



B+B Reference: 221464

Council Reference: A001615281

Date: 11 March 2026

Brisbane City Council

Via email: dalodgement@brisbane.qld.gov.au

Dear Sir / Madam,

**RE: Request for Minor Change to an Existing Approval at 82 Berwick Street,
Fortitude Valley, QLD, 4006**

On behalf of the Applicant, John Keane, we hereby submit a minor change to development approval A001615281 ('the approval') originally dated 20 January 2004 (and subject to a change approval on 6 March 2012) which approved a Development Permit for a Material Change of Use for a Multi-Unit Dwelling at 82 Berwick Street, Fortitude Valley, QLD, 4006 formally described as Lots 1-21 and Common Property of SP171627.

This minor change application is in response to Council's letter dated 7 January 2026 (Ref. C3724658). Council received a report about the non-compliance of conditions with a development approval, noting the balcony of the unit has been enclosed without planning approval. Condition 11 of the development approval A001615281 requires all balconies to remain unenclosed with no shutters, glazing, louvres or similar permanent structures other than those consistent with the relevant "Brisbane City Plan 2000 – Residential Code" and clearly depicted on the approved drawings.

The performance outcome of the Residential Code requires "Screening and partial enclosure of balconies is limited to provide privacy for neighbours and comfort for residents without resulting in unattractive buildings or an appearance of excessive bulk or restricting opportunities for passive surveillance of the street". We recognise the balcony has been partially enclosed and screened and seek Council approval, noting it has been this way since 2006 and has no adverse impact on the building character or amenity of residents.

For context we provide photos in Attachment 1 to show views of the balcony. The balcony and roof of Unit 19 at the third level is setback 4.5m from the roof below and street boundary. The photos in Attachment 1 show that the enclosed/screened part of the balcony is barely visible from the street.

The enclosure is limited to 13m² of the balcony area and one (1) panel of screening has been installed on the balcony for the privacy of the master bedroom. The balcony roof and solid half wall balustrade remains unchanged from the approval, with louvres and glass additions installed to enclose part of the balcony. The appearance of the shutters reflects the character of the building and does not add excessive bulk or restrict passive surveillance of public areas in accordance with the Residential Code requirements.

Pursuant to Sections 78 and 81 of the *Planning Act 2016*, the minor change seeks to amend the Development Approval as follows:

1. Condition 11 – Amend the wording of the condition to include the words “*unless otherwise agreed in writing with the assessment manager*” to permit changes to the plans (as we do not have a stamped copy).
2. Approved plans – The applicant has made a request to view the approved plans, but is unsure if they will receive a copy of the stamped approved plans. Hence the proposal to update the wording of condition 11 to give Council jurisdiction to assess and approve partial enclosure/screening, without updating the full set of plans. Refer to Attachment 1 for details.

Pursuant to Section 79 of the *Planning Act 2016*, this request is made to Brisbane City Council as the responsible entity and the following correspondence constitutes written notice asking Council to make the requested changes identified herein.

This request is accompanied by the following documents and requirements of the *Planning Act 2016*:

- Planning Act Form 5 – Change Application
- Title Searches
- Other supporting information

The applicant respectfully asks Council to consider the proposed changes as minor changes to the development approval. For Council’s reference and consideration, the following letter details the required amendments to the Approvals Package.

Background

The building was constructed in 2004 and comprises a basement parking level and 4 levels of apartments. Unit 19 is the premises subject to this minor change application and is on the top level facing the street (Figure 2). As evidenced by the body corporate motions and voting papers attached, the enclosure/screening of the balcony was agreed to in June 2006, subject to being white to match the colour of the building and not appear as intrusive. Accordingly, the owner installed white plantation style shutters but was not aware that planning approval was required. Notably, there have been no complaints for 20 years.

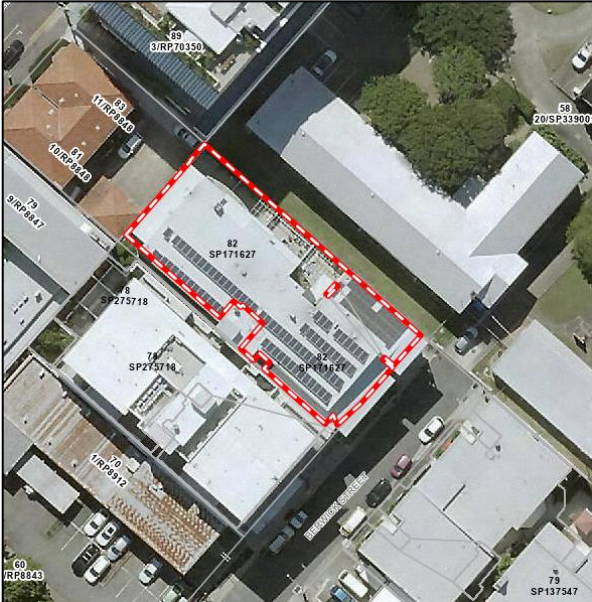


Figure 1. Site Plan (Source: BCC Interactive Mapping)

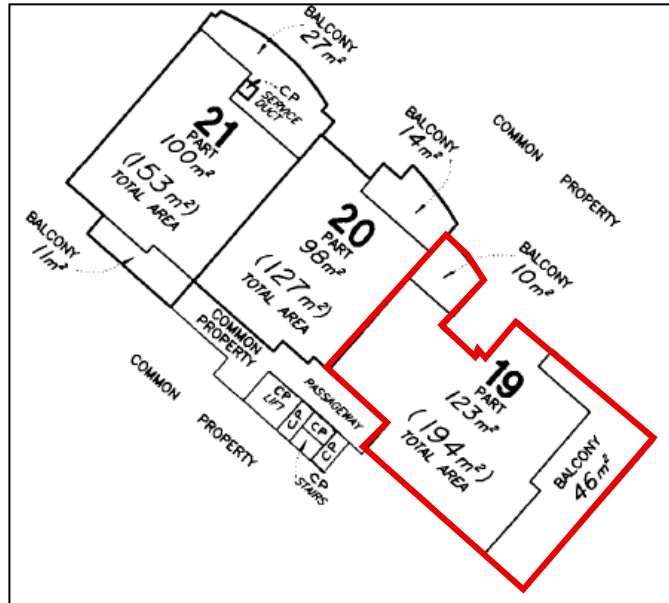


Figure 2. Survey Plan SP171627

Partial Enclosure/Screening

The existing roof and solid half wall balustrade of the balcony remains unchanged from the approval. Shutters and glass have been installed to enclose 13m² of the balcony (46m²). The shutters are installed on the side elevation 2818mm and front elevation 4710mm. A glass door has been installed at the side of the balcony. One (1) panel of screening is installed on the balcony for privacy of the master bedroom. Please refer to Attachment 1 for photos. The appearance of the shutters reflects the character of the building and does not add excessive bulk or restrict passive surveillance of public areas.

Conditions of Approval

The applicant is now aware that there is a non-compliance matter concerning Condition 11 of development approval A001615281, which requires balconies and terraces to remain unenclosed.

11(a) BALCONIES & TERRACES - UNENCLOSED (CITY PLAN)

Treatment of balconies and terraces.

All balconies and terraces shown on the approved drawings and documents, are to remain unenclosed with no shutters, glazing, louvres or similar permanent structures other than those consistent with the relevant "Brisbane City Plan 2000 - Residential Code" and clearly depicted on the approved drawings.

GUIDELINE

This condition is imposed to minimise bulk and protect the appearance of the development within the area. For any enquiries about this condition, please contact the Assessment Manager, Development Assessment.

Timing: Prior to the commencement of the use and then to be maintained

11(b) BALCONIES & TERRACES - UNENCLOSED (CITY PLAN)

Any Community Management Statement is to contain a by-law which reflects the requirements of the previous part of this condition.

Timing: Prior to the commencement of the use and then to be maintained

The performance outcome of the Residential Code requires “Screening and partial enclosure of balconies is limited to provide privacy for neighbours and comfort for residents without resulting in unattractive buildings or an appearance of excessive bulk or restricting opportunities for passive surveillance of the street”. As stated in the condition guideline, this condition is imposed to minimise bulk and protect the appearance of the development within the area.

As shown in Attachment 1, the balcony of Unit 19 is hardly visible from the street as it is setback 4.5m from the roof below and street frontage. The building opposite Berwick Street is 1 storey below Unit 19 and does not overlook the balcony. The building adjoining the premises is a blank brick façade. The partial enclosure of the balcony is limited to 13m² which is 28% of the total balcony area (46m²) and screening is limited to one (1) panel for privacy of the master bedroom. The white plantation style shutters match the colour of the building and blends in with the white underside of the balcony roof. As such the enclosure / screening of the balcony has no impact on the appearance of the building and enhances privacy for neighbours.

The applicant seeks to amend Condition 11 to include wording such as “or as approved in writing by Council” to permit the proposed partial enclosure/screening. The condition is to read as follows:

11(a) BALCONIES & TERRACES - UNENCLOSED (CITY PLAN)

Treatment of balconies and terraces.

*All balconies and terraces shown on the approved drawings and documents, are to remain unenclosed with no shutters, glazing, louvres or similar permanent structures other than those consistent with the relevant "Brisbane City Plan 2000 - Residential Code" and clearly depicted on the approved drawings, **unless otherwise agreed in writing by the assessment manager.***

GUIDELINE

This condition is imposed to minimise bulk and protect the appearance of the development within the area. For any enquiries about this condition, please contact the Assessment Manager, Development Assessment.

Timing: Prior to the commencement of the use and then to be maintained

11(b) BALCONIES & TERRACES - UNENCLOSED (CITY PLAN)

Any Community Management Statement is to contain a by-law which reflects the requirements of the previous part of this condition.

Timing: Prior to the commencement of the use and then to be maintained

With approval in writing from the assessment manager, the applicant will get the survey plan updated to reflect changes to internal areas and building certification to ensure compliance. There should be no change to the infrastructure charge, regardless of the increase to GFA, as the premises remains a 3 bedroom residential property.

Minor Change Assessment

Schedule 2 of the *Planning Act 2016*, defines a minor change for a development approval, as a change that would not result in *Substantially Different Development*.

Schedule 1 of the DA Rules further defines what constitutes Substantially Different Development for the purpose of determining if a change is a Minor Change. The following table addresses this criteria to demonstrate the proposed changes are not deemed substantially different development:

Table 1. Schedule 1 - Development Assessment Rules

4) A change may be considered to result in a substantially different development if the proposed change:	Response
(a) involves a new use	Complies The proposed change does not involve a new use.
(b) results in the application applying to a new parcel of land	Complies The proposed change does not apply to a new parcel of land.
(c) dramatically changes the built form in terms of scale, bulk and appearance	Complies There is no dramatic change to the built form in terms of scale, bulk and appearance. There is no change to building height, no change to floor area, and the shutters are white to match the building colour.
(d) changes the ability of the proposed development to operate as intended	Complies The proposed change does not alter the ability of the development to operate as intended.
(e) removes a component that is integral to the operation of the development	Complies The proposed change does not remove any integral components.
(f) significantly impacts on traffic flow and the transport network, such as increasing traffic to the site	Complies The proposed change will not impact upon traffic flow and no change to the approved road layout is proposed.
(g) introduces new impacts or increase the severity of known impacts	Complies The change does not introduce any new impacts or increase the severity of known impacts.
(h) removes an incentive or offset component that would have balanced a negative impact of the development	Complies It is not proposed to remove any incentive or offset components.
(i) impacts on infrastructure provisions.	Complies The proposed change does not impact upon infrastructure provision.

On this basis, the proposed development is a minor change which is not substantially different to the existing approval.

The definition of a Minor Change within Schedule 2 of the *Planning Act 2016* also requires the applicant to

demonstrate that if an application for the development were to be remade, the change does not result in one of the circumstances outlined below:

Table 2. Schedule 2 – Planning Act 2016

If a development application for the development, including the change, were made when the change application is made would not cause—	Response
(A)the inclusion of prohibited development in the application; or	Not Applicable The change application does not result in the inclusion of prohibited development.
(B)referral to a referral agency, other than to the chief executive, if there were no referral agencies for the development application; or (C)referral to extra referral agencies, other than to the chief executive; or	Not Applicable The original application required referral. The proposed change application would not trigger referral to any additional referral agencies.
(D)a referral agency, in assessing the application under section 55(2), to assess the application against, or have regard to, a matter, other than a matter the referral agency must have assessed the application against, or had regard to, when the application was made; or	
(E)public notification if public notification was not required for the development application.	Not Applicable The original development application did not require public notification as it was code assessable. The proposed change application would not trigger public notification.

In light of the above assessment, the proposed changes are deemed consistent with the definition and nature of a minor change application.

Conclusion

In summary, it is considered that the proposed changes are minor in nature, resulting in development which is consistent with the approved development. We deem it suitable to amend the wording of the condition to include “*unless otherwise agreed in writing with the assessment manager*” to permit the minor building work. We trust the above representations are sufficient for Council’s consideration of the requested change to the development approval. However, should you require any further information or clarification, please do not hesitate to contact Bennett and Bennett Group.

Kind regards,

Christina Kinsella
Principal Planner

P: 0477 556 070

E: ckinsella@bennettandbennett.com.au