



**APPEAL**  
*Integrated Planning Act 1997*

**File No. 3-07-010**

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**BUILDING AND DEVELOPMENT TRIBUNAL – DECISION**

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**Assessment Manager:** Burnett Shire Council

**Site Address:** *withheld*-“the subject site”

**Applicant:** *withheld*

**Nature of Appeal:**

Appeal lodged under Section 4.2.12A of the *Integrated Planning Act 1997*, against the decision of Burnett Shire Council’s Enforcement Notice to require the upgrade of an existing on-site sewerage facility namely by installing new greywater apparatus, an all purpose septic tank and associated greywater effluent land application area. Council is of the view that the existing on-site sewerage facility constitutes a health risk to occupiers of the premises or the public.

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**Tribunal:** Brad Hodgkinson

**Present:** There were no parties present at the appeal. Written Submissions were prepared and submitted to the Registrar by Burnett Shire Council and the applicant.

**Decision**

The decision of Burnett Shire Council as contained in its written notice issued under section 116 of the *Plumbing and Drainage Act 2002* dated 14 February 2007 **is changed** as follows :

- (a) Remedial work is to be undertaken to reinstate the on-site sewerage facility to its existing approval status.
- (b) All work is to be carried out by a registered licensed plumber and drainer.
- (c) The grease interceptor trap is to be replaced.
- (d) A new pump is to be installed in the pump well.
- (e) An appropriate length and diameter, lilac in colour, hose is to be connected to a new pump to allow satisfactory surface disposal of greywater within the property.

All remedial work is to be undertaken as Notifiable Minor Work as defined in Schedule 2 Part 1 of the Standard *Plumbing and Drainage Regulation 2003*.

## **Background**

On the 14<sup>th</sup> February 2007 Burnett Shire Council issued an enforcement notice as a result of an inspection of an on-site sewerage facility situated at “the subject site”.

Council is of the view that the facility functions in a way that constitutes a danger or health risk to occupiers of the premises or the public.

The inspection revealed that a grease trap was damaged and exposed to the atmosphere and the greywater pump out tank had no pump or hose to discharge greywater from the tank to the land application area.

Burnett Shire Council has requested that the following action be undertaken by the owner of the premises:

- (a) An application is to be made to Council, (requesting compliance assessment) for the issuing of a compliance permit for commencement of the amended work on the on-site sewerage facility.
- (b) A design and a soil test report for the proposed on-site sewerage facility is to accompany the request for compliance assessment.
- (c) A fee of \$334.00 is required when lodging the application to Council.
- (d) All work is to be carried out by a registered licensed plumber and drainer.
- (e) The grease interceptor trap is to be replaced.
- (f) An 1800 litre (minimum) all purpose septic tank with an approved filter in the outlet is required to replace the existing greywater holding tank.
- (g) The existing greywater holding tank is to be relocated after the 1800 litre tank and to be used as a pump well.
- (h) A new pump is to be installed in the pump well, to pump the greywater to the new designed greywater effluent land application area.

## **Material Considered**

- Application to the Building and Development Tribunals including ‘Notice of Appeal – Form 10’;
- Enforcement Notice issued by Burnett Shire Council dated 14<sup>th</sup> February 2007;
- Written submission and photographs from Burnett Shire Council dated 14<sup>th</sup> March 2007;
- Written submission from the applicant dated 20<sup>th</sup> February 2007;
- Written submission and photographs from the applicant dated 26<sup>th</sup> March 2007;
- *Plumbing and Drainage Act 2002*.

## **Findings of Fact**

*Plumbing and Drainage Act 2002*

Part 10 Division 2 Subdivision 3 (157) states:

“Existing Approvals continue

- (1) An approval under the repealed Act, in force immediately before the commencement of this section, continues in force to the greatest practicable extent as an approval under this Act, until the approval would have expired under the repealed Act.

(2) In this section –

**approval** includes anything that is, or that has effect as, or is the equivalent of -

- (a) an approval for building, changing, dismantling, installing or taking away all or part of an on-site sewerage facility, or
- (b) an approval for installing an on-site sewerage treatment plant for an on-site sewerage facility; or
- (c) model approval; or
- (d) type specification approval; or
- (e) an approval for the disposal of the contents of an on-site sewerage facility.”

Part 6A Division 3 (128G) states:

“Owner’s obligation to maintain plumbing and drainage and on-site sewerage facility

- (1) The owner of premises must take all reasonable steps to ensure all plumbing and drainage and any on-site sewerage facility on the premises is kept in good condition and operates properly.
- (2) If the plumbing and drainage is a greywater use facility, evidence that the facility has not been maintained in accordance with the manufacturer’s instructions for that type of facility is evidence that the facility has not been kept in good condition or has not been operated properly.”

### **Reasons for the Decision**

An approval given under the Water and Sewerage Act 1949 (repealed act) continues in force to the greatest practicable extent as an approval under the *Plumbing and Drainage Act 2002*.

The Plumbing and Drainage Act 2002 is specific about the owner’s obligation to ensure the on-site sewerage facility on the premises is kept in good condition and operates properly.

It is considered that the on-site sewerage facility located at the subject site can be remedially repaired to its original operational status as approved by Burnett Shire Council under the repealed Act .

The decision of the Tribunal is based on written submissions that indicates the plumbing and drainage work and on-site sewerage facility located at the subject site has not been altered from its original form, only damaged in part.

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**Brad Hodgkinson**  
**Building and Development Tribunal General Referee**  
**Date: 8<sup>th</sup> May 2007**

## **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, Planning, Sport and Recreation  
PO Box 15031  
CITY EAST QLD 4002  
**Telephone (07) 3237 0403: Facsimile (07) 32371248**