



Our Ref: File: P04-22 & 01875-00000-000 CRCA:CRCA  
Your Ref: DA084-22

## DECISION NOTICE APPROVAL

(Given under section 63 (2) of the *Planning Act 2016*)

9 May 2023

S. Derrick  
C/- BNC Planning  
PO Box 5493  
TOWNSVILLE QLD 4810

### **Attention: Mr Benjamin Collings**

Dear Mr Collings

The development application described below was properly made to the Council on 22 August 2022.

### **APPLICANT DETAILS\***

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**Applicant name:** S. Derrick  
C/- BNC Planning

**Applicant contact details:** [enquire@bncplanning.com.au](mailto:enquire@bncplanning.com.au)

### **APPLICATION DETAILS**

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**Application number:** P04-22

**Approval sought:** Development Permit for a Material Change of Use

**Nature of development proposed:** Material Change of Use for Warehouse

**Description of the development proposed:** Four (4) Self-Storage Warehouses

### **LOCATION DETAILS**

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**Street address:** 111 and 119 Duchess Road

**Real property description:** Lot 2 on plan MPH33251

**Local government area:** Mount Isa City

*\*Mount Isa City Council is collecting your personal information on this form in order to comply with its responsibilities and obligations as a Local Government. The information will only be accessed by authorised Council employees who have a legitimate need for the information to process applications, requests etc. Your personal information will not be given to any other person or agency unless you have given us permission to do so or we are required to do so by law.*

**DECISION**

**Date of decision:** 5 May 2023

**Decision details:**  approved in full with conditions\*  
 (refer to the conditions contained in Attachment 1)

\*Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.

**DETAILS OF APPROVAL**

This application is  / is not  taken to have been approved (a deemed approval) under section 64(5) of the *Planning Act 2016*.

The following approvals are given:

	Planning Regulation 2017 reference	Development Permit	Preliminary Approval
Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval			
<ul style="list-style-type: none"> <li>• Building Work Not Associated with a Material Change of Use</li> <li>• Plumbing or Drainage Work</li> <li>• Material Change of Use</li> <li>• Reconfiguration of a Lot</li> <li>• Operational Work</li> </ul>		<input type="checkbox"/>  <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>  <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

**CONDITIONS**

This approval is subject to the conditions in Attachment 1.

**FURTHER DEVELOPMENT PERMITS**

Please be advised that the following development permits are required to be obtained before the development can be carried out:

1. Building Permit
2. Plumbing Permit - where required for connection of irrigation systems

**REFERRAL AGENCY FOR THE APPLICATION**

The referral agencies for this application are:

For an application involving	Name of referral agency	Advice agency or concurrence agency	Address
Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorizing instrument, if all or part of the premises- (a) are within 25m of a State transport corridor; or (b) are- (i) adjacent to a road that intersects with a State-controlled road; and (ii) within 100m of the intersection.	Department of Transport and Main Roads	Concurrence Agency	C/- State Assessment and Referral Agency –  Department of State Development, Infrastructure, Local Government and Planning  PO Box 5666 TOWNSVILLE QLD 4810  <a href="mailto:NQSARA@dsmip.qld.gov.au">NQSARA@dsmip.qld.gov.au</a>

### APPROVED PLANS AND SPECIFICATIONS

Copies of the following plans, specifications and / or drawings are enclosed.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
<b>Aspect of development: Material Change of Use</b>				
Planning Report	BNC Planning	July 2022	Report No. DA084-22-PR	Version 1.0
Applicant Response to Assessment Manager Information Request	BNC Planning	15 March 2023	BNC Ref. DA084-22	Version 1.0
Site Based Stormwater Management Plan	Northern Consulting Engineers	23 February 2023	Job No. BNC0069 Doc Ref. BNC0069-SBSM	Issue A
Site Plan	BNC Planning	July 2022	BNC Ref. 084-22 Dwg No. S01-01	Revision. A
Elevations	Best Sheds	10 May 2022	Job No. 1217105305 Sheet No. 2 of 7	-
Floor Plan	Best Sheds	10 May 2022	Job No. 1217105305 Sheet No. 4 of 7	-
Vehicle Movement Layout Plan (as amended in red)	Northern Consulting Engineers	3 February 2023	Dwg No. BNC0069/V01	Issue P2
Vehicle Movement Layout Plan (as amended in red)	Northern Consulting Engineers	3 February 2023	Dwg No. BNC0069/V02	Issue P2
Vehicle Movement Layout Plan (as amended in red)	Northern Consulting Engineers	3 February 2023	Dwg No. BNC0069/V03	Issue P2

**CURRENCY PERIOD FOR THE APPROVAL (Section 85 of the Planning Act 2016)**

Six (6) years from the date of the Decision Notice.

**STATEMENT OF REASONS**

1. Reasons for the Decision

The reasons for this decision are:

The proposal to construct four (4) self-storage warehouses at 111 and 119 Duchess Road, Mount Isa, has been assess against the below Assessment Benchmarks found in the *State Planning Policy, North West Regional Plan*, and the *City of Mount Isa Planning Scheme 2020*.

Assessment has concluded that the proposal was consistent with the applicable assessment benchmarks subject to compliance with a number of conditions of approval and the proposal has therefore been approved in full subject to conditions.

2. Assessment Benchmarks

The following are the benchmarks applying for this development:

<b>Benchmarks applying for the development</b>	<b>Benchmark reference</b>
<i>State Interest Polices and Assessment Benchmarks</i>	<i>Part E, State Planning Policy</i>
<i>Regional Strategies and Polices</i>	<i>Part E, North West Regional Plan</i>
<i>Airport Environs Overlay Code</i>	<i>Part 8.2.1, City of Mount Isa Planning Scheme 2020</i>
<i>Biodiversity Overlay Code</i>	<i>Part 8.2.2, City of Mount Isa Planning Scheme 2020</i>
<i>Bushfire Hazard Overlay Code</i>	<i>Part 8.2.3, City of Mount Isa Planning Scheme 2020</i>
<i>Flood Hazard Overlay Code</i>	<i>Part 8.2.5, City of Mount Isa Planning Scheme 2020</i>
<i>Major Infrastructure Overlay Code</i>	<i>Part 8.2.8, City of Mount Isa Planning Scheme 2020</i>
<i>Industry and Infrastructure Activities Code</i>	<i>Part 9.3.4, City of Mount Isa Planning Scheme 2020</i>
<i>Engineering Works and Services Code</i>	<i>Part 9.4.2, City of Mount Isa Planning Scheme 2020</i>
<i>Excavation and Filling Code</i>	<i>Part 9.4.3, City of Mount Isa Planning Scheme 2020</i>
<i>Landscaping Code</i>	<i>Part 9.4.5, City of Mount Isa Planning Scheme 2020</i>
<i>Parking, Access and Loading Code</i>	<i>Part 9.4.6, City of Mount Isa Planning Scheme 2020</i>

3. Compliance with Benchmarks

Benchmark reference	Reasons for the approval despite non-compliance with benchmark
Acceptable Outcome 5.3 Part 9.3.4, <i>City of Mount Isa Planning Scheme 2020</i>	While the development is proposed within the road and side boundary setbacks, it is noted that the proposed road boundary setback is consistent with other developments in the area. It is assessed that the visual bulk of the storage warehouse will be mitigated by the width of the Duchess Road verge and the proposed landscaping buffer.  Given the low intensity nature of the use, it is assessed that the development will result in minimal impacts to the adjoining properties despite the reduced side setback. As such, the proposed boundary setbacks are assessed as acceptable.
Acceptable Outcome 10.1 Part 9.3.4, <i>City of Mount Isa Planning Scheme 2020</i>	While the development does not propose to provide the minimum 10% landscaping specified under the AO, the development does propose a landscaping buffer along the road frontage to mitigate the visual bulk of the development. Given the size of the site, and the low intensity nature of the use, it is assessed that additional landscaping buffers are unnecessary. The development has been conditioned to grass those areas not occupied by buildings or vehicle manoeuvring areas. As such, the proposed landscaping is assessed as acceptable.
Acceptable Outcome 4.1 Part 9.4.6, <i>City of Mount Isa Planning Scheme 2020</i>	While the development does not propose to provide the nineteen (19) carparking spaces prescribed under the AO, it is assessed that the proposed carparking arrangement is acceptable given the specialised nature of the use and the unmanned nature of the facility.

4. Matters Prescribed by Regulation

*Nil.*

**APPEAL RIGHTS**

The rights of an applicant to appeal to a tribunal or the Planning and Environment Court against a decision about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

**APPEAL BY AN APPLICANT**

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal of all or part of the development application
- a provision of the development approval
- the decision to give a preliminary approval when a development permit was applied for
- a deemed refusal of the development application.

An applicant may also have a right to appeal to the Development tribunal. For more information, see schedule 1 of the *Planning Act 2016*.

APPEAL BY A SUBMITTER

A submitter for a development application may appeal to the Planning and Environment Court against:

- any part of the development application for the development approval that required impact assessment
- a variation request.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 229 of the *Planning Act 2016*.

**Attachment 3** is an extract from the *Planning Act 2016* that sets down the applicant's appeal rights and the appeal rights of a submitter.

Should you have any further queries, please contact Council's Development and Land Use section on (07) 4747 3200.

Yours faithfully



Dale Dickson PSM  
**Chief Executive Officer**

CC: Department of Transport and Main Roads  
C/- State Assessment and Referral Agency  
Department of State Development, Infrastructure,  
Local Government & Planning  
PO Boc 5666  
TOWNSVILLE QLD 4810

Encl: **Attachment 1—Conditions of the approval**

***Part 1—Conditions imposed by the Assessment Manager (Mount Isa City Council)***  
***Part 2—Conditions required by the referral agency response***

**Attachment 2 – Approved Plans**  
**Attachment 3—Extract on Appeal Rights (*Planning Act 2016*)**

# ATTACHMENT 1

## PART 1

### CONDITIONS IMPOSED BY ASSESSMENT MANAGER (MOUNT ISA CITY COUNCIL)

Application: P04-22 for a Material Change of Use for four (4) Self-Storage Warehouses (Warehouse) at 111 and 119 Duchess Road, Mount Isa.

Council advise that the Development Application was approved by Mount Isa City Council's Chief Executive Officer through Delegated Authority (Delegated Authority No. 2057) on 5 May 2023 for a Material Change of Use for four (4) Self-Storage Warehouses (Warehouse) at 111 and 119 Duchess Road, Mount Isa, described as Lot 2 on plan MPH33251, subject to the following conditions:

NUMBER	CONDITION	TIMING
<b>PLANNING</b>		
<b>General</b>		
1.	The development shall be carried out generally in accordance with the approved plans and drawings attached to this approval except where conditions of this approval dictate otherwise.  <i>For clarity, any change to the development that is not generally in accordance with the approved plans and drawings must be approved by Council pursuant to a 'change application' under Chapter 3, Part 5, Division 2, Subdivision 2 of the Planning Act 2016;</i>	<i>At all times</i>
2.	The owner/developer shall bear the cost of all alterations necessary to public utility mains, services or installations necessitated by this approval and such works shall be to Council specifications and satisfaction	<i>As specified</i>
3.	The development is approved on the basis that the self-storage warehouses are used solely for the storage of domestic items and household effects. The warehouses shall not be used for the storage of commercial, industrial or hazardous items, or in connection with any commercial or industrial operation;	<i>At all times</i>
<b>Amenity</b>		
4.	Outdoor lighting is designed, installed, operated, and maintained in accordance with the parameters and requirements of Australian Standard: 4282-1997 <i>Control of the Obtrusive Effects of Outdoor Lighting;</i>	<i>At all times</i>

5.	An attractive, graffiti-resistant surface shall be provided to all proposed buildings and structures. All buildings and structures shall be maintained in good-condition and free of graffiti or vandalism at all times;	<i>At all times</i>
<b>Gates and Fencing</b>		
6.	Road boundary fencing shall not exceed 1.80m in height and shall consist of visually permeable "Hercules", "Palisade" or chain-link fencing types to ensure the full effect of the proposed landscaping buffer is visible from the street;	<i>At all times</i>
7.	Where the development adjoins an existing sensitive land use - including a parcel occupied by caretaker's accommodation, a 1.80m high solid fence shall be provided for the full length of the common boundary;	<i>At all times</i>
8.	Any gates situated along the road boundary must open INWARDS onto the owner / developer's property and NOT outwards onto Council's road reserve / verge;	<i>At all times</i>
<b>Landscaping</b>		
9.	The 2.00m deep landscaping strip shall be installed to the property frontage as illustrated on the approved Site Plan (Dwg No. S01-01, Rev A, date: July 2022). The landscaping strip shall consist of medium to large bushes/shrubs sufficient to lessen the visual bulk of the eastern frontage of the storage warehouse and shall be maintained to Council's satisfaction for the life of the development;	<i>Prior to the commencement of use and to be maintained for the life of the development</i>
10.	All areas of the site not covered by buildings; paved vehicle parking and maneuvering areas; or the landscaping buffer shall be grassed;	<i>Prior to the commencement of use and to be maintained for the life of the development</i>
11.	An automatic water irrigation system is to be installed to all landscaped and grassed areas. The automatic water irrigation system must be maintained to all landscaping to promote and sustain healthy robust growth to Council satisfaction for the life of the development;	<i>Prior to the commencement of use and to be maintained for life of the development</i>
12.	The owner/developer shall adequately maintain the landscaped and grassed areas to Council's satisfaction to ensure they are neat and tidy at all times and not overgrown or unsightly;	<i>At all times</i>
<b>PLUMBING</b>		
13.	Prior to the commencement of works, the operator/developer shall lodge a Plumbing Application for all plumbing and drainage works and obtain the necessary Council approvals;	<i>Prior to the commencement of works</i>



<b>ENGINEERING</b>		
14.	The owner/developer shall provide the vehicle parking and maneuvering areas as illustrated on the approved Vehicle Movement Plans (Dwg Nos. BNC0069/V01 – BNC0069/V03, Issue: P2, date 03.02.2023). All areas where motor vehicles shall be driven or parked shall be provided with a durable dust-free surface such as asphalt, bitumen or concrete and shall be maintained for the life of the development;	<i>Prior to commencement of use and to be maintained for the life of the development</i>
15.	Appropriate signage and linemarking shall be provided onsite to direct vehicles around the site and identify all vehicle parking areas. Signage shall be maintained in a neat and legible condition at all times;	<i>Prior to commencement of use and to be maintained for the life of the development</i>
16.	All stormwater generated by the development shall be managed in accordance with the Site Based Stormwater Management Plan prepared by Northern Consulting Engineers dated 23 February 2023. All stormwater shall be collected in the proposed detention basin and directed to a lawful point of discharge. The development shall not result in a worsening of stormwater runoff to surrounding properties, or the release of a contaminant into a watercourse;	<i>At all times</i>
<b>ENVIRONMENTAL SERVICES</b>		
<b>General</b>		
17.	<p>The operator must achieve the 'general environmental duty' to mitigate any environmental harm and/or nuisance described under the <i>Environmental Protection Act 1994</i>.</p> <p>(a) there is no discharge of contaminants to land or water that may harm the environment or create a nuisance from the operation of the activity.</p> <p>(b) there is discharge of contaminants to air that may harm the environment or create a nuisance from the operation of the activity.</p> <p>(c) noise nuisance is prevented or minimised at noise sensitive places.</p> <p>Waste production and disposal must be minimised, and waste must be managed so it does not harm the environment or create a nuisance from the operation of the activity;</p>	<i>At all times</i>
18.	<p>Chemicals and other liquids such as fuels, solvents, oils, batteries and coolants must be kept within a secondary containment system that is impervious to the materials stored within it and must be managed to prevent the release of contaminants to waters or land.</p> <p>Any release must be reported by telephone to the Department of Environment and Science (DES) Pollution Hotline or Council. Any such release must be reported as soon as practicable but no later than 24 hours, after becoming aware of the release;</p>	<i>At all times</i>

Waste		
19.	Any asbestos containing material handled during construction and demolition must be handled according to the provisions of the "How to Manage and Control Asbestos in the Workplace Code of Practice 2011";	<i>During Construction</i>
Water		
20.	A contaminant must not be placed in a position where it could reasonably be expected to move or wash into a roadside gutter, stormwater drain or waters;	<i>At all times</i>
Noise		
21.	Prevent/ minimise the emission of noise that causes, or is likely to cause, environmental nuisance at sensitive or commercial places. All work must be undertaken within the prescribed timeframe mentioned in <i>Environmental Protection Act 1994</i> ;	<i>At all times</i>
Air		
22.	The release of dust and/or particulate matter resulting from the activity must not cause environmental nuisance at any nuisance sensitive or commercial place;	<i>At all times</i>
23.	The release of dust and particulate matter from parking and driveway from vehicle activities. Parking facilities and driveways must be hard surface to avoid dust and particulate matter entering the air.	<i>During Construction</i>

The applicant is reminded that, in addition to the conditions of this permit, compliance is required with all applicable Commonwealth and Queensland legislation.

The assessment of this application has not included an examination of the compliance with applicable legislation, with the exception of those aspects which have been examined by any referral agency, and the issue of the permit is not to be taken as evidence or assertion of such compliance.

The following list indicates some of the legislation which is commonly applicable to development. Whilst every endeavour has been made to make the list as complete as possible there may be other applicable legislation that has not been included.

- *Aboriginal Cultural Heritage Act 2003*
- *Biosecurity Act 2014*
- *Body Corporate and Community Management Act 1997*
- *Building Act 1975*
- *Building Units and Group Titles Act 1980*
- *Child Care Act 2002*
- *Dangerous Goods Safety Management Act 2001*
- *Disability Discrimination Act 1992 (Commonwealth)*
- *Electrical Safety Act 2002*
- *Environmental Protection Act 1994*
- *Explosives Act 1999*
- *Fisheries Act 1994*
- *Food Act 2006*
- *Native Title (Queensland) Act 1993* and Commonwealth native title legislation
- *Pest Management Act 2001*
- *Plumbing and Drainage Act 2002*
- *Public Health Act 2005*
- *Queensland Heritage Act 1992*
- *Radiation Safety Act 1999*
- *Recreational Areas Management Act 2006*
- *Regional Planning Interests Act 2014*
- *Residential Services (Accreditation) Act 2002*
- *Transport Infrastructure Act 1994*
- *Vegetation Management Act 1999*
- *Water Act 2000*

- *Land Act 1994*
- *Land Protection (Pest and Stock Route) Act 2002*
- *Land Title Act 1994*

## ATTACHMENT 1

### Part 2

# CONDITIONS IMPOSED BY CONCURRENCE AGENCY

## (Department of Transport & Main Roads)

Application: P04-22 for a Material Change of Use for Four (4) Self-Storage Warehouses (Warehouse) at 111 and 119 Duchess Road, Mount Isa.

(DIGIP letter dated 7 October 2022, Application/Reference No: 2209-30854 SRA refers, copy attached).



SARA reference: 2209-30854 SRA  
 Council reference: P-0422 & 01875-10000-000  
 Applicant reference: DA084-22

7 October 2022

Chief Executive Officer  
 Mount Isa City Council  
 PO Box 815  
 MOUNT ISA QLD 4825  
 city@mountisa.qld.gov.au

Attention: Gayle Houston

Dear Ms Houston

## SARA response—111 Mount Isa Duchess Road, Healy

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 8 September 2022.

### Response

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Outcome:	Referral agency response – with conditions
Date of response:	7 October 2022
Conditions:	The conditions in <b>Attachment 1</b> must be attached to any development approval
Advice:	Advice to the applicant is in <b>Attachment 2</b>
Reasons:	The reasons for the referral agency response are in <b>Attachment 3</b>

### Development details

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Description:	Development Permit    Material Change of Use for Warehouse
SARA role:	Referral Agency
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 of the Planning Regulation 2017 (10.9.4.2.4.1) – Material change of use of premises within 25m of a state-controlled road
SARA reference:	2209-30854 SRA
Assessment manager:	Mount Isa City Council
Street address:	111 Mount Isa Duchess Road, Healy

Real property description: Lot 2 on MPH33251  
Applicant name: S. Derrick  
Applicant contact details: C/- BNC Planning  
PO Box 5493  
TOWNSVILLE QLD 4810  
enquire@bncplanning.com.au

State-controlled road access permit: This referral included an application for a road access location, under section 62A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Approved
- Reference: TMR22-037342
- Date: 5 October 2022

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at North.Queensland.IDAS@tmr.qld.gov.au.

## Representations

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An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules). Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Cavannah Deller, A/ Senior Planning Officer, on 07 3244 9343 or via email NQSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Graeme Kenna  
Manager (Planning)

cc S. Derrick C/-BNC Planning, enquire@bncplanning.com.au

enc Attachment 1 - Referral agency conditions  
Attachment 2 - Advice to the applicant  
Attachment 3 - Reasons for referral agency response  
Attachment 4 - Representations about a referral agency response provisions  
Attachment 5 - Approved Plan

## Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application)

No.	Conditions	Condition timing
	<p>10.9.4.2.4.1— Material change of use within 25 metres of a state-controlled road and within 100 metres of a state-controlled road intersection—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):</p>	
1.	<p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road.</p> <p>(b) Any works on the land must not:</p> <ul style="list-style-type: none"> <li>(i) create any new discharge points for stormwater runoff onto the state-controlled road;</li> <li>(ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road;</li> <li>(iii) surcharge any existing culvert or drain on the state-controlled road;</li> <li>(iv) reduce the quality of stormwater discharge onto the state-controlled road.</li> </ul>	At all times
2.	<p>(a) The road access locations, are to be located generally in accordance with Site Plan prepared by BNC Planning, dated July 2022, BNC ref. no. 084-22, drawing no. S01-01 and rev A (as amended in red by SARA on 7 October 2022).</p> <p>(b) Road access works which limit the road access locations to egress/ingress movements in accordance with Site Plan prepared by BNC Planning, dated July 2022, BNC ref. no. 084-22, drawing no. S01-01 and rev A (as amended in red by SARA on 7 October 2022) must be provided.</p> <p>(c) The road access works must be designed and constructed in accordance with Mount Isa City Council Standard Drawings for industrial access.</p>	<p>(a) At all times</p> <p>(b) and (c) Prior to the commencement of use</p>

## Attachment 2—Advice to the applicant

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<b>General advice</b>	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> , its regulation or the State Development Assessment Provisions (SDAP) version 3.0. If a word remains undefined it has its ordinary meaning.
2.	<p><b>Road works approval:</b> Under section 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads to carry out road works on a state-controlled road. Please contact the Department of Transport and Main Roads on 07 4045 7144 to discuss the process for making an application for road works approval.</p> <p>Please note this approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the Department of Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</p>



## Attachment 3—Reasons for referral agency response

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(Given under section 56(7) of the *Planning Act 2016*)

### The reasons for SARA's decision are:

The proposed development complies with State code 1: Development in a state-controlled road environment of SDAP. Specifically, the development:

- does not increase the likelihood or frequency of accidents, fatalities or serious injury for users of a state-controlled road
- does not adversely impact the structural integrity or physical condition of state-controlled roads or road transport infrastructure
- does not adversely impact the function and efficiency of state-controlled roads or future state-controlled roads
- does not adversely impact the state's ability to plan, construct, maintain, upgrade or operate state-controlled roads, future state-controlled roads or road transport infrastructure
- does not significantly increase the cost to the state to plan, construct, upgrade or maintain state-controlled roads, future state-controlled roads or road transport infrastructure
- does not adversely impact the state's ability to operate public passenger services on state-controlled roads.

### Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- SDAP (version 3.0), as published by SARA
- Development Assessment Rules
- SARA DA Mapping system
- *Human Rights Act 2019*.

## Attachment 4—Representations about a referral agency response provisions

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# Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules<sup>1</sup> regarding **representations about a referral agency response**

## Part 6: Changes to the application and referral agency responses

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### 28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
  - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
  - (c) the applicant has given written agreement to the change to the referral agency response.<sup>2</sup>
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
  - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

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<sup>1</sup> Pursuant to Section 68 of the *Planning Act 2016*

<sup>2</sup> In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

## **Part 7: Miscellaneous**

### **30 Representations about a referral agency response**

30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.<sup>3</sup>

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<sup>3</sup> An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.



## **Attachment 5—Approved Plan**

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**PLANS AND DOCUMENTS**  
referred to in the REFERRAL  
AGENCY RESPONSE

**SARA ref:** 2209-30854 SRA

**Date:** 7 October 2022



Amended in red by SARA on  
7 October 2022

**BNC PLANNING**  
town planning & property development consultants

Office 7 / Ground Floor / 41 Denham Street  
TOWNSVILLE CITY QLD 4810  
PO BOX 5493 TOWNSVILLE QLD 4810  
(07) 4724 1763 or 0438 789 612 - enquire@bncplanning.com.au

**Property Details**  
**Site Address:** 111 Mount Isa Duchess Road HEALY QLD 4825  
**Real Property Description:** Lot 2 on MPH33251  
**Tenure:** Freehold  
**Site Area:** 1.721 ha  
**Road Frontage:** 150m to Duchess Road  
**Planning Scheme Zoning:** Industry zone  
**Precincts:** NA  
**Overlays/Local Areas:** Flood  
**DFE (Q100) Flooding:** TBC

**Notes**

- Plan and detail is not for construction purposes
- All site dimensions to be confirmed by detailed survey
- No new road reserves
- No existing or proposed public open space
- No new retaining walls or retaining structures
- No change to stormwater drainage
- No land to be dedicated for community purposes
- Building envelopes/pads are shown if required
- No existing or proposed easements
- New civil works subject to detailed design
- The site is subject to 1%AEP DFE flooding

**Data Source**

- DCDB as taken from unconfirmed survey source
- QLD Globe

AMT	DESCRIPTION	REV	DATE	BY	CHKD
1	ISSUED		07-10-2022		

DRAWING STATUS		084-22	S01-01	A
DA ISSUE				

Scale:	
Format:	
Meridian:	Survey Records:

Our ref TMR22-037342  
Your ref DA084-22  
Enquiries Aidan Colahan



Department of  
**Transport and Main Roads**

5 October 2022

## **Decision Notice – Permitted Road Access Location (s62(1) *Transport Infrastructure Act 1994*)**

**This is not an authorisation to commence work on a state-controlled road<sup>1</sup>**

Development application reference number P04-22, lodged with Mount Isa City Council involves constructing or changing a vehicular access between Lot 2MPH33251, the land the subject of the application, and Duchess Road (a state-controlled road).

In accordance with section 62A(2) of the *Transport Infrastructure Act 1994* (TIA), this development application is also taken to be an application for a decision under section 62(1) of TIA.

### **Applicant Details**

Name and address S. Derrick C/- BNC Planning  
PO Box 5493  
Townsville QLD 4810

### **Application Details**

Address of Property 111 Mount Isa Duchess Road, Healy QLD 4825  
Real Property Description 2MPH33251  
Aspect/s of Development Material Change of use for the construction of Self storage warehouses

### **Decision (given under section 67 of TIA)**

It has been decided to approve the application, subject to the following conditions:

No.	Conditions of Approval	Condition Timing
1	<p>The road access locations, are to be located generally in accordance with Site Plan, prepared by BNC Planning, dated July 2022 reference 084-22/S01-01 and revision A.</p> <p>Road access works comprising an ingress only access, (at the road access location) and egress only movements (at the exit location), must be provided generally in accordance with Site Plan, prepared by BNC Planning, dated July 2022 reference 084-22/S01-01 and revision A, as amended.</p>	At all times.

<sup>1</sup> Please refer to the further approvals required under the heading 'Further approvals'

No.	Conditions of Approval	Condition Timing
	The road access works must be designed and constructed in accordance with Mount Isa City Council Standard Drawings for industrial access.	
2	Direct access is prohibited between Mount Isa Duchess Road and Lot 2 on MPH33251 at any other location other than the permitted road access locations described in Condition 1.	At all times
3	The landowner will undertake responsibility of maintaining the crossover between the property boundary and the edge of the road pavement as required to continue safe and efficient access between the permitted road access point and the State-controlled road.	At all times

### Reasons for the decision

The reasons for this decision are as follows:

- a) To ensure access to the State-controlled Road from the proposed development does not compromise the safety and efficiency of the State-controlled road network.
- b) To provide safe access for all vehicles associated with the proposed low impact industry use.

Please refer to **Attachment A** for the findings on material questions of fact and the evidence or other material on which those findings were based.

### Information about the Decision required to be given under section 67(2) of TIA

1. There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
2. In accordance with section 70 of the TIA, the applicant for the planning application is bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for information.

### Further information about the decision

1. In accordance with section 67(7) of TIA, this decision notice:
  - a) starts to have effect when the development approval has effect; and
  - b) stops having effect if the development approval lapses or is cancelled; and
  - c) replaces any earlier decision made under section 62(1) in relation to the land.
2. In accordance with section 485 of the TIA and section 31 of the *Transport Planning and Coordination Act 1994* (TPCA), a person whose interests are affected by this decision may apply for a review of this decision only within 28 days after notice of the decision was given under the TIA. A copy of the review provisions under TIA and TPCA are attached in **Attachment C** for information.



3. In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for information.

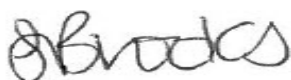
### **Further approvals**

The Department of Transport and Main Roads also provides the following information in relation to this approval:

1. Road Access Works Approval Required – Written approval is required from the department to carry out road works that are road access works (including driveways) on a state-controlled road in accordance with section 33 of the TIA. This approval must be obtained prior to commencing any works on the state-controlled road. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the department to make an application.

If further information about this approval or any other related query is required, Mr Aidan Colahan, should be contacted by email at [aidan.p.colahan@tmr.qld.gov.au](mailto:aidan.p.colahan@tmr.qld.gov.au) or on 0744218708.

Yours sincerely



Lisa Brooks  
**Senior Town Planner**

Attachments: Attachment A – Decision evidence and findings  
Attachment B - Section 70 of TIA  
Attachment C - Appeal Provisions  
Attachment D - Permitted Road Access Location Plan

## Attachment A

### Decision Evidence and Findings

Findings on material questions of fact:

- The objective of the *Transport Infrastructure Act 1994* requires the establishment of a road regime that is safe and efficient.
- Section 62 of the *Transport Infrastructure Act 1994* allows the Department of Transport and Main Roads to make decisions about permitted road access locations between particular / adjacent land and a State-controlled Road.
- The proposed development is a material change of use for self-storage warehouses at 111 Mount Isa Duchess Road, Healy QLD 4825, more particularly described as Lot 2 on MPH33251.
- The subject site benefits from a primary frontage to Mount Isa Duchess Road (a State-controlled Road).
- Where proximate to the subject site, Mount Isa Duchess Road is not identified as a Limited Access Road.
- The development proposes two separate access points to the state-controlled road along the northern part of the eastern side boundary.
- The vehicles movements expected are to be low in frequency due to the nature of the self-storage use and are expected to be a light vehicle with trailers.
- It is not foreseen that vehicles will queue within the boundaries of the SCR due to the low intensity of the use and the adequate provision of car parking.
- The location, design and operation of the proposed development is not foreseen to compromise the safety of users of the state-controlled road.
- The landowner shall be responsible for the maintenance of the crossover between the property boundary and the edge of the kerb as required to continue the safe and efficient access between the permitted road access location and Mount Isa Duchess Road.
- The access has been assessed on the current conditions and not on any future planning within the area.

Evidence or other material on which findings were based:

<b>Title of Evidence / Material</b>	<b>Prepared by</b>	<b>Date</b>	<b>Reference no.</b>	<b>Version/Issue</b>
Site Plan	BNC Planning	July 2022	084-22/S01-01	A

## Attachment B

### Section 70 of TIA

*Transport Infrastructure Act 1994*

Chapter 6 Road transport infrastructure

Part 5 Management of State-controlled roads

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#### **70 Offences about road access locations and road access works, relating to decisions under s 62(1)**

- (1) This section applies to a person who has been given notice under section 67 or 68 of a decision under section 62(1) about access between a State-controlled road and adjacent land.
- (2) A person to whom this section applies must not—
  - (a) obtain access between the land and the State-controlled road other than at a location at which access is permitted under the decision; or
  - (b) obtain access using road access works to which the decision applies, if the works do not comply with the decision and the noncompliance was within the person's control; or
  - (c) obtain any other access between the land and the road contrary to the decision; or
  - (d) use a road access location or road access works contrary to the decision; or
  - (e) contravene a condition stated in the decision; or
  - (f) permit another person to do a thing mentioned in paragraphs (a) to (e); or
  - (g) fail to remove road access works in accordance with the decision.

Maximum penalty—200 penalty units.

- (3) However, subsection (2)(g) does not apply to a person who is bound by the decision because of section 68.

**Attachment C**  
**Appeal Provisions**

*Transport Infrastructure Act 1994*  
Chapter 16 General provisions

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**485 Internal review of decisions**

- (1) A person whose interests are affected by a decision described in schedule 3 (the **original decision**) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
  - (a) applies to the review; and
  - (b) provides—
    - (i) for the procedure for applying for the review and the way it is to be carried out; and
    - (ii) that the person may apply to QCAT to have the original decision stayed.

**485B Appeals against decisions**

- (1) This section applies in relation to an original decision if a court (the appeal court) is stated in schedule 3 for the decision.
- (2) If the reviewed decision is not the decision sought by the applicant for the review, the applicant may appeal against the reviewed decision to the appeal court.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 3—
  - (a) applies to the appeal; and
  - (b) provides—
    - (i) for the procedure for the appeal and the way it is to be disposed of; and
    - (ii) that the person may apply to the appeal court to have the original decision stayed.
- (4) Subsection (5) applies if—
  - (a) a person appeals to the Planning and Environment Court against a decision under section 62(1) on a planning application that is taken, under section 62A(2), to also be an application for a decision under section 62(1); and
  - (b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.

- (5) The court may order—
  - (a) the appeals to be heard together or 1 immediately after the other; or
  - (b) 1 appeal to be stayed until the other is decided.
- (6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.
- (7) In this section—

**original decision** means a decision described in schedule 3.

**reviewed decision** means the chief executive's decision on a review under section 485.

### **31 Applying for review**

- (1) A person may apply for a review of an original decision only within 28 days after notice of the original decision was given to the person under the transport Act.
- (2) However, if—
  - (a) the notice did not state the reasons for the original decision; and
  - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)the person may apply within 28 days after the person is given the statement of the reasons.
- (3) In addition, the chief executive may extend the period for applying.
- (4) An application must be written and state in detail the grounds on which the person wants the original decision to be reviewed.

### **32 Stay of operation of original decision**

- (1) If a person applies for review of an original decision, the person may immediately apply for a stay of the decision to the relevant entity.
- (2) The relevant entity may stay the original decision to secure the effectiveness of the review and any later appeal to or review by the relevant entity.
- (3) In setting the time for hearing the application, the relevant entity must allow at least 3 business days between the day the application is filed with it and the hearing day.
- (4) The chief executive is a party to the application.
- (5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the relevant entity with it on the chief executive at least 2 business days before the hearing.
- (6) The stay—
  - (a) may be given on conditions the relevant entity considers appropriate; and
  - (b) operates for the period specified by the relevant entity; and
  - (c) may be revoked or amended by the relevant entity.
- (7) The period of a stay under this section must not extend past the time when the chief executive reviews the original decision and any later period the relevant entity allows the applicant to enable the applicant to appeal against the decision or apply for a review of the decision as provided under the QCAT Act.
- (8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.

(9) In this section—

**relevant entity** means—

- (a) if the reviewed decision may be reviewed by QCAT—QCAT; or
- (b) if the reviewed decision may be appealed to the appeal court—the appeal court.

### **35 Time for making appeals**

(1) A person may appeal against a reviewed decision only within—

- (a) if a decision notice is given to the person—28 days after the notice was given to the person; or
- (b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

(2) However, if—

- (a) the decision notice did not state the reasons for the decision; and
- (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

the person may apply within 28 days after the person is given a statement of the reasons.

(3) Also, the appeal court may extend the period for appealing.

# Attachment D

## Permitted Road Access Location Plan



**BNC PLANNING**  
 town.planning & property.development consultants

Office 7 / Ground Floor / 41 Denham Street  
 TOWNSVILLE CITY QLD 4815  
 PO BOX 5463 TOWNSVILLE QLD 4810  
 (87) 4724 1763 or 0438 709 812 • enquiries@bncplanning.com.au

**Property Details**  
 City Address: 333 Mount St Duchesses Road  
 HENLY QLD 4825  
 Real Property Description: Lot 2 on MPH33251  
 Tenure: Freehold  
 Site Area: 1.725 ha  
 Road Frontage: 138m to Duchesses Road  
 Planning Scheme Zoning: INDUSTRY 2016  
 Precincts: NA  
 Overlay/Local Area: Flood  
 DTI (2016) Flooding: TBC

- Notes**
- 1. All dimensions are to the centre of the road unless otherwise stated.
  - 2. All dimensions are to the centre of the road unless otherwise stated.
  - 3. All dimensions are to the centre of the road unless otherwise stated.
  - 4. All dimensions are to the centre of the road unless otherwise stated.
  - 5. All dimensions are to the centre of the road unless otherwise stated.
  - 6. All dimensions are to the centre of the road unless otherwise stated.
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  - 8. All dimensions are to the centre of the road unless otherwise stated.
  - 9. All dimensions are to the centre of the road unless otherwise stated.
  - 10. All dimensions are to the centre of the road unless otherwise stated.

SITE PLAN		DATE	
NO.	DESCRIPTION	DATE	BY
01	AS SHOWN	2024	XXX
02			
03			
04			
05			
06			
07			
08			
09			
10			



# ATTACHMENT 2

# APPROVED PLANS



**BNC PLANNING**  
town planning & property development consultants

## PLANNING REPORT

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DEVELOPMENT APPLICATION FOR A DEVELOPMENT PERMIT  
*PLANNING ACT 2016*

### CODE ASSESSABLE MATERIAL CHANGE OF USE

111 DUCHESS ROAD MOUNT ISA QLD 4850  
being  
LOT 2 ON MPH33251  
for  
WAREHOUSE

**MOUNT ISA CITY COUNCIL  
DEVELOPMENT APPROVAL**

Permit No.: P04-22

Type of Development: Material Change of Use

Approved Use: Four (4) Self-Storage Warehouses (Warehouse)

Approved By: Dale Dickson PSM

Title: Chief Executive Officer&s(d): 8/05/2023

Sheet: 1 of 12

## Report Matrix

APPLICATION SUMMARY	
<b>Applicant:</b>	S. Derrick C/- BNC Planning
<b>Application Type:</b>	Development Application for a Development Permit
<b>Development Type:</b>	Material Change of Use
<b>Category of Development (Level of Assessment):</b>	Code Assessable
<b>Development Description:</b>	Self storage warehouses
<b>Assessment Manager:</b>	Mount Isa City Council
<b>Referral Agencies:</b>	State Assessment and Referral Agency
CATEGORISING INSTRUMENTS	
<b>Planning Scheme:</b>	City of Mount Isa Planning Scheme
<b>Planning Scheme Defined Uses/Works:</b>	Warehouse
<b>Zoning:</b>	Low impact industry zone
<b>Precincts/Sub-Precincts:</b>	NA
<b>Overlays:</b>	Flood hazard and Road hierarchy overlays
SITE DESCRIPTION	
<b>Property Address:</b>	111 Duchess Road Mount Isa QLD 4850
<b>Real (Legal) Property Description:</b>	Lot 2 on MPH33251
<b>Site Area:</b>	1.721 ha
<b>Landowner:</b>	The Proprietors
<b>Tenure:</b>	Freehold
<b>Relevant Encumbrances:</b>	NA
<b>Local Government Area:</b>	Mount Isa City Council
<b>Road Frontage:</b>	Duchess Road

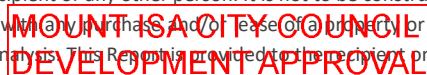
## DOCUMENT CONTROL


Prepared by	Client	Report
BNC Planning	S. Derrick	Report No. DA084-22-PR July 2022

Version	Date	Author
1.0	July 2022	BNC:BNC

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 Permit No.: P04-22  
 Type of Development: Material Change of Use  
 Approved Use: Four (4) Self-Storage Warehouses (Warehouse)  
 Approved By: Dale Dickson PSM  
 Title: Chief Executive Officer&s(d): 8/05/2023  
 Sheet: 2 of 12



BNC Ref. DA084-22  
TCC Ref. MCU22/0086

>> **15 March 2023**

ASSESSMENT MANAGER  
TOWNSVILLE CITY COUNCIL  
PO BOX 1268  
TOWNSVILLE QLD 4810  
*Attention: Development Land Use*  
Via: [planadmin@mountisa.qld.gov.au](mailto:planadmin@mountisa.qld.gov.au)

**RE: APPLICANT RESPONSE TO ASSESSMENT MANAGER INFORMATION REQUEST  
MATERIAL CHANGE OF USE DEVELOPMENT APPLICATION P04-22  
111 & 119 DUCHESS OAD, MOUNT ISA QLD 4825**

*BNC Planning* acting on behalf of the applicant submit this response to the *information request* issued by the Mount Isa Council as assessment manager, in accordance with section 13 of the Development Assessment Rules. The information request is dated 19 September 2022 and is associated with a material change of use development application over the above referenced addressed.

The applicant has responded by providing all of the information requested or has provide a suitable alternative outcome. A detailed response to each item from the notice is provided below.

### **Engineering**

#### ***Carparking and Vehicle Manoeuvring Areas***

##### **Applicant's response**

In response to this item, the applicant provides the attached **Vehicle Movement Layout Plans** prepared by Northern Consulting Engineers dated February 2023. As outlined in the planning report and as already dimensioned on the Site Plan, the proposed parking solution is to allow open access to the areas adjacent to the storage units. These parking areas are 3m wide which is well in excess of the minimum required under AS2890 and extend along the full length of the buildings being 26.25m.

#### ***Stormwater Management***

##### **Applicant's response**

In response to this item, the applicant provides the attached **Site Based Stormwater Management Plan** prepared by Northern Consulting Engineers dated February 2023. The conclusions of the assessment are outlined in section 4.0.

**MOUNT ISA CITY COUNCIL  
DEVELOPMENT APPROVAL**

**Permit No.: P04-22**

**Type of Development: Material Change of Use**

**Approved Use: Four (4) Self-Storage Warehouses (Warehouse)**

**Approved By: Dale Dickson PSM**

**Title: Chief Executive Officer&s(d): 8/05/2023**

**Sheet: 3 of 12**



**BNC Planning Pty Ltd**  
ABN 80 147 498 397  
Office 7 / Ground Floor / 41 Denham Street  
TOWNSVILLE CITY QLD 4810  
PO BOX 5493 TOWNSVILLE Q 4810  
(07) 4724 1763 or 0438 789 612  
[enquire@bnclanning.com.au](mailto:enquire@bnclanning.com.au)  
[www.bnclanning.com.au](http://www.bnclanning.com.au)

**Planning**

**Access to Southernmost Warehouse**

**Applicant's response**

The southernmost warehouse will only be accessible on the one accessible side. These storage units will be larger than the units available in the other 3 buildings.

**Property Fencing**

**Applicant's response**

This matter is requested to be addressed through a condition of approval. Specifically, the need for a solid boundary fence along the western common boundary with Lot 1 on MPH33251 to mitigate impacts on the caretakers residence. Fencing along the road frontage is to be in line with the gates shown on the site plan, which sit behind the landscaping.

**Summary**

For clarity, this correspondence constitutes the applicant response to the information request issued by the assessment manager under section 13 of the *Development Assessment Rules*.

I trust the additional common material included in this response provides sufficient information to allow the assessment of the development application to proceed. Should there be any issues, or should additional information be required, please contact me.

Kind regard,



**Benjamin Collings, Director**  
BNC Planning Pty Ltd

Att.

**MOUNT ISA CITY COUNCIL  
DEVELOPMENT APPROVAL**

Permit No.: P04-22

Type of Development: Material Change of Use

Approved Use: Four (4) Self-Storage Warehouses (Warehouse)

Approved By: Dale Dickson PSM

Title: Chief Executive Officer&s(d): 8/05/2023

Sheet: 4 of 12





## SITE BASED STORMWATER MANAGEMENT PLAN

PROPOSED DEVELOPMENT AT  
111-119 DUCHESS ROAD, MOUNT ISA, 4825

FOR  
OCD Excavation & Construction

JOB No: BNC0069

Doc Ref: BNC0069-SBSM

MOUNT ISA CITY COUNCIL  
DEVELOPMENT APPROVAL

Permit No.: P04-22

Type of Development: Material Change of Use

Approved Use: Four (4) Self-Storage Warehouses (Warehouse)

Approved By: Dale Dickson PSM

Title: Chief Executive Officer&s(d): 8/05/2023

Sheet 5 of 12

A handwritten signature in black ink, appearing to be 'Dale Dickson', is written over a red rectangular stamp area.

Phone: 07 4725 5550

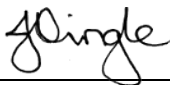
Fax: 07 4725 5850

Email: mail@nceng.com.au

50 Punari Street Currajong Qld 4812

Milton Messer & Associates Pty Ltd

ACN 100 817 356 ABN 34 100 817 356

ISSUE	AUTHOR	APPROVED FOR ISSUE			ISSUED TO:	REASON
		NAME	SIGNATURE	DATE		
A	Irem Guney	John Single (RPEQ 24378)		23/02/2023	BNC Planning & OCD Excavation & Construction	Response to Information Request DA Application

**MOUNT ISA CITY COUNCIL  
DEVELOPMENT APPROVAL**

Permit No.: P04-22

Type of Development: Material Change of Use

Approved Use: Four (4) Self-Storage Warehouses (Warehouse)

Approved By: Dale Dickson PSM

Title: Chief Executive Officer&s(d): 8/05/2023

Sheet: 6 of 12





**MOUNT ISA CITY COUNCIL  
DEVELOPMENT APPROVAL**

Permit No.: P04-22

Type of Development: Material Change of Use

Approved Use: Four (4) Self-Storage Warehouses (Warehouse)

Approved By: Dale Dickson PSM

Title: Chief Executive Officer&s(d): 8/05/2023

Sheet: 7 of 12



Office 7 / Ground Floor / 41 Denham Street  
TOWNSVILLE CITY QLD 4810  
PO BOX 5493 TOWNSVILLE QLD 4810  
(07) 4724 1763 or 0438 789 612 - enquire@bncplanning.com.au

**Property Details**

Site Address: 111 Mount Isa Duchess Road

Real Property Description: HEALY QLD 4825

Tenure: Lot 2 on MPH33251

Site Area: Freehold

Road Frontage: 1.721 ha

Planning Scheme Zoning: 150m to Duchess Road

Overlays/Local Areas: Industry zone

DFE (Q100) Flooding: NA

Flooding: Flood

TBC

- Notes**
- All proposed details are not for construction purposes
  - All site dimensions to be confirmed by detailed survey
  - No new road reserves
  - No existing or proposed public open space
  - No new retaining walls or retaining structures
  - No change to stormwater drainage
  - Buildings to be stipulated for community purposes
  - No existing or proposed easements
  - New civil works subject to detailed design
  - The site is subject to 1% AEP DFE /flooding

**Data Source**

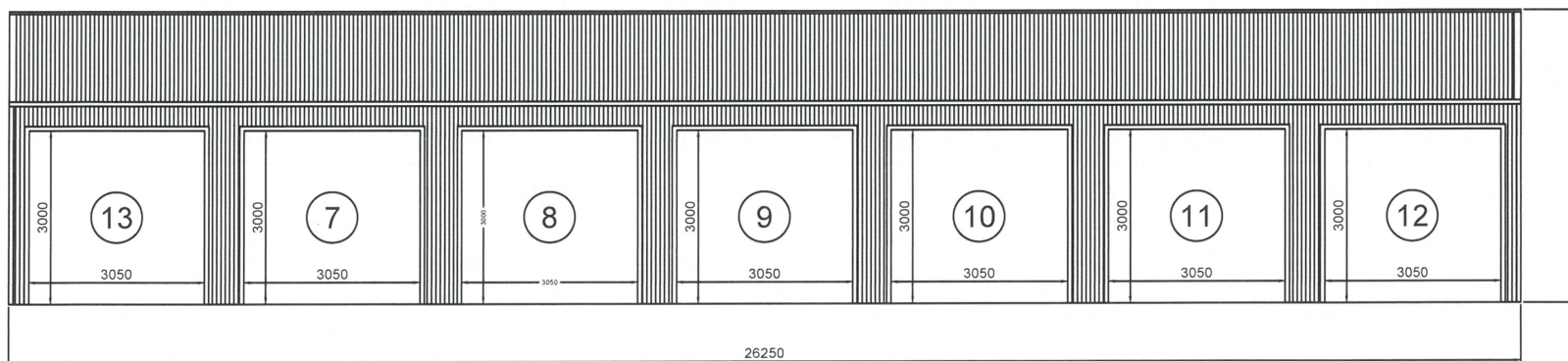
- DCDP as taken from unconfirmed survey source
- QLD Globe

**SITE PLAN**

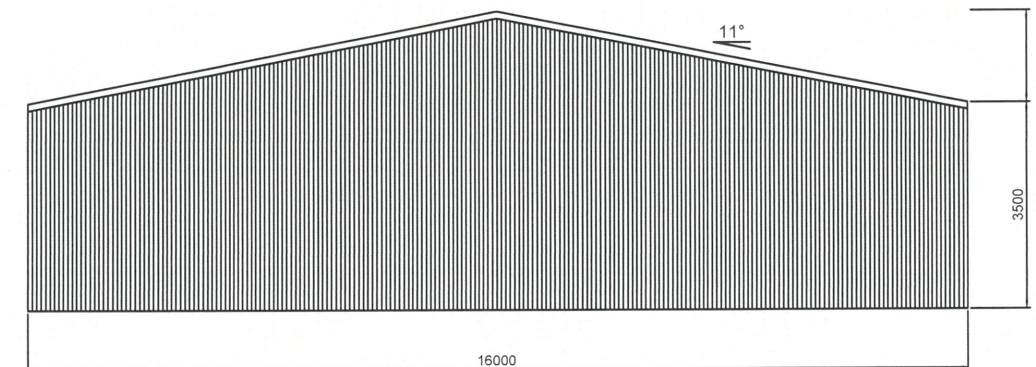
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2	REVISED	08-22	DA	DA
3	REVISED	08-22	DA	DA
4	REVISED	08-22	DA	DA
5	REVISED	08-22	DA	DA
6	REVISED	08-22	DA	DA
7	REVISED	08-22	DA	DA
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9	REVISED	08-22	DA	DA
10	REVISED	08-22	DA	DA

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Project No.:	S01-01
Issue No.:	084-22
Issue Date:	08-22
Issue Description:	DA ISSUE
Author:	DA
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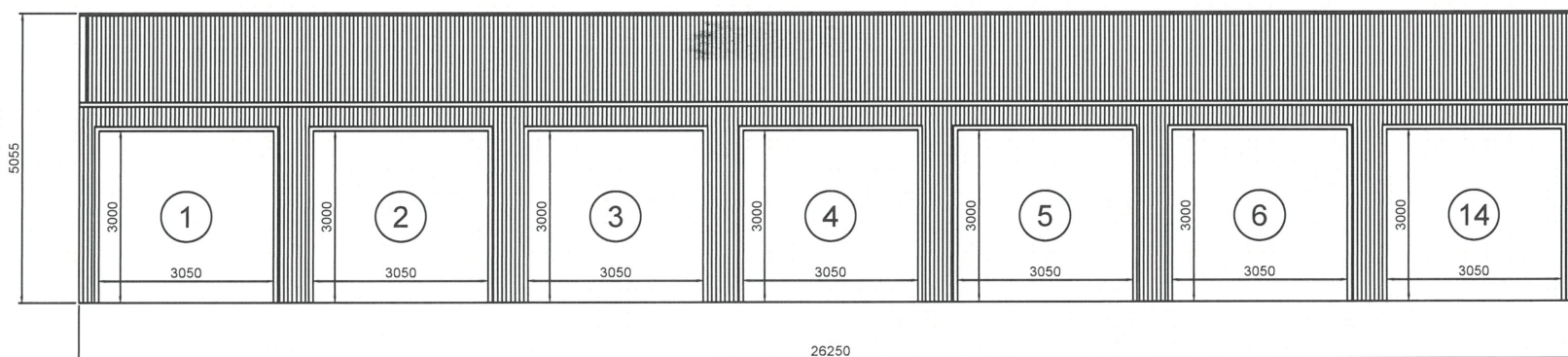




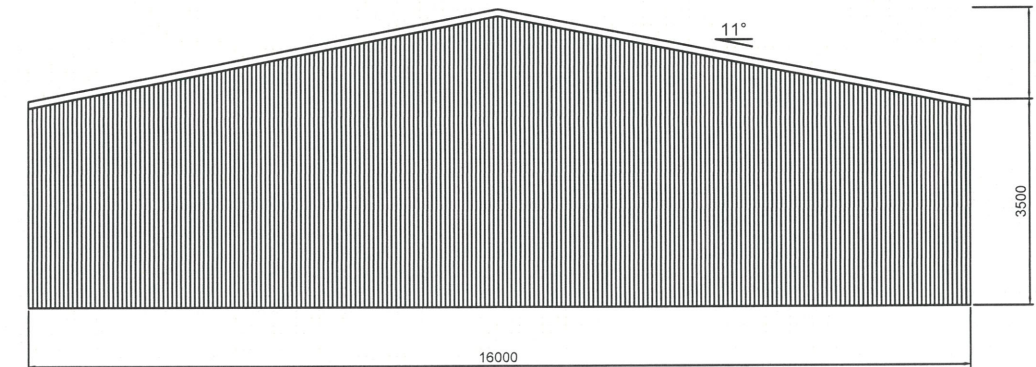
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SCALE: 1:50



3 REAR ELEVATION  
SCALE: 1:50



1 RIGHT ELEVATION  
SCALE: 1:50



4 FRONT ELEVATION  
SCALE: 1:50

**MOUNT ISA CITY COUNCIL  
DEVELOPMENT APPROVAL**

Permit No.: P04-22  
 Type of Development: Material Change of Use  
 Approved Use: Four (4) Self-Storage Warehouses (Warehouse)  
 Approved By: Dale Dickson PSM  
 Title: Chief Executive Officer&s(d): 8/05/2023  
 Sheet: 8 of 12



151 Smeaton Grange Road,  
 Smeaton Grande, NSW, 2567  
 Phone: 02 4648 7777  
 Fax: 02 4648 7700  
 Email: sales@bestsheds.com.au

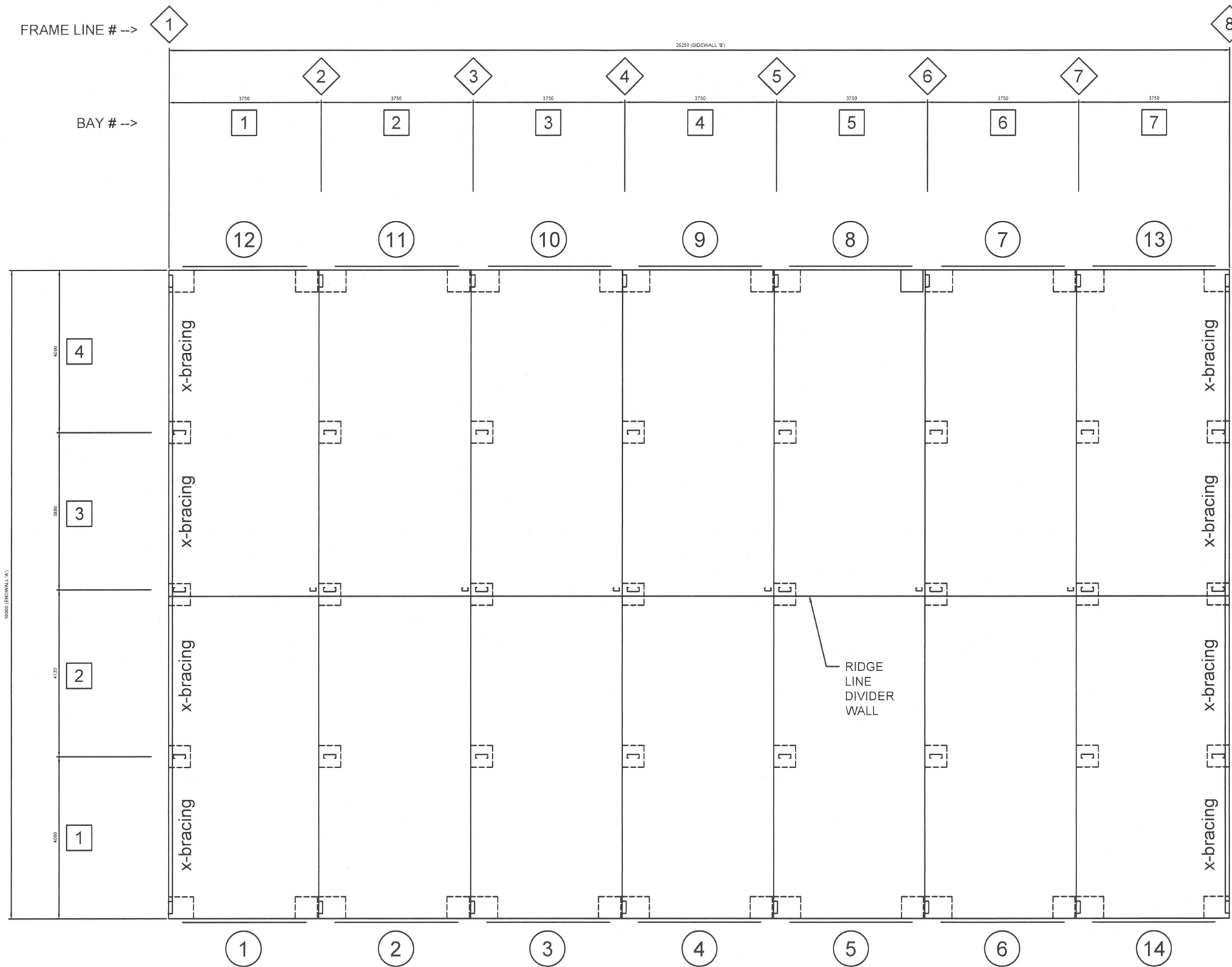


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 COMMERCIAL - INDUSTRIAL - RESIDENTIAL - FORENSIC - STEEL DETAILING  
**CAMILO PINEDA MORENO**  
 Bend MIEAust RPEng  
 RPEQ 15562 TBP RC41817 (VIC)

Signature: Date: 10.05.2022

Customer Name: Stephen Derrick  
 Site Address: 111 Duchess Road, Healy, QLD 4825

DATE 10-05-2022  
 JOB NO. 1217105305  
 SHEET 2 of 7



1 FLOOR PLAN  
5 SCALE: 1:50

**MOUNT ISA CITY COUNCIL  
DEVELOPMENT APPROVAL**

Permit No.: P04-22

Type of Development: Material Change of Use

Approved Use: Four (4) Self-Storage Warehouses (Warehouse)

Approved By: Dale Dickson PSM

Title: Chief Executive Officer&s(d): 8/05/2023

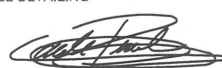
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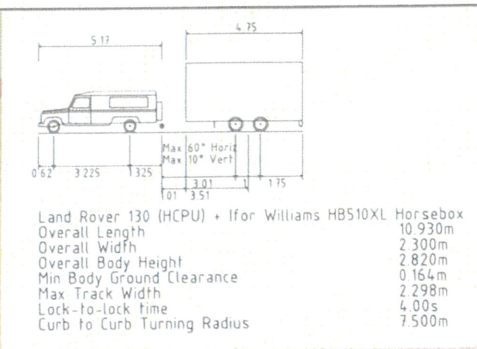
**CAMILO PINEDA MORENO**  
Bend MIEAust RPeng  
RPEQ 15562 TBP RC41817 (VIC)

Signature:  Date: 10.05.2022

**EMERALD**  
DESIGN & CONSTRUCTION

Customer Name: Stephen Derrick  
Site Address: 111 Duchess Road, Healy, QLD 4825

DATE 10-05-2022  
JOB NO. 1217105305  
SHEET 4 of 7

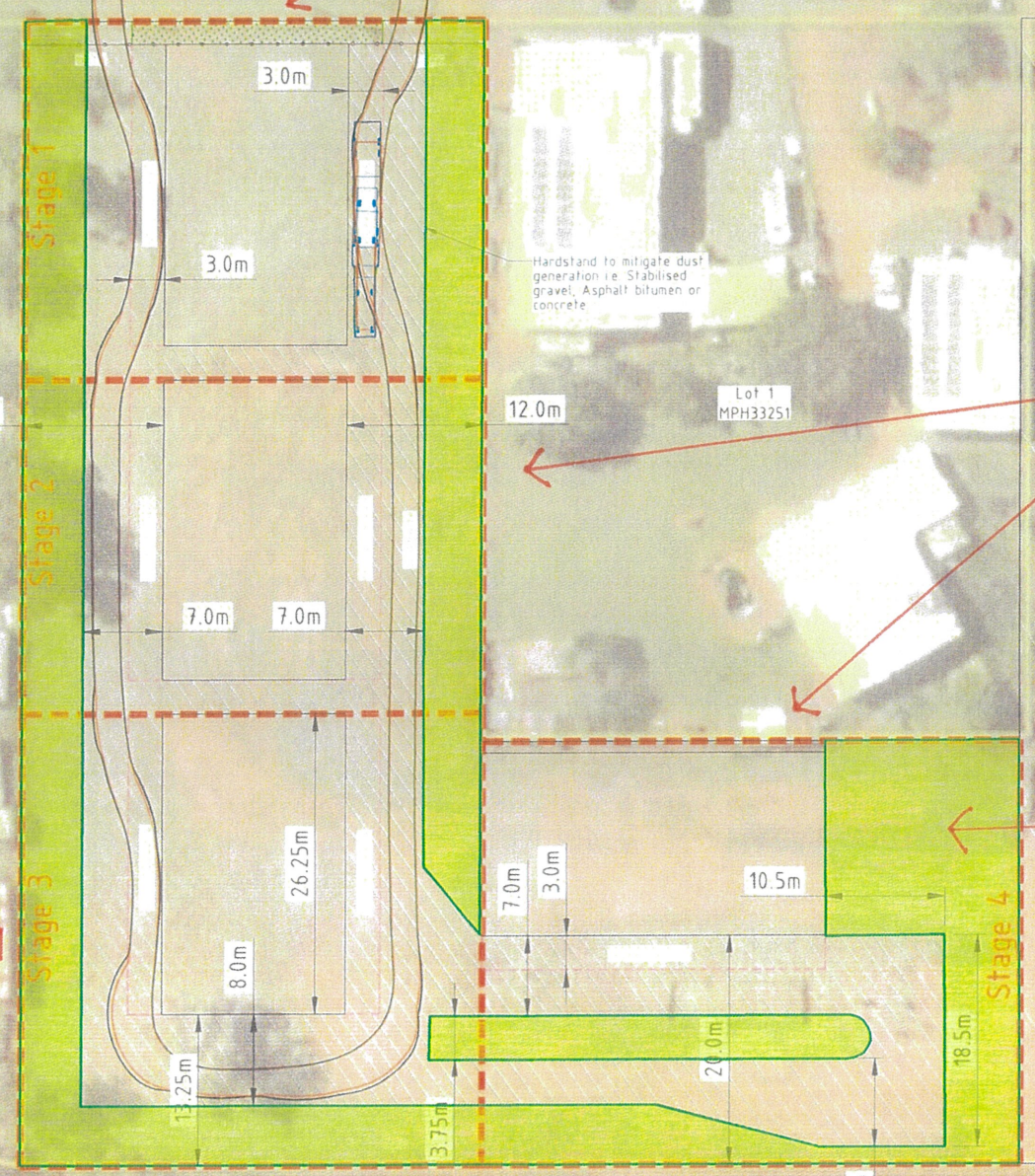


ROAD BOUNDARY GATES AND FENCING TO BE VISUALLY PERMEABLE WITH A MAX. HEIGHT OF 1.8m COND. 6 REFERS

SIDE BOUNDARY FENCING TO BE SOLID WITH A MAX. HEIGHT OF 1.8m COND. 7 REFERS

ALL AREAS NOT COVERED BY BUILDINGS OR PAVING TO BE GRASSED COND. 10 REFERS

SOLID SIDE BOUNDARY FENCE COND. 7 REFERS



**MOUNT ISA CITY COUNCIL DEVELOPMENT APPROVAL**  
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 Approved By: Dale Dickson PSM  
 Title: Chief Executive Officer&s(d): 8/05/2023  
 Sheet: 10 of 12

LAYOUT PLAN



Confirm size, location & elevation of all existing services on site before construction commences. Advise NORTHERN CONSULTING ENGINEERS of any discrepancies between drawings & site.

Scale 1:300 @ A1

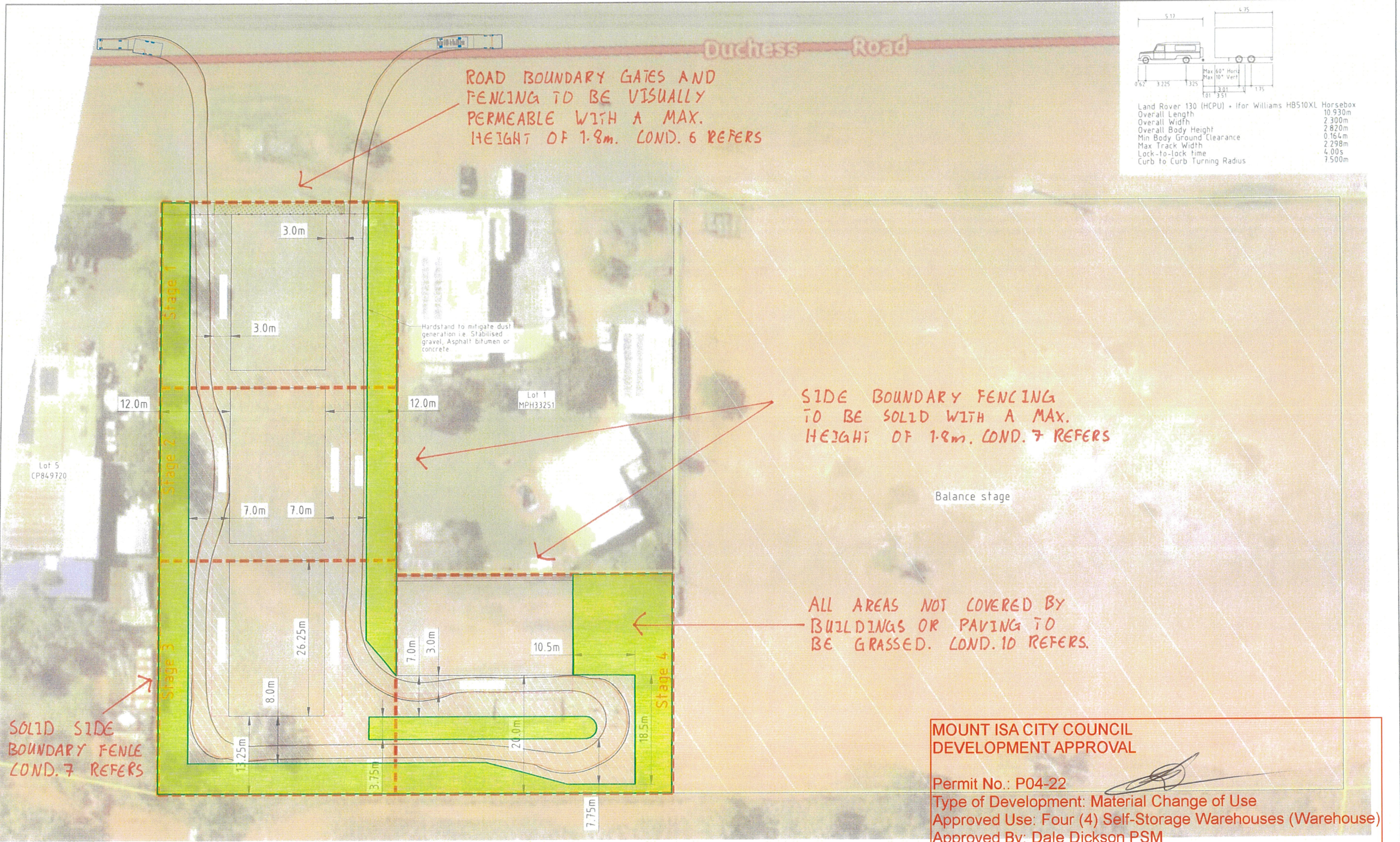
ENGINEERING CERTIFICATION  
 Signed: *John Single*  
 JOHN SINGLE - RPED 24318



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Issue	Description	Date
1	CONSTRUCTION - ISSUED FOR APPROVAL	23/01/2023
2	NO CONSTRUCTION - ISSUED FOR APPROVAL	3/02/2023

Drawn: KJM	In Association With: BNC PLANNING PTY LTD	VEHICLE MOVEMENT LAYOUT PLAN
Date: 3/02/2023	VEHICLE MOVEMENTS AT 111 DUCHESS ROAD MOUNT ISA	
Checked: JS	Drawing Number: BNC0069/V01	Issue: P2
Reviewed: JS		
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Land Rover 130 (HCPU) + Ifor Williams HB510XL Horsebox	10.930m
Overall Length	2.300m
Overall Width	2.820m
Overall Body Height	0.164m
Min Body Ground Clearance	2.298m
Max Track Width	4.00s
Lock-to-lock time	7.500m
Curb to Curb Turning Radius	

ROAD BOUNDARY GATES AND FENCING TO BE VISUALLY PERMEABLE WITH A MAX. HEIGHT OF 1.8m. LOND. 6 REFERS

SIDE BOUNDARY FENCING TO BE SOLID WITH A MAX. HEIGHT OF 1.8m. LOND. 7 REFERS

ALL AREAS NOT COVERED BY BUILDINGS OR PAVING TO BE GRASSED. LOND. 10 REFERS.

SOLID SIDE BOUNDARY FENCE LOND. 7 REFERS

**MOUNT ISA CITY COUNCIL DEVELOPMENT APPROVAL**

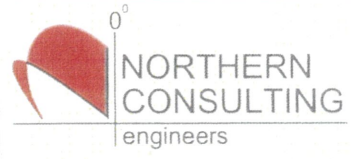
Permit No.: P04-22  
 Type of Development: Material Change of Use  
 Approved Use: Four (4) Self-Storage Warehouses (Warehouse)  
 Approved By: Dale Dickson PSM  
 Title: Chief Executive Officer&s(d): 8/05/2023  
 Sheet: 11 of 12

LAYOUT PLAN



Confirm size, location & elevation of all existing services on site before construction commences. Advise NORTHERN CONSULTING ENGINEERS of any discrepancies between drawings & site.

Scale: 1:300 @ A1  
 ENGINEERING CERTIFICATION  
 Signed: *John Single*  
 JOHN SINGLE - RPEQ 24373  
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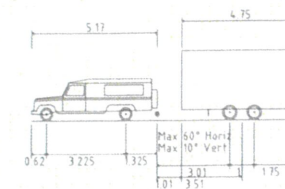
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Issue	Description	Date
P1	CONSTRUCTION - ISSUED FOR APPROVAL	23/02/2023
	NOT FOR CONSTRUCTION - ISSUED FOR APPROVAL	3/02/2023

Drawn: KJM	In Association With: BNC PLANNING PTY LTD	VEHICLE MOVEMENT LAYOUT PLAN
Date: 3/02/2023		
Checked: JS	VEHICLE MOVEMENTS AT 111 DUCHESS ROAD MOUNT ISA	Drawing Number: BNC0069/V02
Reviewed: JS		Issue: P2
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Duchess Road

ROAD BOUNDARY GATES AND FENCING TO BE VISUALLY PERMEABLE WITH A MAX. HEIGHT OF 1.8m. COND. 6 REFERS.



Land Rover 130 (HCPU) + Ifor Williams HB510XL Horsebox  
 Overall Length 10.930m  
 Overall Width 2.300m  
 Overall Body Height 2.820m  
 Min Body Ground Clearance 0.164m  
 Max Track Width 2.298m  
 Lock-to-lock time 4.00s  
 Curb to Curb Turning Radius 7.500m



SOLID SIDE BOUNDARY FENCE COND. 7 REFERS

SIDE BOUNDARY FENCING TO BE SOLID WITH A MAX. HEIGHT OF 1.8m. COND. 7 REFERS

ALL AREAS NOT COVERED BY BUILDINGS OR PAVING TO BE GRASSED. COND. 10 REFERS

Balance stage

**MOUNT ISA CITY COUNCIL DEVELOPMENT APPROVAL**

Permit No.: P04-22  
 Type of Development: Material Change of Use  
 Approved Use: Four (4) Self-Storage Warehouses (Warehouse)  
 Approved By: Dale Dickson PSM  
 Title: Chief Executive Officer&s(d): 8/05/2023  
 Sheet: 12 of 12

LAYOUT PLAN

Scale 1:300 @ A1

All work is to be carried out in accordance with LOCAL AUTHORITY'S standard details.

Issue	Description	Date
P1	NOT FOR CONSTRUCTION - ISSUED FOR APPROVAL	23/02/2023
P2	NOT FOR CONSTRUCTION - ISSUED FOR APPROVAL	3/02/2023

Confirm size, location & elevation of all existing services on site before construction commences. Advise NORTHERN CONSULTING ENGINEERS of any discrepancies between drawings & site

ENGINEERING CERTIFICATION  
 Signed: *John Single*  
 JOHN SINGLE - RPEQ 24323

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Drawn: KJM  
 Date: 3/02/2023  
 Checked: JS  
 Reviewed: JS  
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**BNC PLANNING PTY LTD**  
 VEHICLE MOVEMENTS AT  
 111 DUCHESS ROAD  
 MOUNT ISA

VEHICLE MOVEMENT LAYOUT PLAN  
 Drawing Number: BNC0069/V03  
 Issue: P2



ATTACHMENT 3

***PLANNING ACT 2016***

**EXTRACT ON APPEAL RIGHTS**

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## Chapter 6 Dispute resolution

### Part 1 Appeal rights

#### 229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
  - (a) matters that may be appealed to—
    - (i) either a tribunal or the P&E Court; or
    - (ii) only a tribunal; or
    - (iii) only the P&E Court; and
  - (b) the person—
    - (i) who may appeal a matter (the *appellant*); and
    - (ii) who is a respondent in an appeal of the matter; and
    - (iii) who is a co-respondent in an appeal of the matter; and
    - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
  - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
  - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or

- (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
  - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
  - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
  - (iii) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
  - (iv) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note—*

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.



- 
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
  - (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
    - (a) the adopted charge itself; or
    - (b) for a decision about an offset or refund—
      - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
      - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

### **230 Notice of appeal**

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
  - (a) the respondent for the appeal; and
  - (b) each co-respondent for the appeal; and
  - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
  - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and

- (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
  - (f) for an appeal to the P&E Court—the chief executive; and
  - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
  - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
  - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department’s website for this purpose.

## **231 Non-appealable decisions and matters**

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.

- 
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
  - (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
  - (4) In this section—  
**decision** includes—
    - (a) conduct engaged in for the purpose of making a decision; and
    - (b) other conduct that relates to the making of a decision; and
    - (c) the making of a decision or the failure to make a decision; and
    - (d) a purported decision; and
    - (e) a deemed refusal.

**non-appealable**, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

## 232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

## Part 2                      Development tribunal

### Division 1                General

#### 233    Appointment of referees

- (1) The Minister, or chief executive, (the *appointer*) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—
  - (a) has the qualifications or experience prescribed by regulation; and
  - (b) has demonstrated an ability—
    - (i) to negotiate and mediate outcomes between parties to a proceeding; and
    - (ii) to apply the principles of natural justice; and
    - (iii) to analyse complex technical issues; and
    - (iv) to communicate effectively, including, for example, to write informed succinct and well-organised decisions, reports, submissions or other documents.
- (2) The appointer may—
  - (a) appoint a referee for the term, of not more than 3 years, stated in the appointment notice; and
  - (b) reappoint a referee, by notice, for further terms of not more than 3 years.
- (3) If an appointer appoints a public service officer as a referee, the officer holds the appointment concurrently with any other appointment that the officer holds in the public service.
- (4) A referee must not sit on a tribunal unless the referee has given a declaration, in the approved form and signed by the referee, to the chief executive.
- (5) The appointer may cancel a referee's appointment at any time by giving a notice, signed by the appointer, to the referee.

- 
- (6) A referee may resign the referee's appointment at any time by giving a notice, signed by the referee, to the appointer.
  - (7) In this section—
    - appointment notice* means—
      - (a) if the Minister gives the notice—a gazette notice; or
      - (b) if the chief executive gives the notice—a notice given to the person appointed as a referee.

### **234 Referee with conflict of interest**

- (1) This section applies if the chief executive informs a referee that the chief executive proposes to appoint the referee as a tribunal member, and either or both of the following apply—
  - (a) the tribunal is to hear a matter about premises—
    - (i) the referee owns; or
    - (ii) for which the referee was, is, or is to be, an architect, builder, drainer, engineer, planner, plumber, plumbing inspector, certifier, site evaluator or soil assessor; or
    - (iii) for which the referee has been, is, or will be, engaged by any party in the referee's capacity as an accountant, lawyer or other professional; or
    - (iv) situated or to be situated in the area of a local government of which the referee is an officer, employee or councillor;
  - (b) the referee has a direct or indirect personal interest in a matter to be considered by the tribunal, and the interest could conflict with the proper performance of the referee's functions for the tribunal's consideration of the matter.
- (2) However, this section does not apply to a referee only because the referee previously acted in relation to the preparation of a relevant local planning instrument.

- (3) The referee must notify the chief executive that this section applies to the referee, and on doing so, the chief executive must not appoint the referee to the tribunal.
- (4) If a tribunal member is, or becomes, aware the member should not have been appointed to the tribunal, the member must not act, or continue to act, as a member of the tribunal.

### **235 Establishing development tribunal**

- (1) The chief executive may at any time establish a tribunal, consisting of up to 5 referees, for tribunal proceedings.
- (2) The chief executive may appoint a referee for tribunal proceedings if the chief executive considers the referee has the qualifications or experience for the proceedings.
- (3) The chief executive must appoint a referee as the chairperson for each tribunal.
- (4) A regulation may specify the qualifications or experience required for particular proceedings.
- (5) After a tribunal is established, the tribunal's membership must not be changed.

### **236 Remuneration**

A tribunal member must be paid the remuneration the Governor in Council decides.

### **237 Tribunal proceedings**

- (1) A tribunal must ensure all persons before the tribunal are afforded natural justice.
- (2) A tribunal must make its decisions in a timely way.
- (3) A tribunal may—
  - (a) conduct its business as the tribunal considers appropriate, subject to a regulation made for this section; and

- (b) sit at the times and places the tribunal decides; and
  - (c) hear an appeal and application for a declaration together; and
  - (d) hear 2 or more appeals or applications for a declaration together.
- (4) A regulation may provide for—
- (a) the way in which a tribunal is to operate, including the qualifications of the chairperson of the tribunal for particular proceedings; or
  - (b) the required fee for tribunal proceedings.

### **238 Registrar and other officers**

- (1) The chief executive may, by gazette notice, appoint—
  - (a) a registrar; and
  - (b) other officers (including persons who are public service officers) as the chief executive considers appropriate to help a tribunal perform its functions.
- (2) A person may hold the appointment or assist concurrently with any other public service appointment that the person holds.

## **Division 2 Applications for declarations**

### **239 Starting proceedings for declarations**

- (1) A person may start proceedings for a declaration by a tribunal by filing an application, in the approved form, with the registrar.
- (2) The application must be accompanied by the required fee.

## **240 Application for declaration about making of development application**

- (1) The following persons may start proceedings for a declaration about whether a development application is properly made—
  - (a) the applicant;
  - (b) the assessment manager.
- (2) However, a person may not seek a declaration under this section about whether a development application is accompanied by the written consent of the owner of the premises to the application.
- (3) The proceedings must be started by—
  - (a) the applicant within 20 business days after receiving notice from the assessment manager, under the development assessment rules, that the development application is not properly made; or
  - (b) the assessment manager within 10 business days after receiving the development application.
- (4) The registrar must, within 10 business days after the proceedings start, give notice of the proceedings to the respondent as a party to the proceedings.
- (5) In this section—

*respondent* means—

  - (a) if the applicant started the proceedings—the assessment manager; or
  - (b) if the assessment manager started the proceedings—the applicant.

## **241 Application for declaration about change to development approval**

- (1) This section applies to a change application for a development approval if—
  - (a) the approval is for a material change of use of premises that involves the use of a classified building; and



- 
- (b) the responsible entity for the change application is not the P&E Court.
  - (2) The applicant, or responsible entity, for the change application may start proceedings for a declaration about whether the proposed change to the approval is a minor change.
  - (3) The registrar must, within 10 business days after the proceedings start, give notice of the proceedings to the respondent as a party to the proceedings.
  - (4) In this section—  
*respondent* means—
    - (a) if the applicant started the proceedings—the responsible entity; or
    - (b) if the responsible entity started the proceedings—the applicant.

## **Division 3                      Tribunal proceedings for appeals and declarations**

### **242      Action when proceedings start**

If a document starting tribunal proceedings is filed with the registrar within the period required under this Act, and is accompanied by the required fee, the chief executive must—

- (a) establish a tribunal for the proceedings; and
- (b) appoint 1 of the referees for the tribunal as the tribunal's chairperson, in the way required under a regulation; and
- (c) give notice of the establishment of the tribunal to each party to the proceedings.

### **243      Chief executive excusing noncompliance**

- (1) This section applies if—

- (a) the registrar receives a document purporting to start tribunal proceedings, accompanied by the required fee; and
  - (b) the document does not comply with any requirement under this Act for validly starting the proceedings.
- (2) The chief executive must consider the document and decide whether or not it is reasonable in the circumstances to excuse the noncompliance (because it would not cause substantial injustice in the proceedings, for example).
- (3) If the chief executive decides not to excuse the noncompliance, the chief executive must give a notice stating that the document is of no effect, because of the noncompliance, to the person who filed the document.
- (4) The chief executive must give the notice within 10 business days after the document is given to the chief executive.
- (5) If the chief executive does excuse the noncompliance, the chief executive may act under section 242 as if the noncompliance had not happened.

## **244 Ending tribunal proceedings or establishing new tribunal**

- (1) The chief executive may decide not to establish a tribunal when a document starting tribunal proceedings is filed, if the chief executive considers it is not reasonably practicable to establish a tribunal.

*Examples of when it is not reasonably practicable to establish a tribunal—*

  - there are no qualified referees or insufficient qualified referees because of a conflict of interest
  - the referees who are available will not be able to decide the proceedings in a timely way
- (2) If the chief executive considers a tribunal established for tribunal proceedings—
  - (a) does not have the expertise to hear or decide the proceedings; or

- 
- (b) is not able to make a decision for proceedings (because of a tribunal member's conflict of interest, for example); the chief executive may decide to suspend the proceedings and establish another tribunal, complying with section 242(c), to hear or re-hear the proceedings.
- (3) However, the chief executive may instead decide to end the proceedings if the chief executive considers it is not reasonably practicable to establish another tribunal to hear or re-hear the proceedings.
- (4) If the chief executive makes a decision under subsection (1) or (3), the chief executive must give a decision notice about the decision to the parties to the proceedings.
- (5) Any period for starting proceedings in the P&E Court, for the matter that is the subject of the tribunal proceedings, starts again when the chief executive gives the decision notice to the party who started the proceedings.
- (6) The decision notice must state the effect of subsection (5).

## **245 Refunding fees**

The chief executive may, but need not, refund all or part of the fee paid to start proceedings if the chief executive decides under section 244—

- (a) not to establish a tribunal; or
- (b) to end the proceedings.

## **246 Further material for tribunal proceedings**

- (1) The registrar may, at any time, ask a person to give the registrar any information that the registrar reasonably requires for the proceedings.

*Examples of information that the registrar may require—*

- material about the proceedings (plans, for example)
- information to help the chief executive decide whether to excuse noncompliance under section 243

- for a deemed refusal—a statement of the reasons why the entity responsible for deciding the application had not decided the application during the period for deciding the application.
- (2) The person must give the information to the registrar within 10 business days after the registrar asks for the information.

## **247 Representation of Minister if State interest involved**

If, before tribunal proceedings are decided, the Minister decides the proceedings involve a State interest, the Minister may be represented in the proceedings.

## **248 Representation of parties at hearing**

A party to tribunal proceedings may appear—

- (a) in person; or
- (b) by an agent who is not a lawyer.

## **249 Conduct of tribunal proceedings**

- (1) Subject to section 237, the chairperson of a tribunal must decide how tribunal proceedings are to be conducted.
- (2) The tribunal may decide the proceedings on submissions.
- (3) If the proceedings are to be decided on submissions, the tribunal must give all parties a notice asking for the submissions to be made to the tribunal within a stated reasonable period.
- (4) Otherwise, the tribunal must give notice of the time and place of the hearing to all parties.
- (5) The tribunal may decide the proceedings without a party's submission (written or oral) if—
  - (a) for proceedings to be decided on submissions—the party's submission is not received within the time stated in the notice given under subsection (3); or

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- (b) for proceedings to be decided by hearing—the person, or the person’s agent, does not appear at the hearing.
- (6) When hearing proceedings, the tribunal—
- (a) need not proceed in a formal way; and
  - (b) is not bound by the rules of evidence; and
  - (c) may inform itself in the way it considers appropriate; and
  - (d) may seek the views of any person; and
  - (e) must ensure all persons appearing before the tribunal have a reasonable opportunity to be heard; and
  - (f) may prohibit or regulate questioning in the hearing.
- (7) If, because of the time available for the proceedings, a person does not have an opportunity to be heard, or fully heard, the person may make a submission to the tribunal.

## **250 Tribunal directions or orders**

A tribunal may, at any time during tribunal proceedings, make any direction or order that the tribunal considers appropriate.

*Examples of directions—*

- a direction to an applicant about how to make their development application comply with this Act
- a direction to an assessment manager to assess a development application, even though the referral agency’s response to the assessment manager was to refuse the application

## **251 Matters tribunal may consider**

- (1) This section applies to tribunal proceedings about—
- (a) a development application or change application; or
  - (b) an application or request (however called) under an applicable Act if—
    - (i) the application or request relates to a decision made under that Act, other than a decision made by

the Queensland Building and Construction Commission; and

- (ii) an information notice about the decision was given or was required to be given under that Act.
- (2) The tribunal must decide the proceedings based on the laws in effect when—
    - (a) the application or request was properly made; or
    - (b) if the application or request was not required to be properly made—the application or request was made.
  - (3) However, the tribunal may give the weight that the tribunal considers appropriate, in the circumstances, to any new laws.
  - (4) In this section—

*applicable Act* means—

    - (a) the Building Act; or
    - (b) the *Plumbing and Drainage Act 2018*.

## **252 Deciding no jurisdiction for tribunal proceedings**

- (1) A tribunal may decide that the tribunal has no jurisdiction for tribunal proceedings, at any time before the proceedings are decided—
  - (a) on the tribunal’s initiative; or
  - (b) on the application of a party.
- (2) If the tribunal decides that the tribunal has no jurisdiction, the tribunal must give a decision notice about the decision to all parties to the proceedings.
- (3) Any period for starting proceedings in the P&E Court, for the matter that is the subject of the tribunal proceedings, starts again when the tribunal gives the decision notice to the party who started the proceedings.
- (4) The decision notice must state the effect of subsection (3).
- (5) If the tribunal decides to end the proceedings, the fee paid to start the proceedings is not refundable.

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## 253 Conduct of appeals

- (1) This section applies to an appeal to a tribunal.
- (2) Generally, the appellant must establish the appeal should be upheld.
- (3) However, for an appeal by the recipient of an enforcement notice, the enforcement authority that gave the notice must establish the appeal should be dismissed.
- (4) The tribunal must hear and decide the appeal by way of a reconsideration of the evidence that was before the person who made the decision appealed against.
- (5) However, the tribunal may, but need not, consider—
  - (a) other evidence presented by a party to the appeal with leave of the tribunal; or
  - (b) any information provided under section 246.
- (6) In this section—

*enforcement notice* includes an enforcement notice under the *Plumbing and Drainage Act 2018*.

## 254 Deciding appeals to tribunal

- (1) This section applies to an appeal to a tribunal against a decision.
- (2) The tribunal must decide the appeal by—
  - (a) confirming the decision; or
  - (b) changing the decision; or
  - (c) replacing the decision with another decision; or
  - (d) setting the decision aside, and ordering the person who made the decision to remake the decision by a stated time; or
  - (e) for a deemed refusal of an application—
    - (i) ordering the entity responsible for deciding the application to decide the application by a stated

- time and, if the entity does not comply with the order, deciding the application; or
- (ii) deciding the application; or
- (f) for a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—
- (i) ordering the entity responsible for deciding the application or matter to decide the application or matter by a stated time and, if the entity does not comply with the order, deciding the application or matter; or
  - (ii) deciding the application or matter.
- (3) However, the tribunal must not make a change, other than a minor change, to a development application.
- (4) The tribunal's decision takes the place of the decision appealed against.
- (5) The tribunal's decision starts to have effect—
- (a) if a party does not appeal the decision—at the end of the appeal period for the decision; or
  - (b) if a party appeals against the decision to the P&E Court—subject to the decision of the court, when the appeal ends.

## **255 Notice of tribunal's decision**

A tribunal must give a decision notice about the tribunal's decision for tribunal proceedings, other than for any directions or interim orders given by the tribunal, to all parties to proceedings.

## **256 No costs orders**

A tribunal must not make any order as to costs.



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**257 Recipient's notice of compliance with direction or order**

If a tribunal directs or orders a party to do something, the party must notify the registrar when the thing is done.

**258 Tribunal may extend period to take action**

- (1) This section applies if, under this chapter, an action for tribunal proceedings must be taken within a stated period or before a stated time, even if the period has ended or the time has passed.
- (2) The tribunal may allow a longer period or a different time to take the action if the tribunal considers there are sufficient grounds for the extension.

**259 Publication of tribunal decisions**

The registrar must publish tribunal decisions under the arrangements, and in the way, that the chief executive decides.

## **Chapter 7 Miscellaneous**

### **Part 1 Existing uses and rights protected**

**260 Existing lawful uses, works and approvals**

- (1) If, immediately before a planning instrument change, a use of premises was a lawful use of premises, the change does not—
  - (a) stop the use from continuing; or
  - (b) further regulate the use; or
  - (c) require the use to be changed.