



**Building and Development Tribunals**  
**Queensland Government**

Department of Local Government, Planning,  
Sport and Recreation

**APPEAL**

**File No. 03-04-037**

*Integrated Planning Act 1997*

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**BUILDING AND DEVELOPMENT TRIBUNAL - DECISION**

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**Assessment Manager:** Brisbane City Council

**Site Address:** 45 Petrie Terrace, Brisbane Q 4000

**Applicant:**

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**Nature of Appeal**

The appeal is against the decision of Brisbane City Council to issue an Enforcement Notice for the building on land described as Lot 5 RP 826295 and situated at 45 Petrie Terrace, Brisbane and the appeal is against the action required by the Enforcement Notice. The Enforcement Notice is dated 10 June 2004.

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**Date and Place of Hearing:** 10:00am, Thursday, 24<sup>th</sup> June, 2004  
at Level 25, Mineral House, 41 George Street, Brisbane. Qld

**Tribunal:** Stanly Spyrou

**Present:** Applicant  
Applicant  
Brisbane City Council

**Decision**

The Enforcement Notice issued by the Brisbane City Council dated 10 June 2004 (Reference Number 233/60-NL660/45) is **changed** as follows:

Under 'Required Action and Timeframes':

- Required Action (ii) is deleted; and
- Required Action (iii) is amended to read as follows

*"Maintain the Boarding required in Required Action (i) in a sound state of repair"*

**Background**

1. Further to inspection of the subject property by its officers, Brisbane City Council formed the opinion that the building is "dangerous" and caused to be issued an Enforcement Notice

- pursuant to Section 22 of the Building Act 1975.
2. The Enforcement Notice requires the property owner to undertake certain actions within specified time frames in order to secure the building.
  3. The property owner, appealed the decision of Brisbane City Council to issue the Enforcement Notice on the grounds that Required Action ii so far as it relates to fencing off the property is an unreasonable imposition, unnecessary and inappropriate given the measures already in place to secure the building.

#### **Material Considered**

1. Enforcement Notice issued by Brisbane City Council dated 10 June 2004 with reference number 223/60-NL660/45
2. Form 10 – Building and Development Tribunals Appeal Notice lodged by the applicant and dated 11 June 2004
3. Document titled “Re: Police Barracks Site – Petrie Terrace, Brisbane” tabled by the applicants at the Tribunal Hearing and marked as Exhibit 1
4. Building Act 1975
5. Integrated Planning Act 1997

#### **Findings of Fact**

1. The Enforcement Notice issued by Brisbane City Council appears to be a properly issued Notice
2. The Form 10 Appeal lodged by the applicant appears to be a properly made Appeal.
3. The applicant is the owner of the subject property
4. The applicant acknowledge the property is dangerous
5. The applicant has complied with Required Action i of the Enforcement Notice within the required time frame in that it has secured the building by boarding up all the openings on the ground floor of the building
6. The applicant has not complied with Required Action ii of the Enforcement Notice in that it has not provided secure fencing to the property
7. The applicant has complied in part with Required Action iii of the Enforcement Notice in that it has taken the measures outlined in Exhibit 1 to maintain the boarding to the building
8. The applicant has engaged a Security Firm to conduct a system of regular inspections of the building to ensure the integrity of the boarding to the building and to prevent unauthorised entry
9. The applicant has implemented its own system of inspection of the building to ensure the integrity of the boarding to the building and to prevent unauthorised entry

#### **Reasons for the Decision**

1. The applicant has met its obligation to secure the building by boarding up the openings on the ground floor of the building
2. The applicant has taken additional security measures designed to secure the building which measures would not be enhanced by security fencing
3. The provision of security fencing would not enhance the security of the building and would act to hinder the activities of emergency services and law enforcement services

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**Stan Spyrou**  
**Building and Development**  
**Tribunal Referee**  
**Date: 15 July, 2004**

## **Appeal Rights**

Section 4.1.37. of the Integrated Planning Act 1997 provides that a party to a proceeding decided by a Tribunal may appeal to the Planning and Environment Court against the Tribunal's decision, but only on the ground:

- (a) of error or mistake in law on the part of the Tribunal or
- (b) that the Tribunal had no jurisdiction to make the decision or exceeded its jurisdiction in making the decision.

The appeal must be started within 20 business days after the day notice of the Tribunal's decision is given to the party.

## **Enquiries**

All correspondence should be addressed to:

The Registrar of Building and Development Tribunals  
Building Codes Queensland  
Department of Local Government and Planning  
PO Box 31  
BRISBANE ALBERT STREET QLD 4002  
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