

In the Planning and Environment Court
Held at: Brisbane

No. 3244 of 2025

Between: **88-90 HORNIBROOK ESPLANADE
CLONTARF PTY LTD (ACN 660 851 936)
and DOYEN PLANNING PTY LTD (ACN
684 735 733)**

Appellant

And: **MORETON BAY REGIONAL COUNCIL** Respondent

NOTICE OF APPEAL

Filed on: 17 November 2025
Filed by: **MILLS OAKLEY**
Solicitors
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Reference: 9466533

**88-90 HORNIBROOK ESPLANADE CLONTARF PTY LTD (ACN 660 851 936) and
DOYEN PLANNING PTY LTD (ACN 684 735 733)** c/- Mills Oakley, Level 23, 66
Eagle Street, Brisbane in the State of Queensland, appeals to the Planning and
Environment Court at Brisbane against the decision of the Respondent dated 10
November 2025 whereby the Respondent refused the Appellant's development
application for a development permit for a material change of use for multiple
dwellings (78 units) and reconfiguring a lot (boundary realignment (4 lots into 1 lot))
on land located at 88 - 90 Hornibrook Esplanade & 20 - 24 Lane Street, Clontarf and
more properly described as Lot 31 on SP211868, Lot 2 on RP90436, Lot 1 on
RP70021 and Lot 1 on RP90436 (**Development Application**).

The Appellant seeks the following orders or judgment:

- (a) the appeal be allowed;
- (b) the Development Application be approved subject to conditions; and
- (c) such further or other orders as the Court deems appropriate.

The grounds of appeal are:

1. The land:

- (a) is situated at 88 and 90 Hornibrook Esplanade & 20 and 24 Lane Street,
Clontarf;

NOTICE OF APPEAL

Filed on behalf of the Appellant

Form PEC-1

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- (b) is described as Lot 31 on SP211868, Lot 2 on RP90436, Lot 1 on RP70021 and Lot 1 on RP90436 (**the Land**);
- (c) the Land is approximately 2,773m² in area;
- (d) Lot 31 on SP211868 is currently improved by multiple dwellings (3 units);
- (e) Lot 2 on RP90436, Lot 1 on RP70021 and Lot 1 on RP90436 are currently improved by single dwellings;
- (f) the Land is included within General Residential zone (Urban Neighbourhood Precinct) of the Moreton Bay Regional Council Planning Scheme 2016, version 6 (commencing 21 December 2021) (**Planning Scheme**); and
- (g) is subject to various overlays under the Planning Scheme.

2. On or about 30 September 2024, the Appellant lodged the Development Application.
3. On 23 October 2024, the Development Application was properly made to the Respondent.
4. The development application was impact assessable under the Planning Scheme.
5. On 16 April 2025, SARA issued a referral agency response with conditions.
6. By way of a decision notice dated 10 November 2025, the Respondent refused the Development Application (**Decision Notice**).
7. The Respondent's reasons for refusal are affixed as '**Annexure A**' to the Notice of Appeal.
8. The decision to refuse the Development Application in the exercise of the planning discretion, should be overturned and substituted with a decision for approval.

Assessment Benchmarks

9. The Respondent has not particularised the assessment benchmarks it relies upon to support refusal of the proposed development.

Building Height

10. The proposed development does not result in any adverse or unacceptable amenity impacts on or off site which warrant refusal of the proposed development.

Particulars

- (a) The built form and rooftop design both ensure that the proposed development does not appear visually dominant or overbearing from Hornibrook Esplanade.
- (b) The proposed development is of a bulk and scale that is consistent with the medium to high rise character of the streetscape.
- (c) The height is consistent with the multiple surrounding buildings within the area that have been approved by the Respondent in excess of the prescribed height limit.
- (d) The proposed development is consistent with the expectations of the community.

- (e) The street width of Hornibrook Esplanade, open coastal setting, and building setbacks ensure adequate visual separation between buildings;
- (f) The proposed development achieves a built form that is well proportioned and visually balanced, ensuring it does not appear as a visually dominant or overbearing building.

11. To the extent that there is non-compliance with the Planning Scheme requirements¹, that non-compliance ought not be considered determinative having regard to:

- (a) the Development Application as a whole; and
- (b) the aforementioned factors.

Vehicular Site Access

12. The proposed development will not result in any unacceptable traffic amenity impacts during the course of its construction or the operation of the development.

Particulars

- (a) The proposed development does not propose access from a sub-arterial road (Hornibrook Esplanade).
- (b) The access arrangement reflects the specific requirements² set out in the Planning Scheme for access arrangements in this particular scenario.
- (c) The access arrangement is consistent with SARA's conditions which requires no access be permitted onto Hornibrook Esplanade.
- (d) Any impacts associated with construction (which is not admitted) of the proposed development can be appropriate managed through a construction management plan.

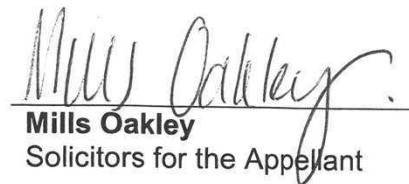
13. The proposed development complies or otherwise can be conditioned to comply with the Planning Scheme requirements³.

Relevant Matters

14. There is a planning, community and need for the proposed development.

15. The proposed development will not result in any unacceptable impacts.

16. Based on the aforementioned factors, the appeal should be allowed and the Development Application approved.



Mills Oakley
Solicitors for the Appellant

¹ The Decision Notice does not particularise the assessment benchmarks in the Planning Scheme that it relies upon to support its position.

² Refer to E19.1 of the General residential zone code (Urban neighbourhood precinct).

³ The Decision Notice does not particularise the assessment benchmarks in this code that it relies upon to support its position.

If you are named as a respondent in this notice of appeal and wish to be heard in this appeal you must:

- (a) **within 10 business days after being served with a copy of this Notice of Appeal, file an Entry of Appearance in the Registry where this notice of appeal was filed or where the court file is kept; and**
- (b) **serve a copy of the Entry of Appearance on each other party.**

The Entry of Appearance should be in Form PEC – 5 for the Planning and Environment Court.

If you are entitled to elect to be a party to this appeal and you wish to be heard in this appeal you must:

- (a) **within 10 business days of receipt of this Notice of Appeal, file a Notice of Election in the Registry where this Notice of Appeal was filed or where the court file is kept; and**
- (b) **serve a copy of the Notice of Election on each other party.**

The Notice of Election should be in Form PEC – 6 for the Planning and Environment Court.

Decision Notice

Planning Act 2016, section 63

APPLICATION DETAILS

Development Application No.:	DA/2024/4397
Applicant:	Doyen Planning
Proposal:	Material Change of Use - Development Permit for Multiple Dwelling (78 units)
Street Address:	88-90 Hornibrook Esplanade and 20-24 Lane Street, Clontarf
Real Property Description:	Lot 31 SP211868, Lot 2 RP90436, Lot 1 RP70021 and Lot 1 RP90436
Planning Scheme:	Moreton Bay Regional Council Planning Scheme

DECISION DETAILS

Type of Decision: Refusal

Date of Decision: 29 October 2025

REASONS FOR REFUSAL

The Council's reasons for the refusal are as follows:

1. Concerns regarding the extent of the proposed height of the building on the Hornibrook Esplanade frontage; and
2. The anticipated impacts on traffic amenity in Lane Street during construction and operation of the development, warranting vehicle access from Hornibrook Esplanade.

ASSESSMENT BENCHMARKS

The Assessment Benchmarks that applied to the development application from the following Categorising Instruments include:

Categorising Instrument (*Planning Regulation 2017*)

State Planning Policy

- *State Planning Policy 2017*, Part E

Regional Plan

- *South East Queensland Regional Plan 2023 (ShapingSEQ)*

Schedule 10 of the Regulation

- Not applicable

Local Categorising Instrument (*Moreton Bay Regional Council Planning Scheme*)

- General Residential Zone - Urban Neighbourhood Precinct
- The Strategic Framework of the MBRC Planning Scheme

Local Categorising Instrument (Variation Approval)

Not applicable.

Local Categorising Instrument (Temporary Local Planning Instrument)
Not applicable.

REFERRAL AGENCIES

There were no Referral Agencies applicable to this development application.

SUBMISSIONS

There were 8 properly made submissions about this application.

In accordance with section 63(2)(h) of the *Planning Act 2016*, the name, address and email (if provided) of the principal submitter for each properly made submission is listed in Attachment 3 of the Decision package.

The Council Meeting Assessment Report which is available on Council's Meetings & Minutes webpage <https://www.moretonbay.qld.gov.au/meetings>. Refer to the General Meeting of 29 October 2025 and use the application number referenced in this Notice.

APPEAL RIGHTS

Attachment 2 of the Decision package is an extract from the *Planning Act 2016* which details your appeal rights and the appeal rights of any submitters, if applicable, regarding this decision.

OTHER DETAILS

If you wish to obtain more information about Council's decision, please refer to the Council Meeting Assessment Report for the application on Council's Meetings & Minutes webpage <https://www.moretonbay.qld.gov.au/meetings>. Refer to the General Meeting of 29 October 2025 and use the application number referenced in this Notice.