



Our Ref: File: P19-22 & 05725-00000-000 JMN  
Your Ref: 153 West Street

## DECISION NOTICE APPROVAL

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

5 April 2023

Michael & Ciemon Scotney  
3 Moresby Street  
MOUNT ISA QLD 4825

Dear Mr & Mrs Scotney

The development application described below was properly made to the Council on 6 February 2023.

### ***APPLICANT DETAILS\****

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**Applicant name:** Michael Scotney & Ciemon Scotney  
**Applicant contact details:** [mick@awakenedbusiness.com.au](mailto:mick@awakenedbusiness.com.au)

### ***APPLICATION DETAILS***

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**Application number:** P19-22  
**Approval sought:** Material Change of Use  
**Nature of development proposed:** Dwelling House  
**Description of the development proposed:** Conversion of former nursery to dwelling house and outbuildings

### ***LOCATION DETAILS***

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**Street address:** 153 West Street  
**Real property description:** Lot 3 on plan MPH21943  
**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.*

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**DECISION**

**Date of decision:** 4 April 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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval 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 or 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 for the Dwelling House, Deck & Garage (including the reclassification of the existing shop)
2. Building Permit for the New Shed
3. Building Permit for Pool and Pool Fence
4. Plumbing Permit for any new plumbing work
5. Works on Council Property for the driveway extensions

### **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	Mick Scotney	23/01/2023		
Existing Plans	Provided by Mick Scotney	24/12/2022		
Proposed Plans	Provided by Mick Scotney	24/12/2022		
Water Supply and Sewerage Plans	Provided by Mick Scotney	24/12/2022		
Layout Plan	Provided by Mick Scotney	24/12/2022		
Elevation	Provided by Mick Scotney	24/12/2022		
Symbols and Legends	Provided by Mick Scotney	24/12/2022		

### **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 proposed development was a code-assessable development for the zone; and
- Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity, or can be conditioned to comply with the relevant code requirements; and
- The proposed development complies or can be conditioned to comply with the relevant State Planning Policy and the North Queensland Regional Plan.

The evidence or other material on which the findings were based are:

- The development application material; and
- The City of Mount Isa Planning Scheme 2020; and
- State Planning Policy; and
- North Queensland Regional Plan; and

- Observations made by Council officers on a site inspection of the property.

2. Assessment Benchmarks

The following are the benchmarks applying for this development:

Benchmarks applying for the development	Benchmark reference
Residential Activities Code	City of Mount Isa City Council Planning Scheme 2020 – Part 9 Development Codes – 9.3.6
Parking, access and loading code	City of Mount Isa City Council Planning Scheme 2020 - Part 9 Development Codes – 9.4.6
Landscaping code	City of Mount Isa City Council Planning Scheme 2020 - Part 9 Development Codes – 9.4.5
Engineering works and services code	City of Mount Isa City Council Planning Scheme 2020 - Part 9 Development Codes – 9.4.2
Excavation and filling code	City of Mount Isa City Council Planning Scheme 2020 - Part 9 Development Codes – 9.4.3
Flood Hazard Overlay Code	City of Mount Isa City Council Planning Scheme 2020 - Part 8 Overlay Codes – 8.2.5

3. Compliance with Benchmarks

Benchmark reference	Reasons for the approval despite non-compliance with benchmark
Residential Activities Code	
Performance Outcome PO 4	Proposed setbacks of proposed buildings are inline for residential zoned properties and existing buildings already located in the setbacks do not negatively impact on the surrounding properties
Performance Outcome PO 7	The proposed fence allows for passive surveillance while also creating visual interest along the frontage
Performance Outcome PO 12	While the garage will be located in front of the main building, the garage does not adversely impact the amenity of the neighbourhood due to being located outside the front
Performance Outcome PO 22	The proposed shed at the rear of the site only equates to a total of 5% of the entire site and its conclusion does not comprise the amenity of the area with there being similar size properties in the immediate area
Performance Outcome PO 23	The proposed architectural finish of the garage integrates with the newly proposed frontage of the dwelling and is situated outside the setback, so the garage does not dominate the frontage.

4. Matters Prescribed by Regulation

- The State Planning Policy - Part E
- North Queensland Regional Plan
- City of Mount Isa Planning Scheme 2020

**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



Chileya Luangala  
**Acting Chief Executive Officer**

Encl: Attachment 1—Conditions of the approval

*Part 1—Conditions imposed by the Assessment Manager (Mount Isa City Council)*

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: P19-22 for a Material Change of Use (Dwelling House) at 153 West Street, 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 4 April 2023 for the Material Change of Use (Dwelling House) at 153 West Street, Mount Isa, described as Lot X on plan XXX, 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>At all times</i>
3.	The owner shall lodge an application with a Private Building Certifier to change the Building Classification of the existing shop and ancillary structures to reflect their use as a residential dwelling house and ancillary residential outbuilding respectively;	<i>Within six (6) months of the approval</i>
4.	Any gates situated along the road boundary must open inwards onto the applicants/owner's property and not outwards onto Council's road reserve/verge	<i>At all times</i>
<b>Amenity</b>		
5.	All advertising signage and related structures for the nursery are to be removed	<i>Prior to Commencement of use as a Dwelling</i>
6.	The front fence must be constructed of combination of block pillars and vertical slats to a total height of 1.8m. At no time is the front fence to be constructed of solid material if to be constructed over 1.5m in height.	<i>As specified</i>
7.	The premises must be kept tidy and all buildings, fences, landscaping and paved or sealed surfaces must be maintained in good condition at all times;	<i>At all times</i>
8.	Landscaping shall be in accordance with the Landscaping Code of the City of Mount Isa Planning Scheme 2020	<i>At all times</i>
9.	The owner shall provide ongoing maintenance of the landscaping to ensure it is neat and tidy and not overgrown and/or unsightly for the life of the development	<i>At all times</i>
<b>ENGINEERING</b>		
<b>General</b>		
10.	The owner/applicant shall ensure that the dwelling unit number is clearly displayed on the dwelling unit entrance and letter box;	<i>Prior to Commencement of use as a Dwelling</i>
11.	The owner/applicant shall ensure that the property mailbox is contained on the boundary of the allotment (not in the road reserve) and easily accessible to mail delivery services. The mailbox is to be compliant with Australia Post standards for letterboxes;	<i>At all times</i>
<b>Stormwater</b>		
12.	Stormwater runoff from roof and paved areas of the development site are to be collected internally and directed to a legal point of discharge. Ensure non-worsening of the existing flow regime to properties that are upstream and downstream of the site;	<i>At all times</i>

Works on Footpath		
13.	The applicant is to obtain a Works on Council Property approval for the crossover extension on West Street	<i>Prior to works commencing</i>
14.	The existing southern crossover is to be removed with the kerb and channel to be reinstated as per Council's Standards	<i>Prior to Commencement of use as a Dwelling</i>

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

*Materials used in the assessment of the application included:*

- The development application material and submitted plans
- *Planning Act 2016*
- *Planning Regulation 2017*
- *The State Development Assessment Provisions (version 2.4)*, as published by the department
- *The Development Assessment Rules*
- *State Planning Policy Interactive Mapping System*

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



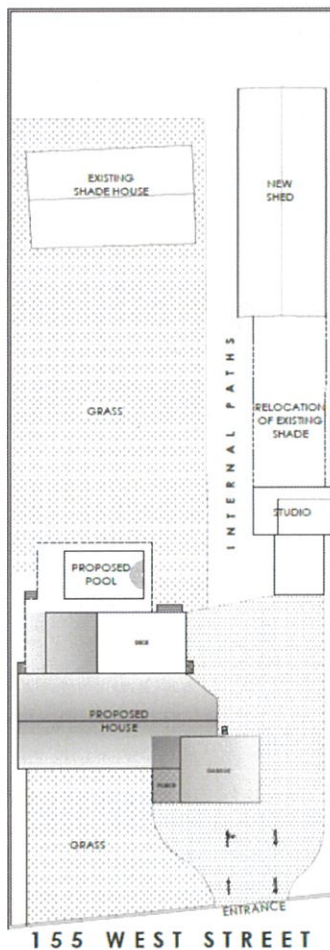
# ATTACHMENT 2

# APPROVED PLANS

# 153-155 West street Winston Material Change of Use from Light Commercial Nursery to Single Residential Dwelling

153-155 West st Winston 4825

January 2023



**MOUNT ISA CITY COUNCIL  
DEVELOPMENT APPROVAL**

Permit No.: P19-22  
Type of Development: Material Change of Use  
Approved Use: Dwelling House  
Approved By: Mrs Chiley Luangala  
Title: Acting Chief Executive Officer  
Date: 05/04/2023

## 1.0 Summary

### 1.1 Development application details

<b>Proposed development:</b>	Residential dwelling 450m2 single residential dwelling plus a pool and large residential shed 240m2
<b>Type of approval sought:</b>	Development permit for Material change of use
<b>Site address:</b>	153-155 West street Winston Q 4825
<b>Real property description:</b>	
<b>Site area:</b>	4532m2
<b>Assessment manager:</b>	Mount Isa City Council
<b>Owner details:</b>	Michael & Ciemon Scotney
<b>Applicant details:</b>	Michael & Ciemon Scotney

### 1.2 Planning instrument details

<b>State planning policy:</b>	Queensland State Planning Policy July 2017
<b>Regional plan:</b>	<i>North West Regional Plan August 2010</i>
<b>Designation:</b>	
<b>Planning scheme:</b>	City of Mount Isa Planning Scheme 09 March 2020
<b>Applicable preliminary approval:</b>	NA
<b>Strategic framework:</b>	Part 3 City of Mount Isa Planning Scheme 2020
<b>Zone:</b>	Mixed Use
<b>Local plan:</b>	Mount Isa City Council 8MPH21943
<b>Level of assessment:</b>	Code
<b>Applicable overlays:</b>	Flood hazard Overlay
<b>Applicable codes:</b>	Residential Activities Code

### 1.3 Referral agencies

Referral requirement	Referral agency and role
N/A	N/A

## 2.0 Site details

**Table 1: Site description**

Site characteristic	Description
Existing land use	Existing use is Commercial Nursery see Arial image 2
Existing structures	Existing Structures are Front Shade parking, Main shop Building 250m2, Rear shade area attached to main building, Large green house 670m2, Green house structure 270m2, Green house structure 290m2, Existing site office, storage building on northern boundary 80m2, Existing shad structure on norther boundary attached to site office
Frontage and access	40m Frontage to West street kerb crossing to west st
Topography and views	Flat topography 1m Fall towards Leichardt river from centre of block
Existing vegetation	Small grouping of plants along front half of southern boundary Palm trees and mix of tropical plants, Small mix of tropical plants and trees along front northern boundary, Collection of fruit trees in small green house
Existing waterways	Leichardt river adjoins the rear of the property



**Figure 1: Aerial view and site identification**

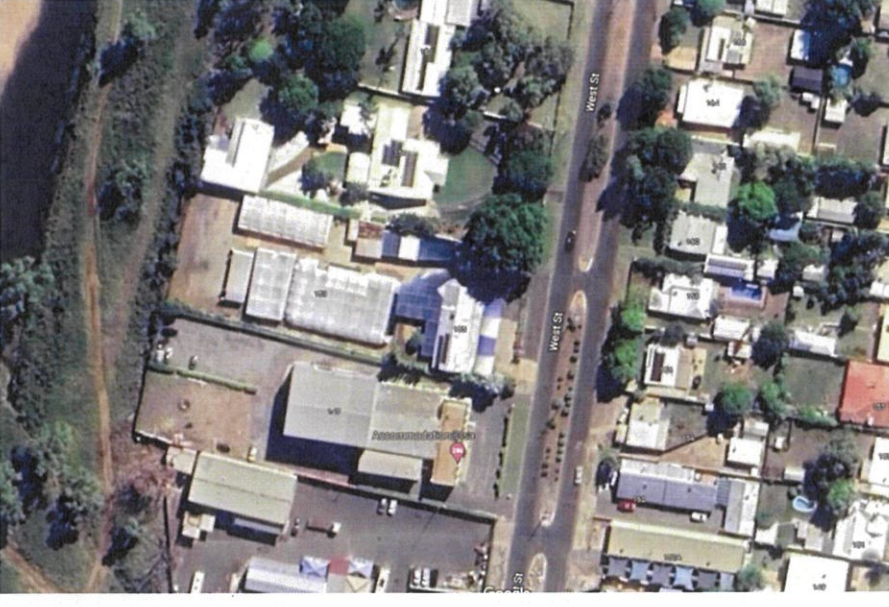
Source: DA Mapping System



**Figure 2: Satellite view and site identification**  
Source: DA Mapping System

## 2.1 Surrounding land uses

Table 2: Surrounding land uses

Surrounding land uses	Photos	
North	Northern Land Use Residential Single Dwelling Large acre blocks	
South	Medium density Accommodation complex double storey	<i>See above</i>
East	Standard size residential single dwelling blocks	<i>See above</i>
West	Leichardt River	<i>See image above</i>

### 3.0 Proposed development details

Convert existing shop building and block into a single residential facility with a pool entertaining space and a shed Utilising existing building and structures were practical. This will be made to look and feel like the existing residential blocks that surround the property.

**Table 3: Summary of development aspects**

<b>Material change of use</b> (If your development application does not include a material change of use, please delete this section)	
<b>Building height</b>	Maximum Height 5m
<b>Gross floor area (GFA)</b>	Gross floor area existing building converted plus extensions of Residential dwelling 450m2, Existing structures to remain 200m2, New shed 240m2
<b>Non GFA site use area</b>	3642m2
<b>Site coverage</b>	4532m2
<b>Car parking</b>	2 Bay Car Garage plus addition parking beside existing building
<b>Site access</b>	Access via kerb crossing on west street
<b>Proposed lots</b>	Lot configuration not changing
<b>Proposed servicing arrangements</b>	Existing infrastructure will service this property
<b>Building height</b>	5m
<b>Gross floor area (GFA)</b>	890m2
<b>Building or operational work</b> (If your development application does not include building or operational work, please delete this section)	
<b>Building work</b>	Build extension to existing building and convert to residential dwelling. Additional Garage, Entertaining space, and guest facilities, Build Pool and shed
<b>Value of proposed work</b>	149,000
<b>Operational work</b>	NA
<b>Value of proposed work</b>	0

## 4.0 Planning assessment

### 4.1 Pre-lodgement

A pre-lodgement meeting was undertaken with Mount Isa City Council on 8<sup>th</sup> of September 2022 with Jason Newell to discuss planning requirements and key issues applicable to this development application.

**Table 4: Summary of key issues**

Issue	Council response	Applicant response
Setbacks of the existing property doesn't comply with the land zoning and residential use	As the building is existing and complies with residential use it will be accepted	The existing building to remain

### 4.2 Key issues

### 4.3 Variations to planning provisions

**Table 5: Proposed variations to the planning scheme**

Ref.	Planning provision	Proposed variation and justification
Table 9.3.6.1 -	PO 04	AO 04.2 The existing dwellings on the property are within the setbacks set out for residential activities in Table 9.3.6.3 Residential activities - minimum side and rear boundary setbacks The existing dwelling is 1.7m from the southern side boundary, the existing outbuilding is built on the northern boundary and the new proposed shed will be 1.5m from the boundary. While this vary' s from the Acceptable outcome 4.2 it complies with the performance outcome in that it adds to the street scape as it matches other buildings in the area and the size and scale of the property aligns with the surrounding Medium residentially zone blocks.
Table 9.3.6.1	PO 12	AO12.4 garage is to the side however protrudes past the front of the building and includes an entrance landing matches existing and suits the surrounding area adds to the visual aspect of the building, minimises on street parking and doesn't impact any surrounding properties. This space creates a visually appealing front entrance and adds to the safety and security of the property and complies with all aspects of PO12 generally
Table 9.3.6.1	PO 22	Domestic outbuildings shed 240m2 proposed The block is 4535m2 and the shed is of a similar size and scale to existing sheds of surrounding properties with the similar size block. It matches the look and feel of residential



sheds in the area and meets the objective set out in performance outcomes 22 and does not adversely affect the amenity of adjoining properties

Table PO 23  
9.3.6.1

Garage is attached and integrated into the main existing dwelling and will protrude from the front line of the building by 3.5m. It will not dominate the road frontage and the Front landing and entrance is incorporated into the design total house frontage is 29m with garage opening at 6m colour matched to add street appeal to the property it complies with the intent of PO23

Table PO 7  
9.3.6.1

A07.2 existing side and boundary fences to remain as existing the northern boundary is majority steel sheeting 1.8m high with the front 15m timber slats. The southern boundary is concrete block construction 1.5m high in the front half and steel sheeting 1.8m high for the back half. The rear fence is chain-link fencing 2.1m high and is to remain. This is consistent with existing and adjoining properties. It is required to add additional security give that it backs onto the creek. It complies with the requirements of PO7 generally



Proposed front fence style

## 5.0 State assessment and other matters

### 5.1 State interests

#### 5.1.1 Matters established in the Planning Regulation

#### 5.1.2 State Planning Policy

The SPP includes assessment benchmarks that may be applicable where a local government planning scheme does not adequately reflect the SPP.

The following assessment benchmarks are applicable and have been appropriately considered in preparing this development application:

State interest	Assessment against assessment benchmark
Not applicable	

## 6.0 Summary of supporting information

This development is a basic change back to a residential dwelling which aligns with surrounding properties. It will have the look and feel of existing properties and match the surrounding area. It doesn't require any specialist reports below is the details of supporting documentation

**Table 9: Supporting documentation**

Drawing/ Report title	Prepared by	Date	Reference no.	Version
Aspect of development : Material Change of Use				
Planning Report	Michael Scotney	5/01/2023	DA-planning-report-153-155 west st	Version 1
Aspect of development: Material Change of Use				
Building design plans	Michael Scotney	10/01/2023	153-west street Sub 5	Version 1

## 7.0 Conclusion

The development and change of use from a commercial nursery back to a single residential dwelling will add to street scape of the area which is predominately residential. While there are some minor variations to the acceptable outcomes in the assessment criteria it meets the intention of all performance outcomes and adds to the area and will be appealing to the streetscape. We look forward to working with the council to get this application approved and executed in a timely manner.

**PROJECT**

**MATERIAL CHANGE OF USE FOR  
153-155 WEST STREET**

**DEVELOPED BY**

**MICK SCOTNEY**

**MOUNT ISA CITY COUNCIL  
DEVELOPMENT APPROVAL**

**Permit No. : P19-22**

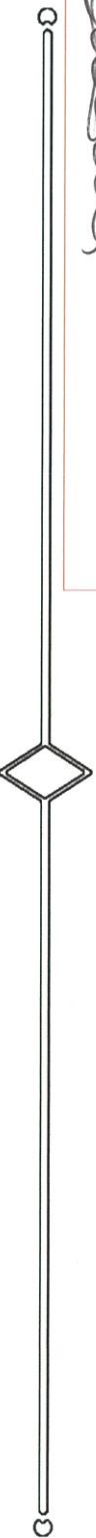
**Type of Development: Material Change of Use**

**Approved Use: Dwelling House**

**Approved By: Mrs Chiley Luangala**

**Title: Acting Chief Executive Officer**

**Date: 05/04/2023**



**MOUNT ISA CITY COUNCIL  
DEVELOPMENT APPROVAL 40000**

Permit No.: P19-22

Type of Development: Material Change of Use

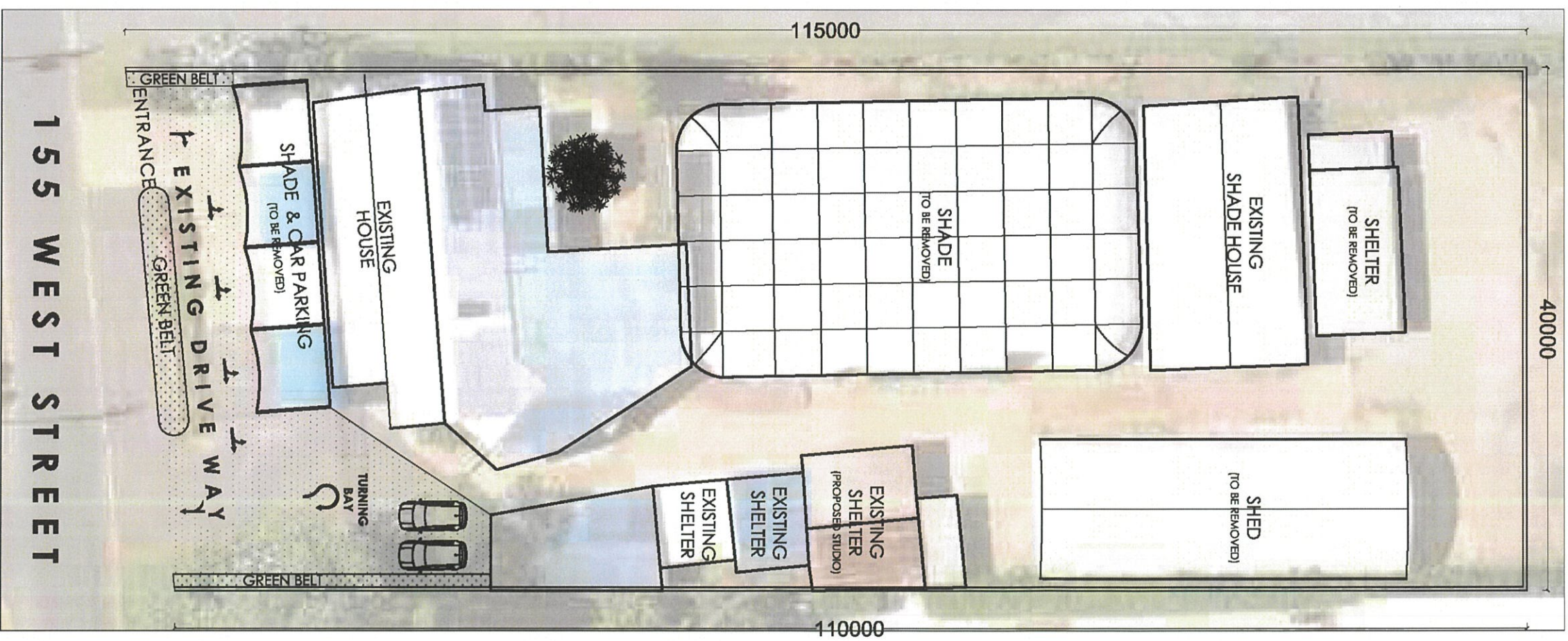
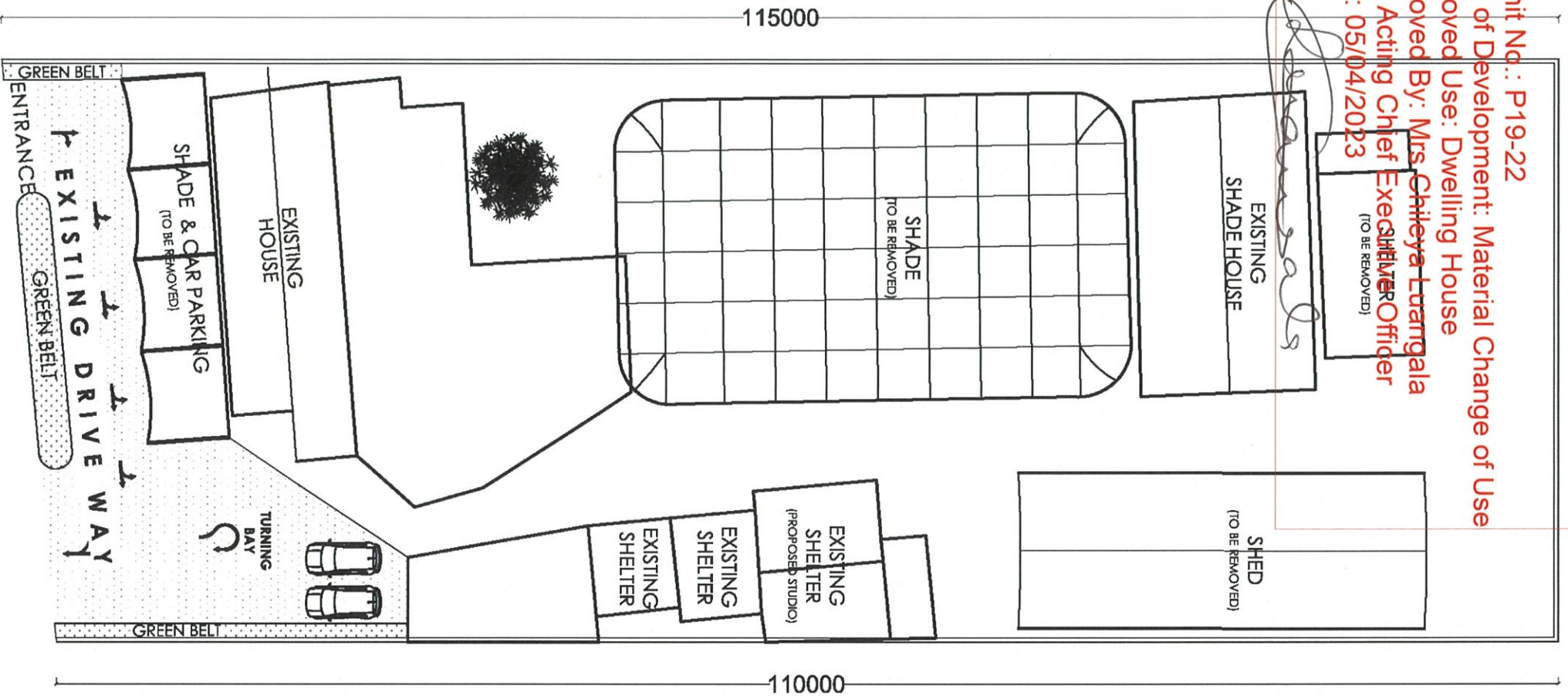
Approved Use: Dwelling House

Approved By: Mrs. Chloëa Luamgala

Title: Acting Chief Executive Officer

Date: 05/04/2023

*Chloëa Luamgala*  
(TO BE REMOVED)



**MASTER PLAN**  
EXISTING STRUCTURE

**OVERLAY PLAN**  
EXISTING STRUCTURE

SCALE: 1:100

**PROJECT**  
MATERIAL CHANGE OF USE FOR  
153-155 WEST STREET

**DEVELOPER**  
MICK SCOTNEY

**DRAWN BY**  
AI

**CHECKED BY**  
AM

**TITLE**  
EXISTING PLANS

**DATE**  
24-DECEMBER-2022

**MOUNT ISA CITY COUNCIL  
DEVELOPMENT APPROVAL**

Permit No: ~~P49-22~~

Type of Development: Material Change of Use

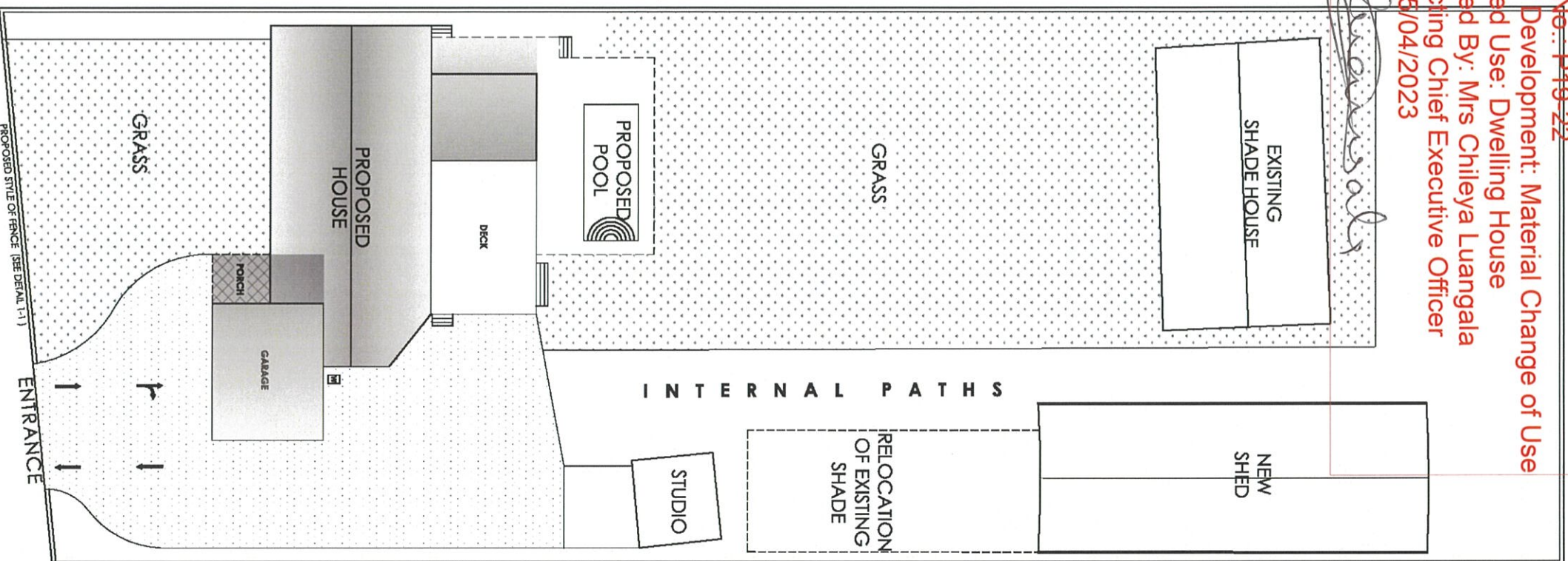
Approved Use: Dwelling House

Approved By: Mrs Chileya Luangala

Title: Acting Chief Executive Officer

Date: 05/04/2023

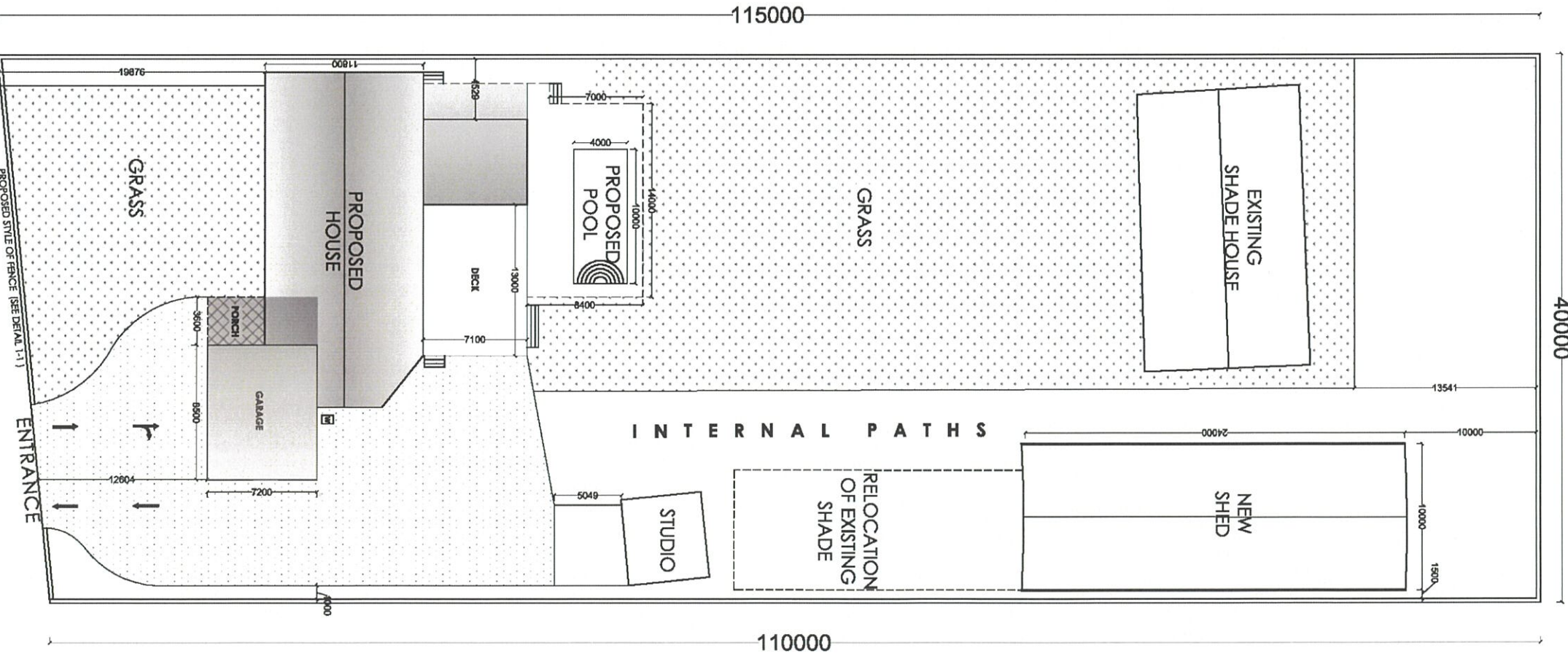
*Luangala*



**155 WEST STREET**

**MASTER PLAN**

PROPOSED STRUCTURE



**155 WEST STREET**

**WORKING PLAN**

PROPOSED STRUCTURE

SCALE: 1:100

**PROJECT**  
MATERIAL CHANGE OF USE FOR  
153-155 WEST STREET

**DEVELOPER**  
MICK SCOTNEY

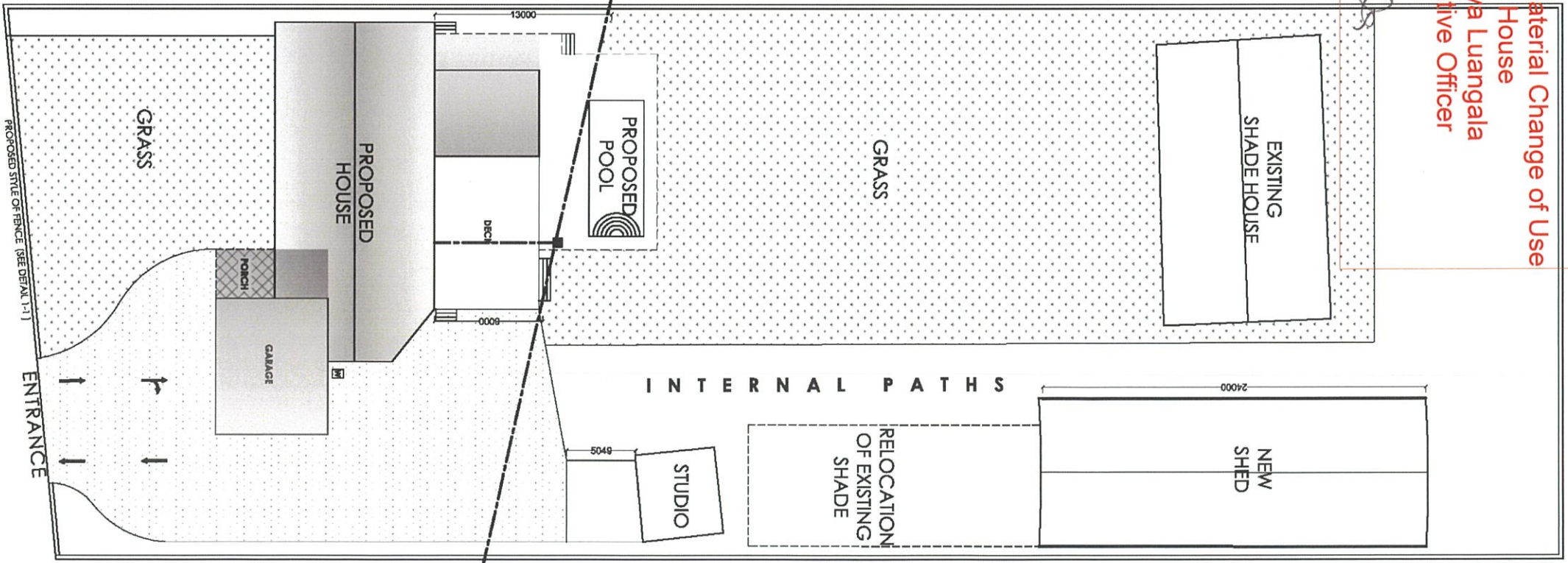
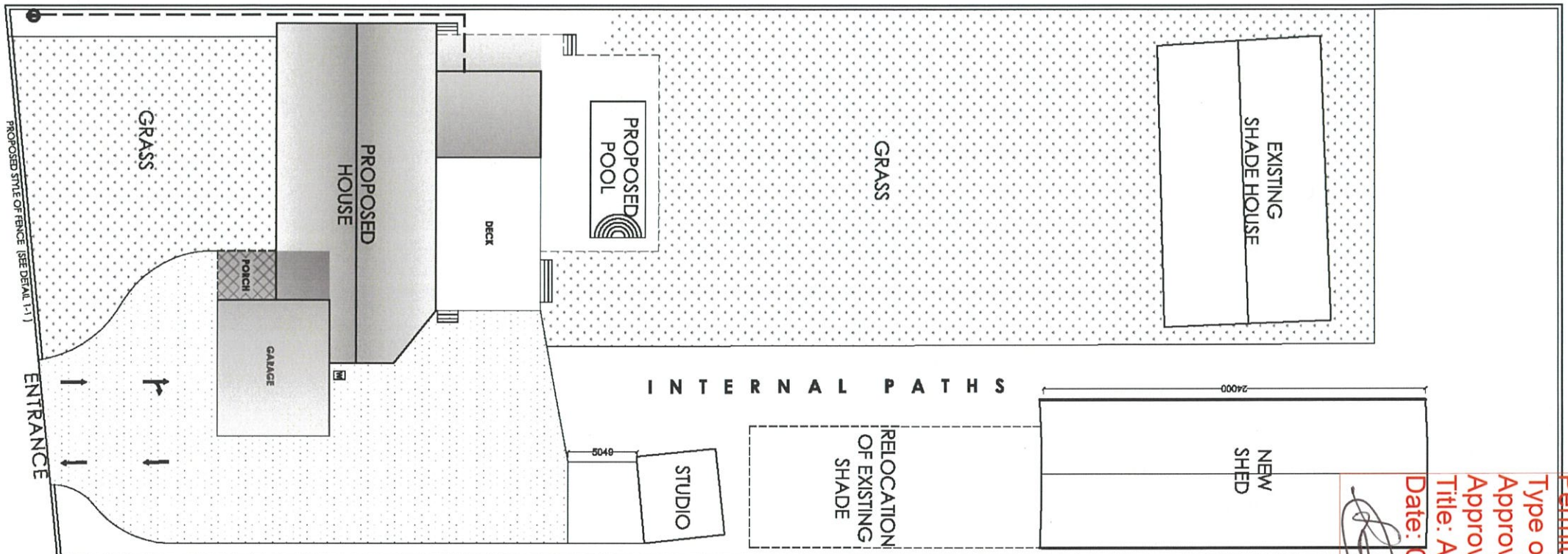
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**CHECKED BY**  
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**TITLE**  
PROPOSED PLANS  
**DATE**  
24-DECEMBER-2022

**MOUNT ISA CITY COUNCIL  
DEVELOPMENT APPROVAL**

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**155 WEST STREET  
WATER SUPPLY PLAN  
PROPOSED STRUCTURE**

**155 WEST STREET  
SEWERAGE PLAN  
PROPOSED STRUCTURE**

SCALE: 1:100

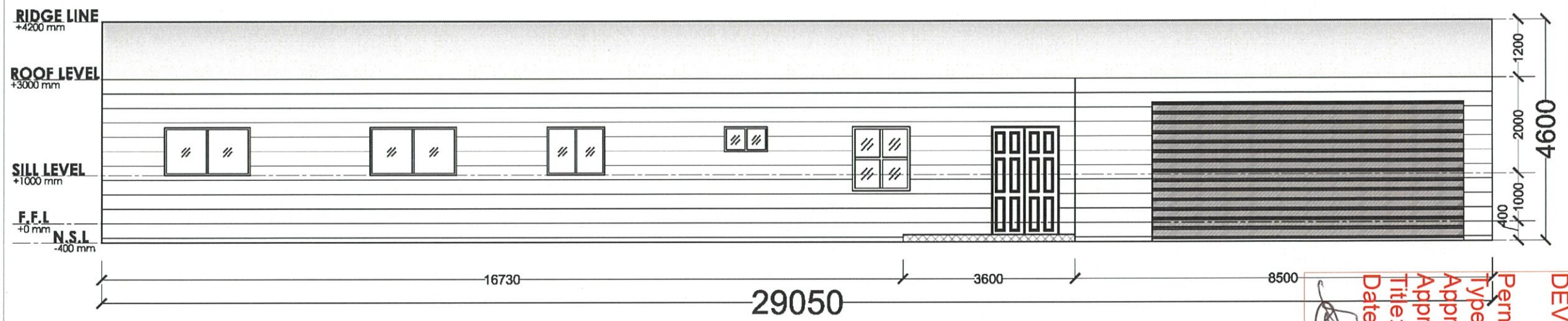
<p><b>PROJECT</b> MATERIAL CHANGE OF USE FOR 153-155 WEST STREET</p>	<p><b>DEVELOPER</b> MICK SCOTNEY</p>		<p><b>DRAWN BY</b> AI</p> <p><b>CHECKED BY</b> AM</p>	<p><b>TITLE</b> WATER SUPPLY &amp; SEWERAGE PLANS</p> <p><b>DATE</b> 24-DECEMBER-2022</p>
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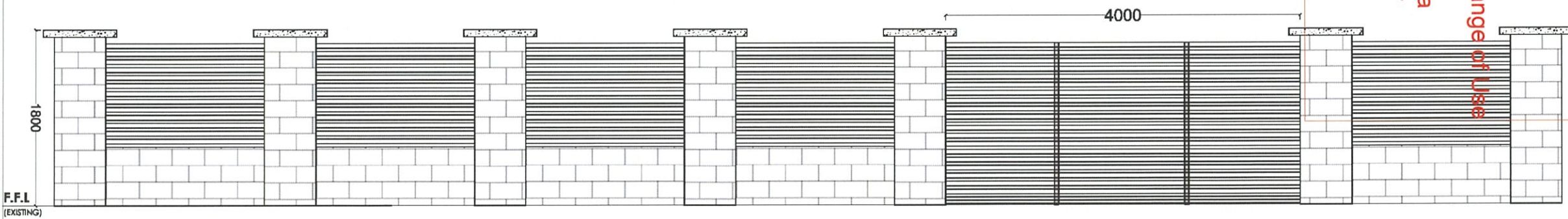


**MOUNT ISA CITY COUNCIL  
DEVELOPMENT APPROVAL**

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 Type of Development: Material Change of Use  
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**FRONT ELEVATION**  
 ALTERATIONS & ADDITIONS TO EXISTING STRUCTURE



**DETAIL A-A**  
 FRONT FENCE

**PROJECT**  
 MATERIAL CHANGE OF USE FOR  
 153-155 WEST STREET

**DEVELOPER**  
 MICK SCOTNEY

**DRAWN BY**  
 AI

**CHECKED BY**  
 AM

**TITLE**  
 ELEVATION





**DATE**  
 24-DECEMBER-2022

**MOUNT ISA CITY COUNCIL  
DEVELOPMENT APPROVAL**

Permit No.: P19-22  
 Type of Development: Material Change of Use  
 Approved Use: Dwelling House  
 Approved By: Mrs Chiley Luangala  
 Title: Acting Chief Executive Officer  
 Date: 05/04/2023



**DRAWING SYMBOLS/LEGENDS**

SR. NO.	DESCRIPTION	SYMBOL	REMARKS
1.	WATER SUPPLY METER		
2.	PROPOSED SEWERAGE LINE	-----	SIZE AS PER BOQ
3.	WATER SUPPLY LINE	-----	SIZE AS PER BOQ
4.	MAN HOLE/CHANGE POINT		SIZE AS PER BOQ
5.	SEWER OUTFALL		
6.	WASTE BINS		SIZE AS PER BOQ
7.			
8.			
9.			

<b>PROJECT</b> MATERIAL CHANGE OF USE FOR 153-155 WEST STREET	<b>DEVELOPER</b> MICK SCOTNEY	<b>DRAWN BY</b> AI	<b>TITLE</b> SYMBOLS & LEGENDS
		<b>CHECKED BY</b> AM	<b>DATE</b> 24-DECEMBER-2022



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.

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- (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.



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- (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.

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- (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.