



Development Tribunal – Decision Notice

Planning Act 2016, section 255

Appeal Number:	20 - 013
Appellant:	Dr Terry Nash
Respondent:	Brisbane City Council
Site Address:	59 Barron Street, Greenslopes QLD 4120 and described as Lot 1 and 2 on SP301255 - the subject site

Appeal

Appeal under section 229 and item 6 of table 1 of section 1 of schedule 1 of the *Planning Act 2016* against the decision of Brisbane City Council to issue an Enforcement Notice dated 13 May 2020 for non-compliant sanitary plumbing and drainage under the *Plumbing and Drainage Act 2018*.

Date and time of hearing:	11 am, Wednesday 9 September 2020
Place of hearing:	Development Tribunal Offices, Level 16, 41 George Street, Brisbane.
Tribunal:	Anne Maccheroni – Chair Kenneth Crase - Member
Present:	Terry Nash – Appellant Scott Nash – Appellant family Greg Hamilton – Hydraulic Engineer Brendan Brook – Appellant Representative Anthony Tabe - Council Representative, Brisbane City Council George Pergaris – Council Representative, Brisbane City Council Glenn Davidson – Council Representative, Brisbane City Council Raymond Leitch - Council Representative, Brisbane City Council

Decision:

The Development Tribunal (Tribunal), in accordance with section 254 of the *Planning Act 2016* (PA) dismisses this appeal.

Background

1. The subject site is a dual occupancy residential property at 59 Barron Street, Greenslopes (the property). The original development approval for the property was issued by Brisbane City Council (council) on 6 December 2017 and the property was constructed during 2019.
2. The present appeal relates to whether the plumbing and wastewater components constructed for the property comply with the *Plumbing and Drainage Act 2018*.

3. Council contends that the design certificate of Mr Greg Hamilton, hydraulic engineer, provided on 18 February 2020 does not evidence compliance.
4. The Enforcement Notice the subject of the present appeal was issued by council on 13 May 2020 due to a number of failed interactions and communications between council representatives and the appellant's representatives post February 2020 concerning how the as constructed plumbing components at the property were compliant. These interactions were discussed between the parties and the Tribunal at the appeal.

Jurisdiction

1. This is an appeal under section 229 and item 6 of table 1 of section 1 of schedule 1 of the PA against the decision of Brisbane City Council to issue an Enforcement Notice dated 13 May 2020 for non-compliant sanitary plumbing and drainage under the *Plumbing and Drainage Act 2018*. The precondition in section 1(2) of schedule 1 of the PA for the application of table 1 of schedule 1 is satisfied in this instance because paragraph 1(h)(ii) of section 1(2) applies.

Decision framework

1. This appeal is being conducted in accordance with section 253 of the PA.
2. This is an appeal of an enforcement notice in accordance with section 253(3) of the PA and therefore council who gave this notice must establish the appeal should be dismissed.
3. The tribunal is required to hear and decide this appeal by way of a reconsideration of the evidence that was before council.
4. The Tribunal also may consider other evidence presented by both the appellant and the council, with leave of the Tribunal.
5. The Tribunal is required to decide the appeal in one of the ways mentioned in section 254(2) of the PA.

Material Considered

The material considered in arriving at this decision comprises:

1. 'Form 10 – Notice of Appeal, grounds for appeal and correspondence accompanying the appeal dated 17 June 2020.
2. Email correspondence to the Tribunal from the Tribunal Registry post appeal as outlined in the findings and reason for decision.
3. *Plumbing and Drainage Act 2018*
4. *Planning Act 2016*
5. AS/NZ S 3500.2 (Part 2) "Sanitary Plumbing and Drainage".

Findings and reasons for decision

The tribunal makes the following findings:

1. The hearing of this appeal proceeded at 11 am Wednesday 9 September 2020 at the Offices of the Development Tribunal at 41 George Street Brisbane with all parties named present.
2. At the conclusion of the hearing, the parties agreed that the appellant's representatives would submit further relevant material to the council.

3. The Tribunal was subsequently advised by email by the Tribunal Registrar of notice from the parties of the following activities:
 - a) Further submission of material to council by the appellant in September 2020,
 - b) Further submission to the Tribunal by council on 30 October 2020,
 - c) Information requests by council to the appellant of 19 November and 14 December 2020,
 - d) Advice from council that on 21 January 2021 a plumbing permit for the property at 59 Baron St, Greenslopes had issued and that the only remaining items from the Enforcement Notice of this appeal were for the responsible plumber to submit a Form 7 to council and then book the required council onsite plumbing inspections, and
 - e) Advice from the appellant's representative on 1 February 2021 advising of a belief that while approval had been obtained for the works, that paperwork remained outstanding.
4. On the basis the Tribunal has been advised as above that council has issued a plumbing permit for the works the subject of the Enforcement Notice on appeal, the Tribunal considers the Enforcement Notice the subject of this appeal is now spent and of no effect and accordingly, this appeal is dismissed.

Anne Maccheroni

Development Tribunal Chair
Date: 3 March 2021

Appeal Rights

Schedule 1, Table 2 (1) of the *Planning Act 2016* provides that an appeal may be made against a decision of a Tribunal to the Planning and Environment Court, other than a decision under section 252, on the ground of -

- (a) an error or mistake in law on the part of the Tribunal; or
- (b) jurisdictional error.

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

The following link outlines the steps required to lodge an appeal with the Court.

<http://www.courts.qld.gov.au/courts/planning-and-environment-court/going-to-planning-and-environment-court/starting-proceedings-in-the-court>

Enquiries

All correspondence should be addressed to:

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