

In the Planning and Environment Court
Held at: Brisbane

Appeal of 2017

Between: **Wagner Investments Pty Ltd**
ACN 011 055 271

Appellant

And: **Toowoomba Regional Council**

Respondent

NOTICE OF APPEAL

Filed on: 19/1/2017

Filed by: **QuDA**
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Wagner Investments Pty Ltd ACN 011 055 271 of 1511 Toowoomba-Cecil Plains Road, Wellcamp in the State of Queensland, appeals to the Planning and Environment Court at Brisbane against the decision of the respondent made on 14 December 2016 to levy an infrastructure charge of \$68,000.00 in relation to a development permit ("development permit") for reconfiguring a lot – 1 into 2 lot subdivision ("development") for land at 1215 Toowoomba-Cecil Plains Road, Wellcamp in the State of Queensland and more particularly described as lot 172 SP269293 ("land the subject of the development permit") bearing the respondent's application reference RAL/2012/6226 and seeks the following orders or judgment:

- 1 the appeal be allowed
- 2 the negotiated infrastructure charges notice is set aside
- 3 such further or other order as this Honourable Court may require

NOTICE OF APPEAL

Filed on behalf of the Appellant

Form PEC-1

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The grounds of appeal are:

- 1 The development application for the development permit was made on 4 December 2012.
- 2 The development permit was given on 1 December 2016.
- 3 An adopted infrastructure charges notice for the development was given on 4 November 2013.
- 4 The appeal period for the adopted infrastructure charges notice was suspended on 2 December 2013.
- 5 A request for a negotiated infrastructure charges notice was given on 20 December 2013.
- 6 A negotiated infrastructure charges notice was given on 14 December 2016.
- 7 The negotiated infrastructure charges notice levied infrastructure charges for creating 2 lots.
- 8 The subdivision creates 1 lot.
- 9 The respondent's decision involved an error relating to the application of the relevant adopted charge.
- 10 The infrastructure charges ought to be halved.
- 11 Further, the infrastructure charges for land use ought not be levied because the charge in the negotiated infrastructure charges notice is so unreasonable that no reasonable local government could have imposed it.
- 12 The appellant seeks an Order that:
 - (a) the appeal be allowed
 - (b) the negotiated infrastructure charges notice is set aside

QuDA

QuDA
Solicitors for the Appellant
Dated 19 January 2017

If you are named as a respondent in this notice of appeal and wish to be heard in this appeal you must:

- (a) within 10 days after being served with a copy of this Notice of Appeal, file an Entry of Appearance in the Registry where this notice of appeal was filed or where the court file is kept; and**
- (b) serve a copy of the Entry of Appearance on each other party.**

The Entry of Appearance should be in Form PEC – 5 for the Planning and Environment Court.

If you are entitled to elect to be a party to this appeal and you wish to be heard in this appeal you must:

- (a) within 10 business days of receipt of this Notice of Appeal, file a Notice of Election in the Registry where this notice of appeal was filed or where the court file is kept; and**
- (b) serve a copy of the Notice of Election on each other party.**

The Notice of Election should be in Form PEC – 6 for the Planning and Environment Court.