



Development Tribunal – Decision Notice

Planning Act 2016, section 255

Appeal number:	25-015
Appellant:	Discovery Holiday Parks Pty Ltd
Respondent:	Central Highlands Regional Council
Site address:	93 Hospital Road, Emerald and described as Lot 45 on SP261318

Appeal

Appeal under section 229 and schedule 1, table 1, item 4(a) of the *Planning Act 2016* against an infrastructure charges notice given by the Central Highlands Regional Council on the grounds the notice involved an error relating to the application of the relevant adopted charge or the working out of extra demand.

Date and time of hearing:	9 July 2025 at 10:00am
Place of hearing:	Online via video
Tribunal:	Travis Schmitt—Chair Stewart Somers—Member

Decision:

The Development Tribunal, in accordance with section 254(2)(a) of the *Planning Act 2016*, confirms the decision of the Council to give the infrastructure charges notice in the amount of \$216,000.

Background

1. The Appellant made a development application to the Central Highlands Regional Council (**the Council**) for the material change of use of property at 93 Hospital Road, Emerald for a Workforce Accommodation (3 Accommodation Units (24 beds)) use.
2. That application was approved, and an infrastructure charges notice was subsequently issued by the Council on 6 May 2025 (**the ICN**). The ICN detailed the infrastructure charge applicable to the approved development and stated that the charge had been calculated in accordance with the Council's *Charges Resolution No. 14 2021 (the Charges Resolution)*.
3. In the ICN was the following “charge details”:

Adopted charge:	Other Uses (Non-resident Workforce Accommodation) - \$9,000.00 / Per Suite (with 1 bed or more) \$9,000.00 (\$9,000.00 x 24)
Credits/Offsets:	Vacant Land Credit – Nil
Levied Charge:	Adopted Charge – credits / offsets = levied charge (\$216,000.00 - \$0.00) = \$216,000.00

4. In this appeal the Appellant says that the ICN involved an error relating to the application of the relevant adopted charge. While the arguments advanced by the Appellant have broadened during the conduct of the appeal, its primary contention is that the Council has incorrectly interpreted the term “suite” as it appears in the ICN. While the Council says the approved development comprises 24 suites, the Appellant says it is only 6 suites.
5. The Appellant also argues that in levying the charge the Council has failed to comply with section 120 of the *Planning Act*, insofar as it only permits a charge for “extra demand placed on trunk infrastructure that will be generated by the development the subject of the approval.” Related to that argument, the Appellant says that the Council has not properly calculated the current demand on trunk infrastructure that exists for lawful development on the site.
6. The Appellant therefore says that “if the correct calculations were used the total charge in this notice would be considerably less given the existing approved development on the site”. For reasons considered below, the Appellant says the charge should be no more than \$54,000.00.
7. The Council opposes the relief sought and says the ICN should be confirmed.

Conduct of appeal

8. The Tribunal convened to hear the appeal via video link on 9 July 2025. The Appellant was represented by Michael Gates, Senior Town Planner for Discovery Holiday Parks. The Council was represented by its officers Brendan Standen and Daniel Walsh.
9. The Tribunal has considered the following material in determining the appeal:
 - (a) Form 10 – Notice of Appeal and attachments:
 - (i) Decision Notice Approval concerning DA041-2024 – Development Permit for Material Change of Use – Workforce Accommodation (3 Accommodation Units (24 beds)) dated 6 May 2025
 - (ii) Decision Notice – Infrastructure Charges concerning DA041-2024 dated 6 May 2025
 - (iii) Letter from the Appellant to the Registrar, Development Tribunals dated 3 June 2025 containing submissions in the appeal
 - (iv) Approved plans including proposed site plan, proposed floor plan, and elevations
 - (v) Discovery Parks Emerald Park map
 - (vi) *Charges Resolution No. 14 2021*

(vii) Relevant portions of the *Central Highlands Regional Council Planning Scheme 2016*

10. At the conclusion of the hearing on 9 July 2025 the Tribunal invited further written submissions from the parties. The Tribunal has received and considered the following:
 - (a) Written submissions of the Appellant dated 16 July 2025
 - (b) Written submissions of the Council dated 29 July 2025
 - (c) Written submissions in reply of the Appellant dated 8 August 2025
11. Having considered that material, the Tribunal finds that the appeal was made within the appeal period imposed by section 229(3)(e) of the *Planning Act*. The Tribunal also finds it has jurisdiction to hear the appeal pursuant to section 229 of that Act.¹
12. The appeal is by way of a reconsideration of the evidence that was before the Council.² It is for the Appellant to establish that the appeal should be upheld.³

The charges regime

13. To best understand the parties' rival contentions, it is convenient to start with the infrastructure charges regime applicable in this matter.
14. Pursuant to section 119 of the *Planning Act* a local government must give an infrastructure charges notice to the applicant if a development approval has been given and an adopted charge applies to providing trunk infrastructure for the development. The levied charge is subject to section 120,⁴ which relevantly provides that "A levied charge under an infrastructure charges notice for a development approval may be for extra demand placed on trunk infrastructure that will be generated by the development the subject of the approval."
15. It is uncontroversial that the Council has adopted charges for providing infrastructure for development by the Charges Resolution. That resolution took effect on 1 January 2022 and applied at the material time.
16. Paragraphs 3.1 to 3.6 of the Charges Resolution prescribe the process to calculate the levied charge. Most relevantly, paragraph 3.5 lists the following steps:

- Step 1** Determine the appropriate Charge Area as per at Attachment 1.
- Step 2** Determine the applicable Use based on the applicable planning scheme use – refer to Table 1.1.
- Step 3** Determine the adopted charge rate (e.g. \$/m² GFA, \$/lot) for the development:
 - for making a material change of use or building work – refer to tables 2.1(a) – (c) to 2.2(a) - (c); and
 - for reconfiguring a lot – refer to tables 3.1 and 3.2.

¹ See also *Planning Act 2016*, Schedule 1, Table 1, Item 4(a). The Tribunal has considered s 229(6) of the *Planning Act 2016* and is satisfied that the appeal is not about the matters listed therein.

² *Planning Act 2016*, s.253(4).

³ *Planning Act 2016*, s.253(5).

⁴ *Planning Act 2016*, s.119(12)(a).

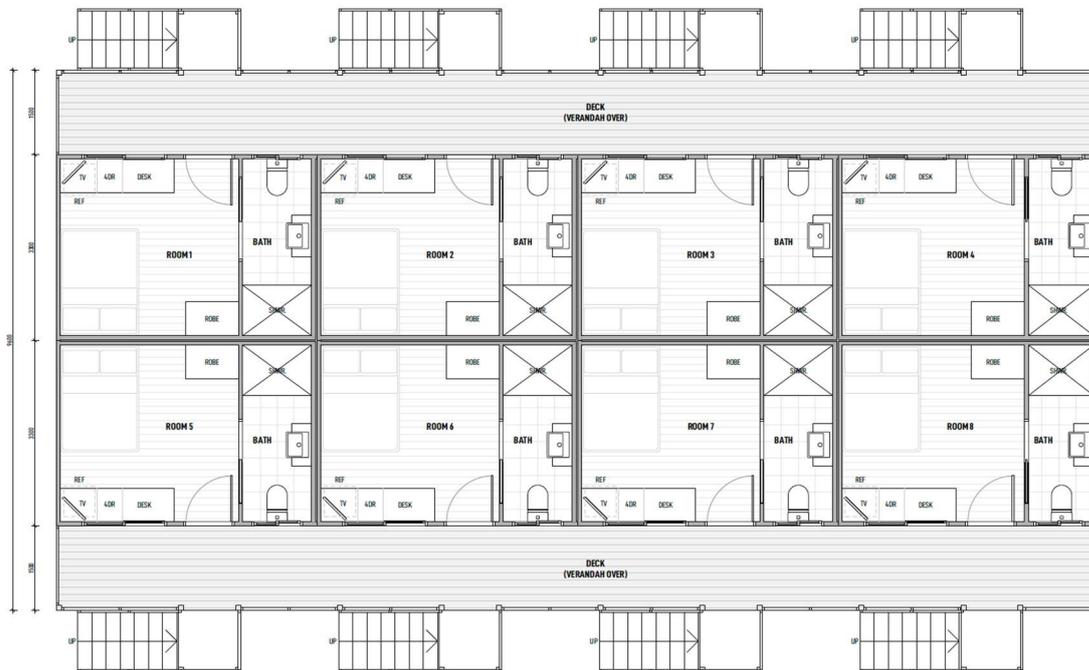
- Step 4** Determine the development demand units (e.g. 1,000m² GFA, 50 lots).
- Step 5** Calculate the total charge for the development using the adopted charge rate (step 3) and the development demand units (step 4).
- Step 6** Calculate the current demand on trunk infrastructure that exists for lawful development on the site by applying steps 3, 4 and 5 to the existing lawful development.
- Step 7** Calculate the levied charge by subtracting the current demand (step 6) from the total charge for the development (step 5).

- 17. There is agreement between the parties as to Steps 1, 2 and 3 of that process: the charge area is “Towns/Townships – Full Service – Charge Catchment”, the applicable use under Table 1.1 is “Other Uses: Non-resident workforce accommodation”, and the adopted charge rate is “\$9,000 per suite (with 1 bed or more)”.
- 18. It is Steps 4 and 6 which are in dispute. Once those steps have been correctly performed, the calculations required by Steps 5 and 7 can be completed.

Findings and reasons

Step 4 – How many “suites”?

- 19. The approved development permits a material change in the use of the premises for “Workforce Accommodation (3 Accommodation Units (24 Beds))”. The approved plans depict 3 buildings (described as “blocks”). An indicative floor plan for each of the three blocks is below:



- 20. The plan contemplates 8 “rooms” per block. Rooms 1 to 4 are joined left to right and each open onto a common deck. Rooms 5 to 8 mirror that arrangement and open onto another common deck. Each room has its own entry door. Inside the room is an area which contains a bed. That area is adjoined by another area labelled “bath” which contains a

toilet, shower and vanity. The bath is separated from the room containing the bed by a cavity sliding door.

21. The Council submits that each of the 8 rooms is a suite. Taken together, the 3 blocks contain 24 suites.
22. The Appellant says, “the appropriate interpretation of the development is as three separate buildings, each containing 2 groups of rooms that share common access via external decks.” In that premise, the Appellant submits that the approved plans should be construed as depicting 6 suites.
23. While the adopted charge rate refers to a “suite”, that term is not defined in the Charges Resolution. Moreover, that term is not defined in the *Planning Act* or the *Planning Regulation 2017*. Paragraph 1.8 of the Charges Resolution therefore applies:

If a term is not defined in the resolution or the *Planning Act 2016* the term is to, subject to section 14A (*Interpretation best achieving Act's purpose*) of the *Acts Interpretation Act 1954*, have the meaning assigned to it by the edition of the Macquarie Dictionary that is current at the date the resolution takes effect.

24. As was submitted by the Appellant and accepted by the Council, the Macquarie Dictionary, defines a “suite” as “A connected series of rooms to be used together by one person or a number of persons.”
25. In reference to that definition the Appellant says that it:

... clearly implies that multiple interconnected rooms constitute a suite, rather than individual, self-contained rooms. The proposed accommodation consists of individual bedrooms with no internal connection, meaning they do not meet the ordinary or legal definition of a “suite”.

26. In response, the Council submits that “The Charges Resolution makes clear each ‘ROOM’ as depicted on the approved plans, is a *series of rooms* through the definition of ‘bedroom’.” There, the Council is referring to paragraph 1.8 of the Charges Resolution which relevantly defines a “bedroom” as:

bedroom means an area of a building or structure which:

- (a) is used, designed or intended for use for sleeping but excludes a lounge room, dining room, living room, kitchen, water closet, bathroom, laundry, garage or plant room; or ...

27. In that premise, the Council submits:

Therefore, a bedroom is deemed to be a separate, distinct room from a bathroom. Each suite depicted shows a bedroom (ROOM X) physically and functionally connected to a bathroom (BATH) by a connected doorway. That is, each of the 24 rooms depicted on the approved plans shows a connected series of rooms (i.e., a bedroom connected to a bathroom and separated by an internal door) to be used together by one person.

28. The Tribunal accepts the Council’s submission and is satisfied that each of the “rooms” depicted on the approved plans is a suite because:
 - (a) the area containing the bed meets the definition of a “bedroom” under the Charges Resolution (being an area “used, designed or intended for use for sleeping”) and, therefore, any area containing a water closet or bathroom is excluded; and
 - (b) the “bath” area (i.e., the ensuite) is a room, separate from the bedroom; and
 - (c) the bedroom together with the ensuite, are a “series of rooms”; and

- (d) the bedroom and the ensuite are “connected” given their juxtaposition and the connected doorway; and
- (e) the rooms may be used together by one person or a number of persons.

29. It follows, that for the purposes of Step 4, the Tribunal finds the development demand unit is 24 suites.⁵

Step 6 – Current demand?

30. Step 6 requires consideration be given to the “current demand on trunk infrastructure that exists for lawful development on the site by applying steps 3, 4 and 5 to the existing lawful development.”

31. As to this step, the Council submits that:

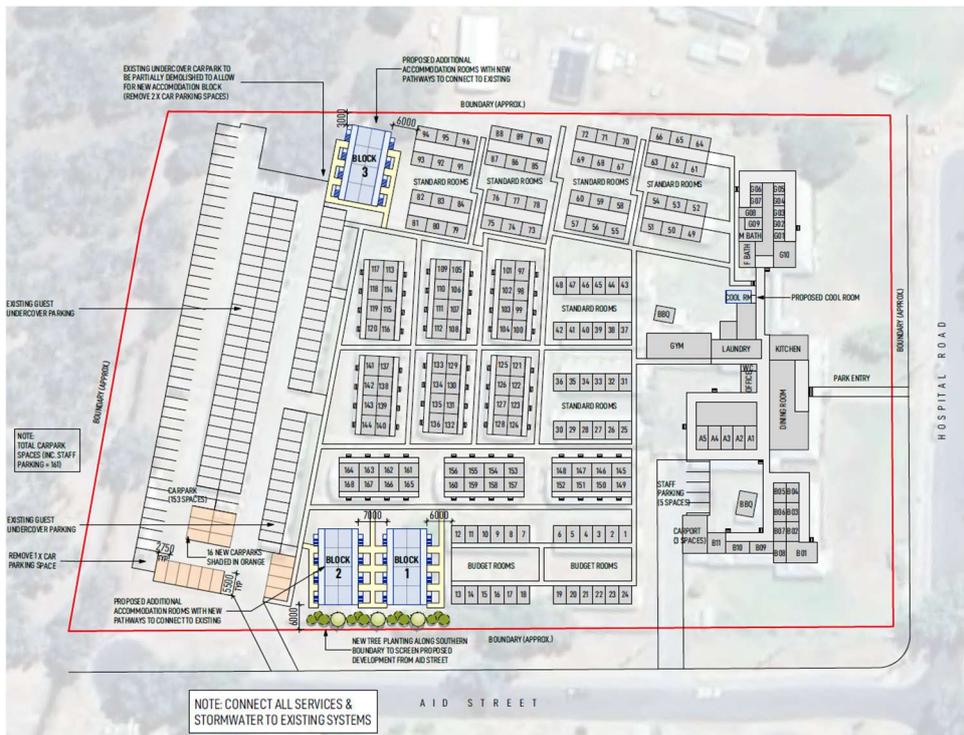
The approved development constitutes a material change for use for workforce accommodation, comprising 24 additional suites. This represents a clear and measurable increase in the intensity and scale of use of the land, and therefore, an increased demand on the trunk infrastructure networks that service it. The Charges Resolution specifically contemplates the type of development and applies a per-suite charge, which is consistent with the approach for similar uses such as short-term accommodation.

Regarding the calculation of the levied charge, Council notes that the Charges Resolution requires the calculation of existing lawful demand to be deducted from the charge otherwise applicable. In this case the portion of the site where the development is approved was vacant prior to the approval and any credits on the lot have been consumed by the existing development. Accordingly, no credits or offsets applied and this is properly reflected in the ICN. Council’s approach is therefore consistent with both the Planning Act and the Charges Resolution.

32. The Tribunal takes the Council’s submission that “no credits or offsets applied and this is properly reflected in the ICN” to be reference to that part of the ICN that reads: “Credits/Offsets: Vacant Land Credit – Nil”.

33. In response, the Appellant says the Council has treated “the site” too narrowly by restricting its assessment to only those parts of the land on which the new accommodation blocks are to be built. As the “Reasons for decision” in the development approval outline, and the Appellant highlights in its submissions, “the proposal provides a use that is consistent with the existing development” and “represents a minor expansion of an existing workforce accommodation facility”. That is supported by the approved plan which shows the proposed development is in addition to existing development which covers the site.

⁵ For a similar approach to interpretation see *Timor 34 Pty Ltd v Logan City Council* [2024] QPEC 27 at [45].



34. The Appellant therefore submits that “The site has an existing lawful use which must be included in the calculation for the charge. To do any other way is a blatant disregard for due process and not following the process outlined in the Council’s resolution.”

Pre-conditions

35. As both parties have correctly submitted, the proper approach to levying infrastructure charges by reference to additional demand has been considered by the Court of Appeal in *Toowoomba Regional Council v Wagner Investments Pty Ltd & Anor* [2020] QCA 191. A levied charge must satisfy two requirements:

- (a) There must be demand on relevant trunk infrastructure as a consequence of the proposed development; and
- (b) That demand must be over and above what the current uses of the subject land generate.

36. If those “pre-conditions” are satisfied, the amount of the charge must then be calculated by applying the methodology in the relevant charges resolution.

37. The Appellant has submitted that the Council has not demonstrated that there will be additional demand placed on trunk infrastructure as a result of the approved development and argues that any broad reliance upon the Local Government Investment Plan or the Charges Resolution as to the general impact of development on the network is insufficient.

38. The Council says that the site:

- (a) is located in the Priority Infrastructure Area (PIA);
- (b) is located in the Sewer Catchment Area, Transport Services Catchment and Water Catchment Area;
- (c) has direct access to the local road network via Aid Street and Hospital Service Road;
- (d) is reliant on vehicular access from Council-maintained roads, which are mapped as trunk infrastructure;
- (e) is adjacent to a District (trunk) sports facility (Emeral Racecourse);

- (f) is approximately 600 metres north of a District (trunk) sport and recreation facility; and the development approval
- (g) is subject to a condition requiring connection to reticulated water and sewerage, which are supported by trunk infrastructure.

39. In its submissions in reply, the Appellant did not challenge the above. Having reviewed the relevant portions of the *Central Highlands Regional Council Planning Scheme 2016*, the Tribunal accepts the Council's submission at paragraph [38] herein and finds that the proposed development will generate demand on trunk infrastructure. The first of the pre-conditions is therefore satisfied.
40. In assessing whether that demand is over and above that which the current use of the land generates, the Tribunal notes it has not been provided with any conclusive evidence as to the existing lawful use. In the "Reasons for decision", the development approval does describe the development as "consistent with the existing development on the site" and a "minor expansion of an existing workforce accommodation facility", but there is no other reference to that existing use elsewhere in the approval.
41. Having regard to the terms of the development approval, the Tribunal is satisfied that the approved development represents an additional use of the land, whether that be an increase to the existing lawful use or as a new use. In either event, the Tribunal is satisfied that the approved development does not otherwise subsume or replace any existing lawful use. In that premise, the Tribunal finds that the approved development will generate additional demand on trunk infrastructure. The second of the pre-conditions is also satisfied.
42. While the Appellant has submitted that section 120 of the *Planning Act* requires an assessment of the actual demand the approved development may place on trunk infrastructure before a charge may be levied, the Tribunal considers such argument is answered by the Court of Appeal's decision in *Wagner Investments* at [79]. That is, the appropriate infrastructure charge for additional demand generated by the development is reflected in the broad brush application of the adopted charge.

Methodology

43. Returning then to the methodology in the Charges Resolution. Step 6 requires a calculation of the current demand on trunk infrastructure that "exists for lawful development on the site".
44. As noted at paragraph [31] above, the Council argues that "the portion of the site where the development is approved was vacant prior to the approval and any credits on the lot have been consumed by the existing development."
45. The Tribunal considers it is not accurate to describe "the site" (as those words are used in Step 6) as vacant land. The ICN and the development approval both describe the subject land in the same terms: i.e., 93 Hospital Road Emerald, Lot 45 on SP261318. That describes the whole of the site, not merely the portion immediately under the new accommodation blocks. The Tribunal rejects the Council's submission in that regard.
46. In that premise, in applying the methodology in Step 6, the Tribunal finds the correct approach requires that regard be had to the existing lawful development on all of Lot 45 on SP261318, not merely a portion of it.
47. In reaching that position the Tribunal notes paragraphs 3.1 to 3.3 of the Charges Resolution, which does contemplate some discounting to a levied charge where "no lawful premises have been constructed, or vacant serviced land exists." That the ICN does not

contain any discounting under this provision tells against the Council's submission that the site was vacant.

48. The Council also submits that "any credits on the lot have been consumed by the existing development." The term "credits" is not used in the Charges Resolution. However, paragraph 3.1(b) (concerning discounting for infrastructure contributions paid under earlier charging regimes) and Step 6 both contemplate that there be some reduction to the levied charge to account for existing development on the site.
49. Neither party has submitted that paragraph 3.1(b) has any application in this matter. The Tribunal therefore limits its further consideration of any reduction to the levied charge to the methodology prescribed by Step 6.

Existing use

50. Step 6 provides, "Calculate the current demand on trunk infrastructure that exists for lawful development on the site by applying steps 3, 4 and 5 to the existing lawful development." The terms "lawful development" and "existing lawful development" are not defined.
51. As the Tribunal finds at paragraph 41 above, the approved development represents an additional use of the land, whether that be an increase to the existing lawful use or as a new use. What that existing lawful use is, has not been the subject of evidence in this appeal. However, that existing use has not been subsumed or replaced by the approved development.
52. In determining the development demand units under Step 4, the Council has not included the demand units applicable to the existing use. Rather, it restricted itself to the demand units of the approved development only. Having regard to the terms of the development approval (and noting it is not an approval of a "change application"⁶), the Tribunal finds no error in that approach. Moreover, the Tribunal finds such approach consistent with section 120 of the *Planning Act*.
53. Where Step 6 then requires regard be had to the current demand on trunk infrastructure by existing lawful development, the Tribunal considers that such requirement relates to development which subsumes or replaces the existing development. An ordinary example would be a 1 into 2 lot residential reconfiguration where a discount would be applied to the infrastructure charge for the reconfiguration approval to account for an existing dwelling use.
54. In this matter the approved development places extra demand on trunk infrastructure over that generated by the existing development. In circumstances where the demand units of the existing development are not included in calculating the total charge for the development in Steps 3, 4 and 5, it would be nonsensical to then use those demand units in the calculation of existing demand in Step 6. To do otherwise would likely result in a calculation which requires no payment of infrastructure charges and would fail to recognise the extra demand on trunk infrastructure generated by the approved development.
55. In that premise and having regard to the terms of the development approval, the Tribunal finds that the "current demand on trunk infrastructure that exists for lawful development on the site", as that phrase is used in Step 6, is nil.

⁶ *Planning Act 2016*, s. 78.

Calculation of charge

56. For the reasons developed above, the Tribunal calculates the infrastructure charge as follows:
- (a) **Step 1** – The Charge Area is “Towns/Townships – Full Service – Charge Catchment”
 - (b) **Step 2** – The applicable Use is “Other Uses: Non-resident workforce accommodation”
 - (c) **Step 3** – The adopted charge rate is “\$9,000 per suite (with 1 bed or more)”
 - (d) **Step 4** – The development demand unit is 24 suites.
 - (e) **Step 5** – The total charge for the development is \$216,000 (24 x \$9,000)
 - (f) **Step 6** – The current demand on trunk infrastructure for existing development is nil
 - (g) **Step 7** – The levied charge is \$216,000

Proportionality and Reasonableness

57. In its letter to the Registrar dated 3 June 2025 the Appellant submitted that the levied charge was disproportionate to the cost of the development. Given the Tribunal’s reasons at paragraph 42 herein, the Tribunal does not agree with the Appellant’s submission.
58. To the point that the Appellant may argue that the amount of the charge is unreasonable, an appeal on such ground is not within the jurisdiction of the Tribunal.⁷

Disposition

59. The Appellant has not satisfied the Tribunal that the appeal should be allowed.
60. The decision of the Council to give the ICN in the amount of \$216,000 is confirmed.

Travis Schmitt
Development Tribunal Chair
Date: 30 October 2025

⁷ *Planning Act 2016*, Schedule 1, Table 1, Item 4(d).

Appeal rights

Schedule 1, Table 2, item 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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Brisbane Qld 4001

Telephone 1800 804 833

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