



Our Ref: File: P22-22 & 06010-00000-000 JN:SM
Your Ref: ---

DECISION NOTICE APPROVAL

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

16 June 2023

kpfitcentre@hotmail.com

KP Fitness Centre
24 Third Avenue
MOUNT ISA QLD 4825

Attention: Kim

Dear Kim

The development application described below was properly made to the Council on 10 February 2023.

APPLICANT DETAILS*

Applicant name: KP Fitness Centre
Applicant contact details: kpfitcentre@hotmail.com

APPLICATION DETAILS

Application number: P22-22
Approval sought: Material Change of Use
Nature of development proposed: Indoor Sports and Recreation
Description of the development proposed: 24/7 Gymnasium

LOCATION DETAILS

Street address: Lease B/17-19 Simpson Street
Real property description: Lot 1 on plan SP147781
Local government area: Mount Isa City

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DECISION

Date of decision: 14 June 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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval 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"> • Building Work Not Associated with a Material Change of Use • Plumbing or Drainage Work • Material Change of Use • Reconfiguration of a Lot • Operational Work 		<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. Change of Building Classification – Class 6 to Class 9

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
Aspect of development: Material Change of Use				
Floor Plan	KP Fitness	30/01/2023		
Planning Report/Cover Letter	KP Fitness	30/01/2023		

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
Principal Centre Zone Code	<i>Part 6 Zones – 9.3.2 – City of Mount Isa Planning Scheme 2020</i>
Community and Recreation Activities Code	<i>Use Codes – 9.3.2 – City of Mount Isa Planning Scheme 2020</i>
Parking, Access and Loading Code	<i>Other Development Codes – 9.4.6 – City of Mount Isa Planning Scheme 2020</i>
Landscaping Code	<i>Other Development Codes – 9.4.5 – City of Mount Isa Planning Scheme 2020</i>
Excavation and Filling Code	<i>Other Development Codes – 9.4.3 – City of Mount Isa Planning Scheme 2020</i>
Engineering Works and Services Code	<i>Other Development Codes – 9.4.2 – City of Mount Isa Planning Scheme 2020</i>

3. Compliance with Benchmarks

Benchmark reference	Reasons for the approval despite non-compliance with benchmark
Community and Recreation Activities Code	
PO 10 Landscaping treatments enhance the amenity and character of area and soften the visual dominance of hard surface areas buildings.	<i>The existing onsite landscaping is to be maintained by the premise owners as per the requirements of the Development Permit I25-00, however the applicant must not cause any damage to the landscaping</i>
Parking, Access and Loading Code	
PO 4 Sufficient parking spaces are provided for the number and type of vehicles likely to be associated with the development.	<i>Sufficient parking can be provided through a combination of onsite parking and on street parking (especially on Simpson Street outside regular business hours)</i>

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



Dale Dickson PSM
Chief Executive Officer

Cc: r_leeson@bigpond.com

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: P22-22 for a Retrospective Material Change of Use (24/7 Gymnasium) at Lease B/17-19 Simpson 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 14 June 2023 for the Retrospective Material Change of Use (24/7 Gymnasium) at Lease B/17-19 Simpson Street, Mount Isa, described as Lot 1 on plan SP147781, subject to the following conditions:

NUMBER	CONDITION	TIMING
PLANNING		
General		
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	As specified
3.	The proposed development to comply with the development conditions of Development Permit I25-00	At all times
Amenity		
4.	All bike racks/additional street furniture associated with the operations are to be adequately fixed to the ground	<i>At all times</i>
5.	The façade of the building in which the gymnasium is operated from is to be maintained to a high standard, free of any graffiti and painted in uniform colours.	<i>At all times</i>
6.	All patrons of the operation are to comply with Mount Isa City Council Local Laws No 5 (Parking) 2013 and Mount Isa City Council Subordinate Local Laws No 5 (Parking) 2018	<i>At all times</i>

Advertising Signage		
7.	The applicant is to ensure that at all times during its existence, the advertising signage is maintained in good repair and sightly appearance	<i>At all times</i>
8.	Where the Advertising Signage is damaged beyond repair or where it is stolen or becomes illegible, the applicant shall take immediate action to remove or make good the signage, upon written notice to that effect by the Mount Isa City Council	<i>At all times</i>
9.	Upon cessation of the business or activity to which the advertisement refers, the advertisement must be removed and the site made good within thirty (30) days of the last day on which the business or activity operated	<i>At all times</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
- Information Request Response and Further Advice Response
- *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



Place Plan here



ATTACHMENT 3

PLANNING ACT 2016
EXTRACT ON APPEAL RIGHTS