



Development Tribunal – Decision Notice

Planning Act 2016, section 255

Appeal number: 25-011

Appellant: Waldemar Tez

Respondent: Redland City Council

Site address: 11 Anne Street, Russell Island Qld 4184 and described as Lot 34 on RP136180 – the subject site.

Appeal

Appeal under section 229 and schedule 1, section 1(5) and table 3 item 3(b) of the *Planning Act 2016* (the PA) against the respondent's decision to refuse PD245816, Plumbing & Drainage Works at 11 Anne St, Russell Island. Q 4184.

Place of hearing: Submissions

Submissions provided by: Mt Kane Dickson (on behalf of the Appellant)
Mr Linden Craig (on behalf of the Respondent)

Tribunal: Mr Kelvin Slade - Chair
Mr Richard Stanfield - Member

Decision:

The Development Tribunal (Tribunal), in accordance with section 254(2)(a) of the PA, confirms the decision of the Respondent to refuse Plumbing and Drainage Permit Application PD245816 for Permit work to be carried out at the subject site.

Background

1. On 8 July 2024, the Appellant lodged a Form 1 application for Permit Work with Redland City Council (RCC) under the *Plumbing and Drainage Act 2018* (PDA) in relation to proposed work at the subject site.
2. On 15 July 2024, RCC issued an Information Request seeking further information including in relation to setback distances in the submitted design.
3. On 16 September 2024, RCC received a response to the Information Request issued on 15 July. RCC contacted the Appellant explaining that the response to the information request did not address setback requirements under the Queensland Plumbing and Wastewater Code (QPWC).

4. On 31 January 2025, the owner of 11 Anne St Russell Island, Ms McGill, the Appellant's agent, sought an extension of time for responding to the information request issued on 15 July 2024.
5. On 24 February 2025, RCC received a partial response to the information request from Ms McGill, in which Ms McGill requested that RCC review the first point of its information request and advised that a response to the second point was still being drafted.
6. On 25 February 2025, RCC issued a second information request seeking further information to that provided on 24 February 2025.
7. On 17 April 2025, Ms McGill submitted a response to the second information request.
8. On 29 April 2025, RCC contacted Ms McGill seeking confirmation that she wished for RCC to assess the application on the information provided.
9. On 7 May 2025, Ms McGill asked RCC to decide the application.
10. On 8 May 2025, RCC refused the application and issued Information Notice—Refusal of Permit to the Appellant.

Jurisdiction

11. Section 229(1)(a)(ii) and schedule 1, section 1(5) and table 3 item 3(b) of the PA provides for an appeal against a decision made under the PDA, where an information notice about the decision was given or required to be given, under the PDA.
12. Section 50(2) of the *Plumbing and Drainage Regulation 2019* (PDR) requires Council to give the applicant an information notice about a decision to approve or refuse an application.
13. The Tribunal is satisfied that it has jurisdiction to determine the appeal.

Appeal period, form and standing

14. Section 229(2) of the PA allows an appeal to be commenced within the appeal period. Under section 229(3)(g)(iv) an appeal with respect to a decision of a local government to refuse a permit work application for plumbing, drainage and on-site sewerage work under the PDA must be filed within 20 business days after the decision was given.
15. The notice of Refusal of Permit Plumbing and Drainage Permit Application PD245816 was received by the Appellant on 8 May 2025.
16. The Form 10 Notice of Appeal was accompanied by email correspondence which indicates that the Form 10 was lodged on 13 May 2025 and the applicable appeal fee was paid the same day.
17. The Tribunal is satisfied that the appeal has been filed within time.

Decision framework

18. The onus rests on the Appellant to establish that the appeal should be upheld (section 253(2) of the PA), unless the matter relates to the issuing of an enforcement notice. The appeal relates to the refusal of an application for permit work made under section 42 of the PDR.
19. Therefore the onus of establishing that the appeal should be upheld rests with the Appellant.
20. The Tribunal is required to hear and decide the appeal by way of a reconsideration of the evidence that was before the person who made the decision appealed against.

21. The Tribunal may nevertheless, but need not, consider other evidence presented by a party with leave of the Tribunal, or any information provided pursuant to s 246 of the PA in relation to which the Registrar may require information for tribunal proceedings.
22. The Tribunal is required to decide the appeal in one of the ways mentioned in section 254(2) of the PA. If the decision is to confirm the decision, the Tribunal can confirm the decision under s 254(2)(a) of the PA.
23. The Tribunal, after considering the appeal lodgement material determined that the appeal is one that is suitable for determination on submissions pursuant to s 249(2) of the PA.
24. In cases where appeals are conducted on the papers, section 249(3) of the PA requires that notice be sent to all parties asking for submissions to be made to the Tribunal.
25. On 27 May 2025, the parties were advised of the Tribunal's intention to conduct the appeal on the papers and invited further submissions for consideration by the Tribunal.
26. Submissions were received on behalf of the Appellant on 18 June 2025, and from the Respondent on 9 July 2025.
27. The PDR, including Part 5, is subordinate legislation, a regulation under the PDA and contains a scheme for assessing applications for permit work and the giving of notices. Sections 44 to 50 of the PDR provide for the process for assessing applications.
28. The section 45(3) of the PDR makes the provision that the local government need not deal with the application until the applicant complies with an information request.
29. Section 47 (Deciding application—particular matters to be considered) of the PDR relevantly provides:

(...)

(2) *For deciding an application, other than a fast-track application, the local government may approve the application if satisfied—*

(a) *after assessing each plan mentioned in schedule 6, part 2 accompanying the application, the plan complies with the code requirements for the work to which the application relates; and*

(...)

(e) *for an application relating to a secondary on-site sewage treatment plant—*

(i) *the treatment plant is of a type for which a treatment plant approval has been granted; and*

(ii) *the proposed work complies with the treatment plant approval.*

30. Under section 5 (Documents for an on-site sewage facility) of division 2 of schedule 6 (Documents to accompany permit applications) of the PDR, the application must be accompanied by plans showing the proposed location, among other things.

Material considered

31. The material considered in arriving at this decision was:
 - (a) Form 10 Notice of appeal, grounds for appeal and correspondence accompanying the appeal lodged with the Tribunals registrar on 13 May 2025.
 - (b) Receipt 6465988 for payment of Development Tribunal appeal fees.

- (c) On-site treatment facility site plan, 11 Anne St Russell Island.
- (d) Form 1 Permit work application for plumbing and drainage and on-site sewerage work dated 8 July 2024.
- (e) House and site plans A100 – A107, 11 Anne St Russell Island.
- (f) IST soil test report for 11 Anne St Russell Island dated 29 January 2024.
- (g) Advanced Enviro-Septic design calculator dated 7 July 2024.
- (h) Redland City Council site plan, 11 Anne St Russell Island dated 7 April 2024.
- (i) Waldemar Tez, site evaluation/effluent disposal report, 11 Anne St Russell Island dated 4 July 2024.
- (j) Treatment Plant Approval 01/2025, Advanced Enviro-Septic 30. Dated 16 January 2025. Certified copy.
- (k) Information Notice, Refusal of Permit dated 7 May 2025.
- (l) Submissions from the Appellant dated 18 June 2025.
- (m) Submissions from the Respondent dated 9 July 2025.

Findings of fact

The tribunal makes the following findings of fact:

- 32. On 8 July 2024, the Appellant lodged Permit work application Form 1 to Redland City Council (RCC) under the PDA in relation to the proposed installation of an on-site wastewater treatment plant at the subject site.
- 33. For approval of an application for permit work for an on-site wastewater treatment plant, the design and installation the local government must be satisfied of the following:
 - (a) The treatment plant selected must hold Chief Executive approval under section 18(a) of the PDR. In this instance it is the AES-30 system, which holds Transitional Treatment Plant Approval 01/2025 (TTPA). (This is a requirement under section 47(2)(e)(i) of the PDR)
 - (b) The proposed work complies with the conditions of the chief executive approval (This is a requirement under section 47(2)(e)(ii) of the PDR).
 - (c) The proposed work complies with requirements of the QPWC (section 9(1)(a) of the PDA) (this is a requirement under section 47(2)(a) of the PDR).
- 34. RCC issued an information request under section 45(2) of the PDR on 15 July 2024 to the Appellant. The Information request stated:
 - 1. *Submit an On-Site Wastewater Facility Design that:*
 - *Shows setback clearances that are compliant Queensland Plumbing and Wastewater Code C3.3 D2*
 - *Show the Land Application Area to be perpendicular to the contours on the property as per AS/NZS 1547:2012 Appendix L, L7 (g), (h)*
 - *Demonstrates compliance with the required setback distance for the top of bank for a permanent or intermittent water course as per Queensland Plumbing & Wastewater Code Appendix – Part 2 Table T5 .*
 - (...)

2. *Submit to Council a letter from a footing engineer confirming that the reduced setback you have proposed for the design to all structures and retaining walls within the required setback distances are acceptable.*

(...)

35. On 15 September 2024, the Appellant responded to the first information request by providing:
 - (a) Plans purporting to address part 1 of the information request.
 - (b) An engineer's letter in response to part 2 of the RCC information request.
36. On 25 February 2025, RCC issued a second information request requesting, among other things:
 - (a) An onsite wastewater design that complies with all relevant setback requirements outlined in Table T5 of the QPWC
 - (b) Information demonstrating that the system complies with Condition 8 of the transitional plant approval.
37. In its decision notice RCC advised that it was not satisfied of compliance with the requirements of the QPWC (Appendix 1 Table T5) or condition 8 of the TTPA.
38. The Appellant did not provide the information requested by RCC to demonstrate that the system complied with condition 8 of the TTPA, as requested in the information request dated 25 February 2025
39. Considering the design outflow of the AES-30 system septic tank nominated in PD245816, the Tribunal considers that the 50 metre setback requirements of QPWC Table T5 apply.
40. Based on the available information, the relevant setback distance for the proposed design is approximately 34.6 metres, less than the 50 metre setback required under Table T5.
41. RCC issued two information requests detailing the information required and its reasoning.
42. There was communication between the Appellant and RCC via email relating to the two information requests from RCC, including a request for an extension of time to address the second information request.
43. The Appellant did not supply the information requested by RCC regarding compliance with the QPWC or condition 8 of the TTPA.
44. The Appellant was provided adequate opportunity to provide the required responses to the two information requests.

Reasons for the decision

45. To approve the application the Tribunal must be satisfied as required by section 47(2)(a) and (e) of the PDR.
46. In particular, the application is able to be approved if the Tribunal is satisfied that:
 - (a) Under section 47(2)(a) of the PDR, each plan required to be attached to the application, complies with the code requirements for the work to which the application relates and
 - (b) Under section 47(2)(e) of the PDR, the plant is of a type for which a treatment plant approval has been granted and the proposed work complies with the treatment plant approval.

47. The code requirements with which the work must comply include the Queensland Plumbing and Wastewater Code including Part C3.3 On-Site wastewater management systems, Performance requirements.
48. Part C3.3 provides as a Deemed-to-satisfy provision, compliance with the setback distances set out in Appendix 1, Part 2 and AS/NZS 1547.
49. The outflow from the AES-30 septic tank to AES Pipe units is indeed primary effluent as it has not been considered to be treated until the effluent has passed through the AES trench pipe system as per the TTPA and the On-site treatment facility site plan design submitted to RCC.
50. Considering the design outflow of the AES-30 system nominated in the application, the 50 metre setback requirements of QPWC Table T5 apply.
51. Based on its findings above, the Tribunal is not satisfied that the design complies with the 50m setback requirement under Table T5.

Kelvin Slade
Development Tribunal Chair

Date: 3 September 2025

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:

The Registrar of Development Tribunals
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Telephone 1800 804 833

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