied person may apply for a review of an original decision.

(2) The application must-

(a) be made in the approved form to the administering authority within-

(i) 10 business days after the day on which the person receives notice of the original decision or the administering authority is taken to have made the decision (the **"review date"**); or

(ii) the longer period the authority in special circumstances allows; and

(b) be supported by enough information to enable the authority to decide the application.

(3) On or before making the application, the applicant must send the following documents to the other persons who were given notice of the original decision-

(a) notice of the application (the **"review notice"**); and

(b) a copy of the application and supporting documents.

(4) The review notice must inform the recipient that submission on the application may be made to the administering authority within 5 business days after the application is made to the authority.

(5) If the administering authority is satisfied the applicant has complied with subsection (2) and (3), the authority must within 10 business days after receiving the application -

(a) review the original decision; and

(b) consider any submissions properly made by a recipient of the review notice; and

(c) make a decision (the **"review decision"**) to-

(i) confirm or revoke the original decision; or

(ii) vary the original decision in a way the administering authority considers appropriate.

(6) The application does not stay the original decision.

(7) The application must not be dealt with by-

(a) the person who made the original decision; or

(b) a person in a less senior office than the person who made the original decision.

(8) Within 10 business days after making the review decision, the administering authority must give written notice of the decision to the applicant and persons who were given notice of the original decision.

(9) The notice must-

(a) include the reasons for the review decision; and

(b) inform the person of their right of appeal against the decision.

(10) If the administering authority does not comply with subsection (5) or (8) the authority is taken to have made a decision confirming the original decision.

(11) Subsection (7) applies despite the *Acts Interpretation Act 1954, section 27A.*[112.]

(12) This section does not apply to an original decision made by-

(a) for a matter, the administration and enforcement of which has been devolved to a local government - the local government itself or the chief executive officer of the local government personally; or

(b) for another matter-the chief executive personally.

Stay of operation of original decisions

522

(1) If an application is made for review of an original decision, the applicant may immediately apply for a stay of the decision to-

(a) for an original decision mentioned in schedule 1, part 1 – the tribunal; or

(b) for an original decision mentioned in schedule 1, part 2 – the Court.

(2) The tribunal or the Court may stay the decision to secure the effectiveness of the review and any later appeal to the tribunal or the Court.

(3) A stay may be given on conditions the tribunal or the Court considers appropriate and has effect for the period stated by the tribunal or the Court.

(4) The period of a stay must not extend past the time when the administering authority reviews the decision and any later period the tribunal or the Court allows the applicant to enable the applicant to appeal against the review decision.

Who may appeal

531 **(1)** A dissatisfied person who is dissatisfied with a review decision, other than a review decision to which subdivision 1 applies, may appeal against the decision to the Court.

(2) The chief executive may appeal against another administering authority 's decision (whether an original or review decision) to the Court.

(3) A dissatisfied person who is dissatisfied with an original decision to which section 521 does not apply may appeal against the decision to the Court.

From: Nicole Wells [Nicole.Wells@ehp.qld.gov.au]
Sent: Wednesday, 9 December 2009 2:22 PM
To: gdoran@deloitte.com.au
CC: elilford@deloitte.com.au; ELawrie@pb.com.au; MJeffs@pb.com.au; Warwick Fegan
Subject: s328 - Notice of extension of decision period
Attachments: lady_annie.pdf

Good afternoon

Please find attached s328 - Notice of extension of decision period.

The statutory document will be forwarded by registered post to the notice address

Thankyou

Nicole Wells
Environmental Support Officer
Department of Environment and Resource Management
Cairns District Office
PO Box 2066 Cairns Qld 4870
Ph: 07 4046 6726 Fax: 07 4046 6606
www.derm.qld.gov.au

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Notice

Environmental Protection Act 1994 Section 328

Notice of extension of decision period

This statutory notice is issued by the administering authority pursuant to section 328 of the Environmental Protection Act 1994, *to advise you of a decision to extend the decision period for your submission.*

Receiver Managers for Lady Annie Operations Pty Ltd and Savannah Resources Pty Ltd
Deloitte Touche Tohmatsu
Woodside Plaza Level 14
240 St George Terrace
PERTH WA 6000

Your reference : MIN100401006

Our reference : STAT449

Attention: Messrs Gary Peter Doran and David John Frank Lombe

Re: Assessment of Environmental Report submitted by Parsons Brinckerhoff Australia Pty Ltd on behalf of Deloitte Touche Tohmatsu for Environmental Investigation (STAT449)

The administering authority requires an extension of time to decide this report. A decision on the report will be made by **5 February 2010**.

The extension of time is required for the following reasons:

To allow the administering authority time to review the complex scientific findings and consult with the client on potential solutions.

You may apply to the administering authority for a review of this decision within 10 business days after receiving this notice. You may also appeal against this decision to the Planning and Environment Court.

Information outlining the review and appeal processes under the *Environmental Protection Act 1994* is included with this Notice. This information is intended as a guide only. You may have other legal rights and obligations.

Should you have any queries in relation to this Notice, please contact Warwick Fegan of DERM on telephone (07) 4046 6724.

Department of Environment and Resource Management
www.derm.qld.gov.au ABN 46 640 294 485

s.49 - Signature

s.49 - Signature

Signature

09 - DECEMBER - 2009

Date

Rob Lawrence
Delegate of Administering Authority
Environmental Protection Act 1994

Enquiries:
Department of Environment and Resource Management
Ph. (07) 4046 6734
Fax. (07) 4046 6606

Information sheet

Environmental Services

Internal review (EPA), and appeal to Planning and Environment Court

This information sheet forms part of an information notice under the Environmental Protection Act 1994 *(EP Act). It gives a summary of the process for review and appeal to the Planning and Environment Court under the EP Act and subordinate legislation. Refer to sections 519–539 and schedule 2 of the EP Act for complete information about the process for internal review and appeal to the Planning and Environment Court.*

Introduction

The *Environmental Protection Act 1994* (EP Act) provides for a right of internal review and appeal against certain decisions made under the EP Act. Decisions that can be reviewed or appealed are listed in schedule 2 of the EP Act and within certain sections of the regulations and subordinate legislation[1] made under the EP Act. The EP Act also provides that a dissatisfied person for a review decision, other than those listed in part 1 of schedule 2 of the EP Act [2], may appeal the decision to the Planning and Environment Court (the Court).

Summary of the process for internal review and appeal to the Court

Chapter 11, Part 3 of the EP Act

Division 1 — Interpretation

Section 519 Original decisions

1) A decision mentioned in schedule 2 is an "original decision".
2) A decision under an environmental protection policy or regulation that the policy or regulation declares to be a decision to which this part applies is also an "original decision".

Section 520 Dissatisfied person

This section nominates the dissatisfied person for an original or review decision.

Division 2 — Internal review of decisions

Section 521 Procedure for review

1) A dissatisfied person may apply for a review of an original decision.
2) The application must—
   a) be made in the approved form to the administering authority within—
      i) 10 business days[3] after the day on which the person receives notice of the original decision or the administering authority is taken to have made the decision (the "review date"); or
      ii) the longer period the authority in special circumstances allows not later than the review date; and
   b) be supported by enough information to enable the authority to decide the application.

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Environmental Protection Agency

Environmental Protection Agency
www.epa.qld.gov.au ABN 87 221 158 786

Released

3) On or before making the application, the applicant must send the following documents to the other persons who were given notice of the original decision—
   a) notice of the application (the "review notice");
   b) a copy of the application and supporting documents.
4) The review notice must inform the recipient that submission on the application may be made to the administering authority within 5 business days after the application is made to the authority.
5) If the administering authority is satisfied the applicant has complied with subsection (2) and (3), the authority must, within 10 business days after receiving the application—
   a) review the original decision;
   b) consider any submissions properly made by a recipient of the review notice; and
   c) make a decision (the "review decision") to—
      i) confirm or revoke the original decision; or
      ii) vary the original decision in a way the administering authority considers appropriate.
6) The application does not stay the original decision.
7) The application must not be dealt with by—
   a) the person who made the original decision; or
   b) a person in a less senior office than the person who made the original decision.
8) Within 10 business days after making the decision, the administering authority must give written notice of the decision to the applicant and persons who were given notice of the original decision.
9) The notice must—
   a) include the reasons for the review decision; and
   b) inform the person of their right of appeal against the decision.
10) If the administering authority does not comply with subsections (5) or (8), the authority is taken to have made a decision confirming the original decision.
11) Subsection (7) applies despite section *Acts Interpretation Act 1954*, section 27A.
12) This section does not apply to an original decision made by—
   a) for a matter, the administration and enforcement of which has been devolved to a local government, the local government itself or the chief executive officer of the local government personally; or
   b) for another matter — the chief executive personally.
13) Also, this section does not apply to an original decision to issue a clean-up notice.

Section 522 Stay of operation of original decisions

1) If an application is made for review of an original decision, the applicant may immediately apply for a stay of the decision to—
   a) for an original decision mentioned in schedule 2, part 1—the Land Court; or
   b) for an original decision mentioned in schedule 2, part 2—the Court.

Released

2) The Land Court or the Court may stay the decision to secure the effectiveness of the review and any later appeal to the tribunal or the Court.

3) A stay may be given on conditions the Land Court or the Court considers appropriate and has effect for the period stated by the Land Court or the Court.

4) The period of a stay must not extend past the time when the administering authority reviews the decision and any later period the Land Court or the Court allows the applicant to enable the applicant to appeal against the review decision.

Division 4 — Appeals to court

Section 531 Who may appeal

1) A dissatisfied person who is dissatisfied with a review decision, other than a review decision to which subdivision 1[4] applies, may appeal against the decision to the Court.

2) The chief executive may appeal against another administering authority's decision (whether an original or review decision) to the Court.

3) A dissatisfied person who is dissatisfied with an original decision to which section 521 does not apply may appeal against the decision to the Court.

Section 532 How to start appeal

1) An appeal is started by—

   a) filing written notice of appeal with the registrar of the Court; and

   b) complying with rules of court applicable to the appeal.

2) The notice of appeal must be filed—

   a) if the appellant is the chief executive—within 33 business days after the decision is made or taken to have been made; or

   b) if the appellant is not the chief executive—within 22 business days after the day the appellant receives notice of the decision or the decision is taken to have been made.

3) The Court may at any time extend the period for filing the notice of appeal.

4) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

Section 533 Appellant to give notice of appeal to other parties

1) Within 8 business days after filing the notice of appeal, the appellant must serve notice of the appeal on—

   a) if the appellant is the chief executive—all persons who were given notice of the original decision; or

   b) if the appellant is not the chief executive—the other persons who were given notice of the original decision.

2) The notice must inform the persons that, within 10 business days after service of the notice of appeal, they may elect to become a respondent to the appeal by filing in the Court a notice of election under rules of court.

Section 534 Persons may elect to become respondents to appeal

A person who properly files in the Court a notice of election becomes a respondent to the appeal.

Released

Section 535 Stay of operation of decisions

1) The Court may grant a stay of a decision appealed against to secure the effectiveness of the appeal.
2) A stay may be granted on conditions the Court considers appropriate and has effect for the period stated by the Court.
3) The period of a stay must not extend past the time when the Court decides the appeal.
4) An appeal against a decision does not affect the operation or carrying out of the decision unless the decision is stayed.

Section 536 Hearing procedures

1) The procedure for an appeal is to be in accordance with the rules of court applicable to the appeal or, if the rules make no provision or insufficient provision, in accordance with directions of the judge.
2) An appeal is by way of rehearing, unaffected by the administering authority's decision.

Section 537 Assessors

The judge hearing an appeal may appoint one or more assessors to assist where the appeal involves a question of special knowledge and skill.

Section 538 Appeals may be heard with planning appeals

Where an appeal is also made under the *Integrated Planning Act 1997* for a premises, the court may order that both appeals be heard together or consecutively, or one stayed until the other is decided. This may occur even if the parties to the appeals are not the same. This ensures that needless delays are minimised.

Section 539 Powers of Court on appeal

1) In deciding an appeal, the Court may—
   a) confirm the decision appealed against; or
   b) vary the decision appealed against; or
   c) set aside the decision appealed against and make a decision in substitution for the decision set aside.
2) If on appeal the Court acts under subsection (1)(b) or (c), the decision is taken, for this Act (other than this part), to be that of the administering authority.

Disclaimer

While this document has been prepared with care it contains general information and does not profess to offer legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions or actions taken on the basis of this document. Persons external to the Environmental Protection Agency should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.

Approved by:

Andrea Leverington
Executive Director, Environmental Services
Environmental Protection Agency

Enquiries:

Ecoaccess Customer Service Unit
Ph: **1300 368 326**
Fax: (07) 3115 9600
Email: eco.access@epa.qld.gov.au

Released

[1] The original decisions under the subordinate legislation are subject to change. As at 1 January 2009 they are:
- Chapter 7 Part 3 of the *Environmental Protection Regulation 2008*; and
- Section 68C of the *Environmental Protection (Waste Management) Regulation 2000*.

[2] An appeal may be made to the Land Court for original decisions in part 1 of schedule 2.
[3] Under the *Environmental Protection Act 1994* "business days does not include a business day between 20 December and 5 January in the following year".
[4] Subdivision 1 is about appeals to the Land Court and information about this is contained in Sections 519 to 539.

Released