



## Development Tribunal – Decision Notice

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### Planning Act 2016

<b>Appeal Number:</b>	<b>21-014</b>
<b>Appellant:</b>	Castletown Nominees Pty Ltd
<b>Local Government:</b>	Sunshine Coast Regional Council
<b>Site Address:</b>	35 Dacmar Road, Coolum Beach, Queensland 4573

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### Appeal

Appeal under the *Planning Act 2016* (PA), section 229 and Schedule 1, section 1(5), table 3, item 3(b) in relation to a condition included in a Development Permit for Plumbing work, issued by Michael Locke of Sunshine Coast Regional Council, dated 24 February 2021.

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<b>Date and time of hearing:</b>	Friday 19 November 2021 at 10.30am.
<b>Place of hearing:</b>	35 Dacmar Road, Coolum Beach, Qld.
<b>Tribunal:</b>	Mr Chris Harris – Chair Miss Kimberley Kerby – Referee
<b>Present:</b>	Mr Neil Powell - Appellant representative Mr Trevor Gerhardt - Appellant representative Mr Angus McKinnon - Appellant representative Mr Michael Locke - Sunshine Coast Regional Council Mr Brook Pope - Sunshine Coast Regional Council Mr Chris Stothart - Sunshine Coast Regional Council

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### Decision:

The Development Tribunal (Tribunal), in accordance with section 254(2)(a) of the *Planning Act 2016* (PA) dismisses the appeal and confirms the condition included in the Development Permit to install a water sub-meter on the water supply to the new building.

### Background

This appeal is against a condition placed upon a Development Permit for Plumbing work dated 24 February 2021 issued by Sunshine Coast Regional Council.

The Council received a Plumbing application for new work to a new commercial storage building on the lot at 35 Dacmar Road. The building was in addition to an existing commercial building already constructed on the same lot. The application included a site plan showing the existing water supply, currently direct from the main water meter installed at the boundary to the lot, being extended from the connection to the Bin Wash to the new building. Council, in undertaking their assessment, approved the application but placed a condition on the plan requiring the installation

of a water sub-meter to be installed in accordance with the 2019 Queensland Plumbing and Waste Water Code (QPWC). In coming to this decision Council reviewed their earlier plumbing approval in 2013, which showed the existing building on the lot to be utilised as separate sole occupancy units and were subsequently approved with individual water sub-meters to each unit. They concluded that the new building would also meet the criteria of a sole occupancy unit as defined under the QPWC.

The appellant appealed Council's decision to include a condition requiring a new water sub-meter on the grounds that the requirement was inconsistent with the QPWC. The appellant was of the opinion that the requirement was for a new premises only and that as the lot already had an existing building, the construction of an additional building on the lot was not therefore a new premise.

## **Jurisdiction**

Schedule 1 of the PA states the matters that may be appealed to the Tribunal.<sup>1</sup> Section 1(5) of Schedule 1 of the PA, relevantly refers to matters that may only be appealed to a tribunal.

Under item 3(b) of table 3 of Schedule 1 of the PA, an appeal may be made against the decision to give an information notice under the *Plumbing and Drainage Act 2018*. The appeal is to be made by the person given the information notice, who in this case is the Appellant.

Accordingly, the Tribunal is satisfied that it has the jurisdiction to hear this appeal

## **Material Considered**

The material considered in arriving at this decision comprises:

1. 'Form 10 – Appeal Notice', grounds for appeal and correspondence accompanying the appeal lodged with the Tribunals Registrar on 16 March 2021.
2. Documentation provided at the Tribunal hearing by the appellant.
3. Verbal representations at the Tribunal hearing on 19 November 2021.
4. Planning Act 2016.
5. Plumbing and Drainage Act 2018.
6. Written submission and documents provided by Council by email dated 30 September 2021, from Mr Ian Wilson to the Registrar.
7. Written submission provided by the Mr Neil Powell, for the appellant, by email dated 14 October 2021 to the Registrar.
8. Queensland Plumbing and Waste Water Code (2019)

## **Findings of Fact**

The Tribunal makes the following findings of fact:

1. The existing building on the site has been constructed as per the earlier plumbing compliance approval (PL13/2342) issued in 2013.
2. The existing building contains a number of units which are separately tenanted.
3. The office unit is tenanted by a company.
4. Two of the other units are tenanted by a charity organisation.

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<sup>1</sup> Section 229(1)(a) of the PA.

## Reasons for the Decision

The 2019 Queensland Plumbing and Waste Water Code (QPWC) is quite specific with regards to when a Water Meter must be installed. B1.2 Water Meters for new premises states that a “water supply to a *meterable premise* **must** be fitted with a device (water meter) to measure the amount of water supplied to the premises”. The code also defines the term *meterable premise* and in section (c) refers to “sole occupancy units” of a class 2, 4, 5, 6, 7 or 8 building.

A sole occupancy unit is also defined in the code as “a room or other part of the building for occupation by one or a joint owner, lessee, tenant, or other occupier to the exclusion of any other owner, lessee, tenant, or other occupier.

During the site inspection it was noted that the original building had been constructed with walls dividing the building into separate units. It was also noted that the office part of the building was tenanted by a company and that two of the other three units were tenanted by a charity organisation. The appellant advised during the site inspection that he had considered leasing the new building out but has decided to use the building himself for storage of his vehicle collection. This in effect confirms that the new building will be used solely and to the exclusion of any other tenant on the premises.

Having regard to the site inspection and discussions with the appellant, the Tribunal is of the opinion that the new building is a sole occupancy unit as defined under the QPWC.

In the circumstances, the Tribunal is satisfied that the Council is correct in requesting the installation of a water sub-meter to the new building and that the Appeal should be dismissed.

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**Chris Harris**

**Development Tribunal Chair**

**Date: 5 January 2022**

## **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:

The Registrar of Development Tribunals  
Department of Housing and Public Works  
GPO Box 2457  
Brisbane QLD 4001

**Telephone (07) 1800 804 833**

**Email: [registrar@hpw.qld.gov.au](mailto:registrar@hpw.qld.gov.au)**