

Between: **CUECORP PROPERTY GROUP PTY. LTD.** Applicant
ACN 141 903 899

And: **COUNCIL OF THE CITY OF THE GOLD COAST** Respondent

ORIGINATING APPLICATION

Filed on: _____ April 2026

Filed by: MacDonnells Law
Service address: Level 7, 100 Creek Street, Brisbane QLD 4000
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CUECORP PROPERTY GROUP PTY. LTD. ACN 141 903 899 c/- MacDonnells Law, Level 7, 100 Creek Street, Brisbane applies to the Planning and Environment Court at Southport for orders in respect of a development approval given on 3 December 2019 for a Development Permit for a Material Change of Use for Apartments (3 units) (the **Development Approval**) in respect of land located at 37 and 37A Arthur Street, Mermaid Beach and described as Lot 23 on RP41194 and Lot 1 on RP85529 (the **Land**) which has lapsed, in particular:

- A. an order pursuant to section 37(1) of the *Planning and Environment Court Act 2016* (Qld) (**PECA**) that:
- (i) the Applicant's failure to lodge an extension application with the Respondent to extend the currency period for the Development Approval pursuant to section 86(1) of the *Planning Act 2016* (Qld) (**Planning Act**) before it lapsed be excused;
 - (ii) any application to extend the currency period of the Development Approval made within 20 business days from the date of the final order in these proceedings be taken to have been made pursuant to section 86(1) of the Planning Act, as if the Development Approval had not lapsed;

ORIGINATING APPLICATION
Filed on behalf of the Applicant
Form PEC-2

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- (iii) the Other Change Application made to the Respondent on 24 April 2025 prior to the Development Approval lapsing and steps taken by the Respondent in assessing the Other Change Application, be treated as validly made and undertaken until such time as any extension application under paragraph A(ii) is finally determined;
- (iv) subject to the extension application to be made under paragraph A(ii) being approved, any subsequent decision made by the Respondent in respect of the Other Change Application be taken as a valid decision, as if the Development Approval had not lapsed;

B. such further orders as the Court considers appropriate.

The grounds relied on are:

Background and History

1. The development application which gave rise to the Development Approval was properly made to the Respondent on 30 June 2017 (Council Ref: MCU/2017/982) (**Development Application**).
2. The Development Application:
 - (a) was assessed against the *Gold Coast Planning Scheme 'Our Living City'. 2003* (Version 1.2, Amended November 2011) pursuant to a superseded planning scheme request;
 - (b) required referral to the Department of Infrastructure, Local Government and Planning pursuant to the *Sustainable Planning Regulation 2009* (Qld), Schedule 7, Table 3, Item 1—State-Controlled Road, as the Land “*abuts a road that intersects with a State-controlled road within 100m of the land*”;
 - (c) was impact assessable and received 217 properly made submissions objecting to the Development Application and 102 letters of no objection being received as properly made and 1 properly made submission in support of the Development Application; and
 - (d) was assessed and decided pursuant to the provisions of the repealed *Sustainable Planning Act 2009* (Qld) (**SPA**).
3. By way of a Decision Notice dated 3 December 2019, the Respondent granted the Development Approval, subject to conditions.
4. On or about 14 February 2020, the Development Approval took effect, taking into account the relevant appeal periods.
5. On or about 18 February 2022, the Applicant became the registered owner of the Land.

6. On or about 23 August 2024, the Applicant, through its town planner made a change application (minor change) to change the Development Application (Council Ref: MIN/2024/478) (**Minor Change Application**).
7. On or about 13 February 2025, the Respondent Approved the Minor Change Application.
8. On or about 24 April 2025, the Applicant, through its town planner, made a change application (other change) to change the Development Approval (Council Ref: OTH/2025/18) (**Other Change Application**). The Other Change Application has not been determined as a result of the lapsing of the Development Approval.
9. On or about 19 February 2026, the Applicant's town planner advising the Applicant in relation to the Development Approval and Other Change Application became aware that the Development Approval may have lapsed.

Lapsing

10. The Development Approval had a lapsing date as prescribed under SPA in force at the time the Development Approval was given, being:

"341 When approval lapses if development not started

(1) *To the extent a development approval is for a material change of use of premises, the approval lapses if the first change of use under the approval does not start within the following period (the relevant period)—*

- (a) *4 years starting the day the approval takes effect;*
- (b) *if the approval states a different period from when the approval takes effect—the stated period."*

11. There was no stated period in the Development Approval under section 341(1)(b) of the SPA.
12. The Development Approval received the benefit of Extension Notices issued by the Minister for Planning under section 275R of the Planning Act on 8 July 2020, 1 September 2021 and 29 April 2022, resulting in a cumulative extension of the relevant period (now currency period) of 2 years.
13. The Applicant is not aware of there being any related approvals within the meaning of section 341(4) of the SPA that would have had the effect of the extending the relevant period for the Development Approval.
14. The Development Approval therefore lapsed 6 years after the Development Approval took effect, being on or about 14 February 2026.

Relief

15. The Applicant wishes to continue to progress and complete the development pursuant to the Development Approval, including under the Other Change Application.
16. The Court has the power under section 37 of the PECA to excuse any non-compliance with the Planning Act.
17. The Applicant failed to lodge the relevant extension application with the Respondent pursuant to section 86 of the Planning Act to extend the currency period for the Development Approval before it lapsed.
18. It is appropriate for the Court to excuse the non-compliance with the Planning Act and make orders in terms of what is sought by the Applicant, having regard to the following:
 - (a) the lapsing of the Development Approval was inadvertent and only occurred very recently;
 - (b) after the Applicant received notification that the Development Approval had potentially lapsed, the Applicant promptly took steps to re-enliven the Development Approval;
 - (c) the Applicant has relied on the Development Approval to take steps to implement the Development Approval, including by engaging a town planner to lodge the Minor Change Application and now the Other Change Application;
 - (d) if the relief sought by this Originating Application is granted by the Court, the Respondent will be able to assess and decide an extension application lodged by the Applicant for the extension of the currency period for the Development Approval;
 - (e) the relief sought by this Originating Application would put the Applicant in the position the Applicant would have been in, had it not failed to lodge an effective application with the Respondent to extend the currency period for the Development Approval before it lapsed;
 - (f) a refusal to grant the relief sought by this Originating Application would put the Applicant to the unnecessary expense of seeking a fresh approval for the entire development;
 - (g) no planning purpose would be served in requiring the Applicant to seek a fresh approval for the development, particularly where the Other Change Application will involve an assessment on the merits and afford new third-party submission rights;

- (h) the Applicant understands that the relief sought is unlikely to be opposed by the Respondent; and
 - (i) for the reasons identified in the supporting affidavit material.
19. In the premises, it is appropriate for the Court to grant the relief sought by this Originating Application.

MacDonnells Law
MacDonnells Law
Solicitor for the Applicant
Date: 9 April 2026

This application is to be heard by the Court at Southport on a date to be confirmed by the Court Registry. It is not anticipated that the Application will take more than 1 hour to be heard by the Court.

Registrar

NB: If you are named as a respondent in this proceeding and wish to be heard in this application you must:

- (a) within 10 business days after being served with a copy of this Originating Application, file an Entry of Appearance in the Registry where this application 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 application and you wish to be heard in this application you must:

- (a) within 10 business days of receipt of this Originating Application, file a Notice of Election in the Registry where this application 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.