



Our Ref: File: P36-22 & 01878-00000-000 JN:SM
Your Ref: ---

DECISION NOTICE APPROVAL

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

20 December 2023

elisew@cadcon.com.au

CadCon Surveying & Town Planning
PO Box 5774
MAROOCHYDORE QLD 4558

Attention: Elise Wilton

Dear Ms Wilton

The development application described below was properly made to the Council on 15 December 2023.

APPLICANT DETAILS*

Applicant name: Mount Isa Mining Supplies
Applicant contact details: Elisew@CadCon.com.au

APPLICATION DETAILS

Application number: P36-22
Approval sought: Material Change of Use
Nature of development proposed: Warehouse
Description of the development proposed: New Warehouse for an Existing Warehouse Use

LOCATION DETAILS

Street address: 97 Duchess Road
Real property description: Lot 2 on plan MPH31509
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: 20 December 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| Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval 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 or 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. Building Permit for New Warehouse
2. Plumbing Permit for New Plumbing Works

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 |
|--|--|-------------------------------------|--|
| <i>Within 25m of a State Controlled Road</i> | Department of Transport and Main Road by State Assessment Referral Agency (SARA) | Concurrency Agency | Po Box 5666 Townsville QLD 4810 NQSARA@dSDLGP.qld.gov.au |

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 | | | | |
| Planning Report | Cadcon Surveying and Town Planning | June 2023 | Ref 229278 | |
| Site Plan | Southern Cross Design and Drafting | 29/09/2023 | Project No. SDC 22-2022 Sheet No. A01 | 5 |
| Floor Plan | Southern Cross Design and Drafting | 29/09/2023 | Project No. SDC 22-2022 Sheet No. A02 | 5 |
| Elevations A & B | Southern Cross Design and Drafting | 29/09/2023 | Project No. SDC 22-2022 Sheet No. A03 | 5 |
| Elevations C & D | Southern Cross Design and Drafting | 29/09/2023 | Project No. SDC 22-2022 Sheet No. A04 | 5 |

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 |
|--|---|
| <i>Low Impact Industry Code</i> | <i>City of Mount Isa Planning Scheme 2020 Part 6 – Zones – 6.6.1</i> |
| <i>Industry and Infrastructure Activities Code</i> | <i>City of Mount Isa Planning Scheme 2020 Part 9 - Use Codes - 9.3.6 –</i> |
| <i>Engineering Works and Services Code</i> | <i>City of Mount Isa Planning Scheme 2020 Part 9 -Other Development Codes – 9.4.2 -</i> |
| <i>Excavation and Filling Code</i> | <i>City of Mount Isa Planning Scheme 2020 Part 9 -Other Development Codes – 9.4.3 -</i> |
| <i>Water Quality Code</i> | <i>City of Mount Isa Planning Scheme 2020-Other Development Codes – 9.4.4 -</i> |
| <i>Landscaping Code</i> | <i>City of Mount Isa Planning Scheme 2020-Part 9 -Other Development Codes – 9.4.5 -</i> |
| <i>Parking, Access and Loading Code</i> | <i>City of Mount Isa Planning Scheme 2020 – Part 9 -Other Development Codes – 9.4.6 -</i> |
| <i>Bushfire Hazard Overlay Code</i> | <i>City of Mount Isa Planning Scheme 2020 Part 8 -Overlay Codes – 8.2.3 –</i> |
| <i>Flood Hazard Overlay Code</i> | <i>City of Mount Isa Planning Scheme 2020 Part 8 - Overlay Codes – 8.2.5 –</i> |
| <i>Biodiversity Overlay Code</i> | <i>City of Mount Isa Planning Scheme 2020 Part 8 -Overlay Codes – 8.2.2 –</i> |

3. Compliance with Benchmarks

| Benchmark reference | Reasons for the approval despite non-compliance with benchmark |
|--|--|
| Industry and Infrastructure Activities Code | |
| PO 1 Development addresses the street, facilitates casual surveillance of the street and provides for safe pedestrian access. | <i>Pedestrian access not required due to minimal pedestrian movement and no on street parking being proposed</i> <i>Chainmesh fencing and gates provides casual surveillance into the development</i> |

| | |
|---|---|
| <p>PO 5</p> <p>Development is designed and located to:</p> <ul style="list-style-type: none"> a) enhance the character of the zone; and b) enhance the visual amenity of the main approaches to the urban areas of Mount Isa; and c) be of a size, bulk and form consistent with the existing or preferred character of the zone in which it is located; and d) prevent adverse impacts on nearby premises; and e) provide for and maintain a sense of open space; and f) provide a dedicated pedestrian entry that is protected from the sun and rain. | <p><i>The proposed location and size of the warehouse is consistent with the existing character of the area and improves the visual amenity of the frontage</i></p> |
| <p>PO 7</p> <p><u>For development within the Low impact, Medium Impact, Special industry and Special purpose zones:</u></p> <p>Fences must contribute positively to the character of the streetscape and enhance the amenity of the site.</p> | <p><i>Landscaping required to installed behind chainmesh fence to enhance the amenity of the site. Fencing to remain 50% transparent for the life of the development</i></p> |
| <p>PO 10</p> <p>Landscaping:</p> <ul style="list-style-type: none"> a) provides an attractive streetscape; and b) enhances the amenity of the zone; and c) reduces the visual and environmental impact of hard surface areas; and d) achieves maximum on-site rainwater infiltration; and e) minimises additional burden on stormwater drainage infrastructure | <p><i>Landscaping is required to installed along the frontage to improve the streetscape and landscaping at the rear of the site will reduce the burden of additional stormwater</i></p> <p><i>The applicant has previously proposed landscaping within the road reserve which would have reduced impact of the shed however was removed as per DTMR's requirements</i></p> |
| <p>PO 14</p> <p>The design and layout of vehicle parking, loading, crossover and access areas:</p> <ul style="list-style-type: none"> a) provides safe and efficient vehicular and pedestrian movement; and b) enables the loading and unloading of goods and waste to occur wholly within the site; and c) does not dominate the road frontage; and d) is visually unobtrusive from the street and complements the character and amenity of the area. | <p><i>Parking to be located along the front of the development due to existing building placement and proposed development design</i></p> <p><i>The proposed parking layout provides safe and efficient vehicular movement and permits space for vehicles to be loaded/unloaded onsite safely.</i></p> |
| <p>Assessable Development</p> <p>PO 9</p> <p>The traffic and parking generated by the proposed development does not:</p> <ul style="list-style-type: none"> a) adversely affect the surrounding or future planned road network; and | <p><i>Parking considered to be sufficient for the proposed development as does result in an increased demand for on-street parking</i></p> |

| | |
|---|--|
| <p>b) adversely affect the amenity of the surrounding neighborhood; and c) create safety conflicts with pedestrians; and d) result in an increased demand for on-street parking</p> | |
| Parking, Access and Loading Code | |
| <p>PO 1 The layout, design and construction of the access:</p> <p>a) (a) is safe, convenient and legible for all users including people with disabilities, pedestrians and cyclists; and b) does not interfere with the planned function, safety, capacity and operation of the transport network; and c) includes appropriate and sufficient signage</p> | <p><i>High levels of pedestrian traffic is not anticipated and there is no formal on street parking, a dedicated pedestrian access is not required</i></p> |
| <p>PO 4 Sufficient parking spaces are provided for the number and type of vehicles likely to be associated with the development.</p> | <p><i>No additional parking can be provided onsite due to site constraints.</i></p> <p><i>It was originally proposed that five (5) carparks were located in the road reserve but were removed as per DTMR's requirements</i></p> |
| <p>PO 7 Vehicle parking areas are landscaped in a manner which enhances their appearance and assists in buffering surrounding land uses.</p> | <p><i>Parking area to be screened with landscaping along the frontage.</i></p> |
| <p>PO 8 Parking areas located external to a building and ancillary to the development provide shade by way of mature trees or shade structures.</p> | <p><i>Shade for parking areas not considered to be necessary given the zone in which the development is located</i></p> |
| Biodiversity Overlay Code | |
| <p>PO 1 Development that may result in impacts on Matters of State Environmental Significance (MSES) is avoided or where disturbance cannot be avoided the loss or decrease of values is minimised.</p> | <p><i>Biodiversity Overlay mapping does not accurately depict onsite vegetation</i></p> |

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

Tim Rose
Acting Chief Executive Officer



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: P36-22 for a Material Change of Use for Warehouse at 97 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 20 December 2023 for the Material Change of Use for Warehouse at 97 Duchess Road, Mount Isa, described as Lot 2 on plan MPH31509, subject to the following conditions:

| NUMBER | CONDITION | TIMING |
|-----------------|--|----------------------|
| PLANNING | | |
| General | | |
| 1. | The development shall be carried out generally in accordance with the approved documents, 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>As specified</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. | Any gates situated along the road boundary must open inwards onto the subject property and not outwards onto Council's road reserve/verge | <i>At all times</i> |
| 4. | All structures including fencing is to be located with the real property boundary | <i>At all times</i> |
| 5. | No access to the rear of the property is to be gained via Lot 51 on CP891616 | <i>At all times</i> |
| Amenity | | |
| 6. | The owner/developer is responsible for ensuring the warehouse is effectively sealed to protect any sensitive | <i>At all times.</i> |

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| | materials from any impacts caused by the surrounding industry uses. <i>Reason: To protect the adjoining and surrounding uses from potential reverse amenity impacts.</i> | |
| 7. | Front fencing and front gates are to remain constructed of a fencing material that has a minimum 50% transparency | <i>At all times</i> |
| 8. | Services and utilities such as air conditioners, refrigeration and ventilation plant/equipment, hot water systems and garbage bin storage areas are to be screened from public view, where directly visible from a public area; | <i>At all times</i> |
| 9. | The seven (7) onsite carparking spaces shall be provided and maintained for the life of the development | |
| Advertising Devices | | |
| 10. | 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> |
| 11. | 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> |
| 12. | 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>As Specified</i> |
| Landscaping | | |
| 13. | A detailed landscaping plan, including species, is to be prepared in accordance with the Landscaping Code of the City of Mount Isa Planning Scheme, and shall be submitted to Council and approved by Council. This is to include a reticulated irrigation system. Landscaping is to be installed in front of the proposed carparking along the front of the development | <i>Within three (3) months of the approval</i> |
| 14. | Landscaping and irrigation are to be installed as per the approved Landscaping Plan for the life of the development. | <i>Prior to commencement of use</i> |
| Environmental | | |
| 15. | 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> . (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. (b) there is discharge of contaminants to air that may harm the environment or create a nuisance from the operation of the activity. | <i>At all times</i> |

| | | |
|--------------------|--|---|
| | <p>(c) noise nuisance is prevented or minimised at noise sensitive places.</p> <p>(d) 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> | |
| 16. | <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> |
| 17. | <p>Any asbestos containing material handled during construction and demolition must be handled according to the provisions of the <i>"How to Manage and Control Asbestos in the Workplace Code of Practice 2011"</i></p> | <i>During Construction</i> |
| 18. | <p>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/and other waterways.</p> | <i>At all times</i> |
| 19. | <p>Prevent/ minimise the emission of noise that causes, or is likely to cause, environmental nuisance at sensitive or commercial places.</p> <p>All work must be undertaken within the prescribed timeframe as mentioned in <i>Environmental Protection Act 1994</i>.</p> | <i>At all times</i> |
| 20. | <p>The release of dust and/or particulate matter resulting from the activity must not cause environmental nuisance at any nuisance sensitive or commercial place.</p> | <i>At all times</i> |
| 21. | <p>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 exposed to the atmosphere.</p> | <i>During Construction/At all times</i> |
| ENGINEERING | | |
| General | | |
| 22. | <p>The owner/developer shall bear the cost of all alterations necessary to public utility mains, services or installations necessitated by this approval. Such works shall be approved by Council prior to commencement and installed to Council specifications and satisfaction.</p> | <i>At all times</i> |

| Waste | | |
|--|---|--|
| 23. | <p>Prior to commencement of use, in accordance with the approved plans, provide appropriate area for the storage and collection of refuse with the following provisions:</p> <ul style="list-style-type: none"> a) Located on-site b) Not located within any required setback or landscaping areas c) Located in a position which is accessible to service vehicles on the site d) Screened from public view, by a solid fence or wall that is 1.8 meters in height, measured from ground level e) Provided on an imperviously sealed pad that drains to an approved waste disposal system f) Provided with a tap g) Large enough to accommodate at least one standard industrial refuse bin of a size appropriate to the nature and scale of the refuse generated by the us | <i>Prior to commencement of use</i> |
| Access, Grades, Maneuvering, Carparks and Signs | | |
| 24. | <p>Provide the following as indicated on the approved plans of layout:</p> <ul style="list-style-type: none"> a) A pavement (including associated drainage) to any new areas where motor vehicles will be driven or parked. Vehicle access and carpark areas are to have a durable, dust free surface. b) The internal driveways and car parks are to be designed to comply with AS/NZS 2890.1 (Off-street Car Parking). c) Disabled car parking shall be provided in accordance with AS 1428.1-2009. d) Manoeuvring on-site for all vehicles utilising the site including service and maintenance vehicles. e) The internal driveways and car parks are to be delineated and signed in accordance with the Manual of Uniform Traffic Control Devices and Austroads. f) Safe pedestrian movements from parking bays to the Workshop shall be achieved. A pedestrian crossing from the carparking bays to the main building entrance is to be provided for pedestrian safety. g) Provide Council with Registered Professional Engineer of Queensland (RPEQ) certified as constructed plans to demonstrate compliance with the access, grades, manoeuvring, carparks and signs as listed above | <i>Prior to commencement of use (and then to be maintained),</i> |
| 25. | All vehicles are required to leave and enter the site in a forward gear | <i>At all times</i> |
| Stormwater | | |
| 26. | Stormwater runoff from roof and paved areas of the development site are to be collected internally and directed to a legal point of discharge. | <i>At all times</i> |
| Water | | |

| | | |
|-----------------------------------|---|---|
| 27. | Where required, the applicant shall lodge an <i>Application for Water Service</i> with Council to upgrade the existing water service to provide sufficient capacity and water pressure to service the proposed development. The application shall be accompanied by a report from a suitable qualified hydraulic engineer confirming the upgrade is appropriate for the proposed building | <i>Where required</i> |
| Sewerage | | |
| 28. | The proposed water closet located in the proposed warehouse is either to connected to an existing onsite septic system or a new onsite septic system is to be installed | <i>Prior to commencement of use</i> |
| COMPLIANCE WITH CONDITIONS | | |
| 29. | Prior to commencement of use the owner/developer is to contact Council to arrange a compliance inspection of the property to assess compliance with the Assessment Manager's Conditions of Approval and the approved plans | <i>Within six (6) months of commencement of use</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
- SARA DA Mapping system

ATTACHMENT 1
Part 2
CONDITIONS IMPOSED BY
CONCURRENCE AGENCY
(Department of State Development, Manufacturing,
Infrastructure and Planning)

Application: P36-22 for a Material Change of Use for Warehouse at 97 Duchess Road, Mount Isa.
(DSDILGP letter dated 16 October 2023, Application/Reference No: 2307-35864 SRA refers, copy attached).



SARA reference: 2307-35864 SRA
 Council reference: P36-22
 Applicant reference: 229278

16 October 2023

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

Attention: Development Assessment Manager

Dear Sir/Madam,

SARA referral agency response—97 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 1 August 2023.

Response

| | |
|-------------------|--|
| Outcome: | Referral agency response – with conditions |
| Date of response: | 16 October 2023 |
| Conditions: | The conditions in Attachment 1 must be attached to any development approval |
| Advice: | Advice to the applicant is in Attachment 2 |
| Reasons: | The reasons for the referral agency response are in Attachment 3 |

Development details

| | |
|---------------|--|
| Description: | Development permit: Material Change of Use – Warehouse (new warehouse for an existing warehouse use) |
| SARA role: | Referral agency |
| SARA trigger: | Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 - Material change of use of premises near a state transport corridor |

SARA reference: 2307-35864 SRA

Assessment manager: Mount Isa City Council

Street address: 97 Mount Isa Duchess Road, Healy

Real property description: Lot 2 on MPH31509

Applicant name: Mount Isa Mining Supplies C/- CadCon Surveying & Town Planning

Applicant contact details: PO Box 5774
Maroochydore BC QLD 4558
cadcon@cadcon.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: **TMR23-040039**
- Date: 11 October 2023

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

Human Rights Act 2019 considerations: A consideration of the 23 fundamental human rights protected under the Human Rights Act 2019 has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.

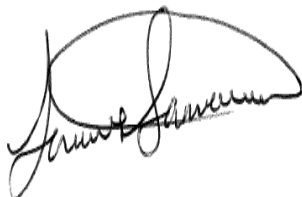
Representations

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 Amber Can, Senior Planner, on 07 5644 3227 or via email NQSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely,



Javier Samanes
A/Manager (Planning)

cc Mount Isa Mining Supplies C/- CadCon Surveying & Town Planning, cadcon@cadcon.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 - Documents referenced in conditions.

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) (Copies of the document referenced below are found at Attachment 5).

| No. | Conditions | Condition timing |
|--|---|---|
| Material change of use | | |
| Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1—Material change of use of premises near a state transport corridor—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 conditions: | | |
| 1. | <p>(a) The road access location, is to be located generally in accordance with Site Plan, prepared by Southern Cross Drafting, Project No. SCD 22-202, Sheet No. A01, dated 29/09/2023, rev 5.</p> <p>(b) Road access works comprising heavy duty vehicle access with line markings indicating ingress and egress locations must be provided at the road access location.</p> <p>(c) The road access works must be designed and constructed in accordance with:</p> <ul style="list-style-type: none"> (i) Heavy Duty Vehicle Crossing Type A, prepared by Institute of Public Works Engineering Australasia, reference RS-051, dated June 2014 and revision F; (ii) Department of Transport and Main Roads' Road Planning and Design Manual, Second Edition; (iii) Manual of Uniform Traffic Control Devices (MUTCD); (iv) Relevant Traffic and Road Use Manuals; and (v) Mount Isa City Council's Standard Drawings. | <p>(a) At all times.</p> <p>(b) and (c) Prior to the commencement of use.</p> |
| 2. | <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"> (i) create any new discharge points for stormwater runoff onto the state-controlled road; (ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road; (iii) surcharge any existing culvert or drain on the state-controlled road; and (iv) reduce the quality of stormwater discharge onto the state-controlled road. | <p>(a) At all times.</p> <p>(b) At all times.</p> |
| 3. | Signage, indicating entry only and exit only road access to the state-controlled road, as shown on Site Plan, prepared by Southern Cross Drafting, Project No. SCD 22-202, Sheet No. A01, dated 29/09/2023, rev 5, is to be installed in accordance with the Department of Transport and Main Roads' Manual of Uniform Traffic Control Devices. | Prior to the commencement of use. |

Attachment 2—Advice to the applicant

| General advice | |
|-----------------------|---|
| 1. | <p>Road access works approval</p> <p>Under section 33 of the Transport Infrastructure Act 1994, written approval is required from the Department of Transport and Main Roads to carry out road works that are road access works (including driveways, turning lanes, line marking and road signs) on a state-controlled road. Please contact the Department of Transport and Main Roads at Cloncurry.Corridor@tmr.qld.gov.au to make an application for road works approval.</p> <p>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). The road access works approval process takes time – please contact 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

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

The reasons for the SARA's decision are:

- does not create a safety hazard for users of the Duchess Road (the relevant state-controlled road)
- does not compromise the structural integrity of state-controlled roads, road transport infrastructure or road works
- does not result in a worsening of the physical condition or operating performance of state-controlled roads and the surrounding road network
- does not compromise the state's ability to construct, or significantly increase the cost to construct state-controlled roads and future state-controlled roads
- does not compromise the state's ability to maintain and operate state-controlled roads, or significantly increase the cost to maintain and operate state-controlled roads
- does not compromise the structural integrity of public passenger transport infrastructure or compromise the operating performance of public passenger transport services
- avoids or mitigates significant adverse impacts resulting from environmental emissions generated by vehicles on the state-controlled road.

Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (version 3.0), as published by SARA
- the Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system
- section 58 of the *Human Rights Act 2019*.

Attachment 4—Representations about a referral agency response provisions

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Attachment 5—Document referenced in conditions

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Our ref TMR23-040039
Your ref
Enquiries Aidan Colahan



11 October 2023

Department of
Transport and Main Roads

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

This is not an authorisation to commence work on a state-controlled road¹

Development application reference number P36-22, lodged with Mount Isa City Council involves constructing or changing a vehicular access between Lot 2 on MPH31509 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 Mount Isa Mining Supplies C/- CadCon Surveying & Town
Planning
PO Box 5774
Maroochydore BC QLD 4558

Application Details

Address of Property 97 Duchess Road, Mount Isa QLD 4825
Real Property Description 2MPH31509
Aspect/s of Development Development Permit for the Material change of use (Extension to a Warehouse)

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 | (a) The road access location, is to be located generally in accordance with Site Plan, prepared by Southern Cross Drafting, reference SCD 22-202-A01, dated 29 September 2023, and revision 5, and as amended in red. | (a) At all times (b) and (c) Prior to the commencement of use |

¹ Please refer to the further approvals required under the heading 'Further approvals'

| No. | Conditions of Approval | Condition Timing |
|-----|--|------------------|
| | <p>(b) Road access works comprising heavy duty vehicle access with line markings indicating ingress and egress locations must be provided at the road access location.</p> <p>(c) The road access works must be designed and constructed in accordance with:</p> <ul style="list-style-type: none"> (i) Heavy Duty Vehicle Crossing Type A, prepared by Institute of Public Works Engineering Australasia, reference RS-051, dated June 2014 and revision F. (ii) Department of Transport and Main Roads' Road Planning and Design Manual, Second Edition; (iii) Manual of Uniform Traffic Control Devices (MUTCD); (iv) Relevant Traffic and Road Use Manuals; and (v) Mount Isa City Council's Standard Drawings. | |
| 2 | Direct access is prohibited between Duchess Road and Lot 2 on MPH31509 at any other location other than the Permitted Road Access Location described in Condition 1. | At all times. |
| 3 | The landowner shall be responsible for maintenance of the driveway between the property boundary and the edge of the bitumen as required to continue safe and efficient access between the permitted road access point and Duchess 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 property does not compromise the safety and efficiency of the State-controlled Road network.

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.
2. General advice:
 - (a) This approval does not permit works to occur within the State-controlled Road reserve. Further approval is required from the Department of Transport and Main Roads prior to any works occurring.
 - (b) Road Works Approval Required – In addition to the Road Access Works Approval, a Road Works approval is required pursuant to section 33 of the TIA. Written approval is required from the Department to carry out road works, including the conditioned line marking, 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, Planner (Corridor Management) should be contacted by email at aidan.p.colahan@tmr.qld.gov.au or on 4421 8708.

Yours sincerely

A handwritten signature in black ink, appearing to read "P. Tarlinton". The signature is fluid and cursive, with a long horizontal stroke at the end.

Peter Tarlinton
A/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:

1. The objective of the *Transport Infrastructure Act 1994* requires the establishment of a road regime that is safe and efficient.
2. Section 62 of the *Transport Infrastructure Act 1994* allows the Department of Transport and Main Road to make decisions about permitted road access locations between particular/adjacent land and a State-controlled Road.
3. The development results in the establishment of a warehouse within the subject site.
4. The subject site has direct access to Duchess Road (a State-controlled Road).
5. Duchess Road is comprised of a single carriageway and has an AADT of 305 approximately 16% of which are heavy vehicles.
6. Where proximate to the subject site, Duchess Road is not identified as a limited access road.
7. Duchess Road has a sign-posted speed limit of 60km/hr.
8. Access to the development is to be achieved via individual left-in and left-out access locations to Duchess Road.
9. Wayfinding signage and a formalised heavy vehicle access will be required to create certainty for vehicles entering the subject site.
10. The property owner will be responsible for ongoing maintenance of the driveway between the property boundary and the pavement edge of the State-controlled Road.

Evidence or other material on which findings were based:

| Title of Evidence / Material | Prepared by | Date | Reference no. | Version/Issue |
|-------------------------------------|------------------------------------|-------------------|----------------------|----------------------|
| Site Plan | Southern Cross Design and Drafting | 29 September 2023 | SCD 22-202 | 5 |
| Planning Report | CadCon Surveying & Town Planning | June 2023 | - | - |

Attachment B

Section 70 of TIA

Transport Infrastructure Act 1994

Chapter 6 Road transport infrastructure

Part 5 Management of State-controlled roads

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

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—

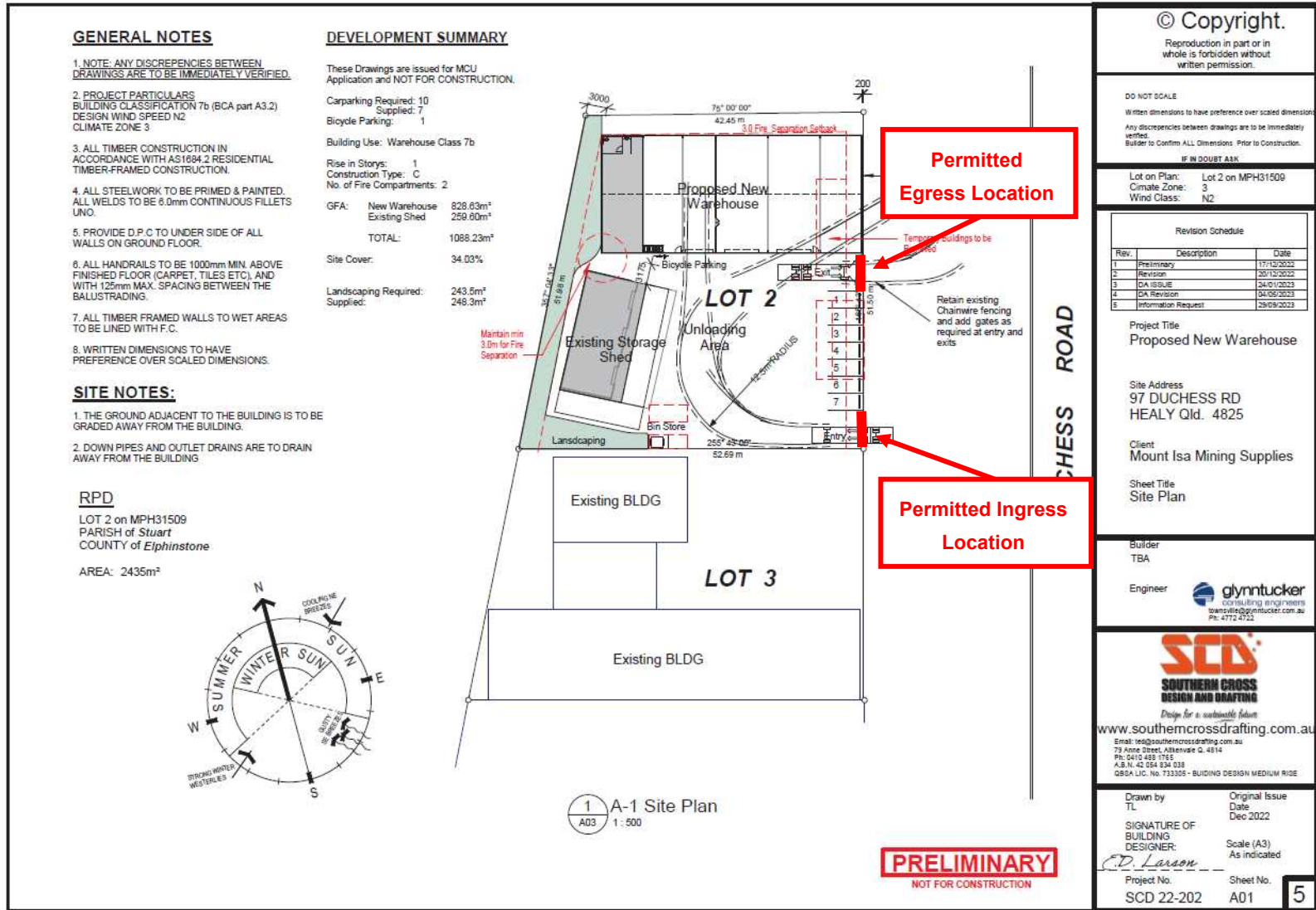
- (a) the decision notice did not state the reasons for the decision; and
- (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

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



Program Delivery and Operations
North Queensland Region
445 Flinders Street Townsville QLD 4810
PO Box 1089 Townsville QLD 4810

Telephone +61 7 4421 8708
Website www.tmr.qld.gov.au
Email North.Queensland.IDAS@tmr.qld.gov.au
ABN: 39 407 690 291

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 Rules¹ regarding **representations about a referral agency response**

Part 6: Changes to the application and referral agency responses

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.²
- 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.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² 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.³

³ 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 2

APPROVED PLANS



**MOUNT ISA CITY COUNCIL
DEVELOPMENT APPROVAL**

Permit No.: P36-22 **Code Assessable Development Application for**

Type of Development: Material Change of Use

Approved Use: Warehouse

Approved By: Mr Tim Rose

Title: Acting Chief Executive Officer

Date: 20/12/2023

Material Change of Use

Jh. (Warehouse)

over land at

97 Duchess Road, Healy

(Lot 2 on MPH31509)

In the Mount Isa City Council Local Government Area

on behalf of *Mount Isa Mining Supplies*

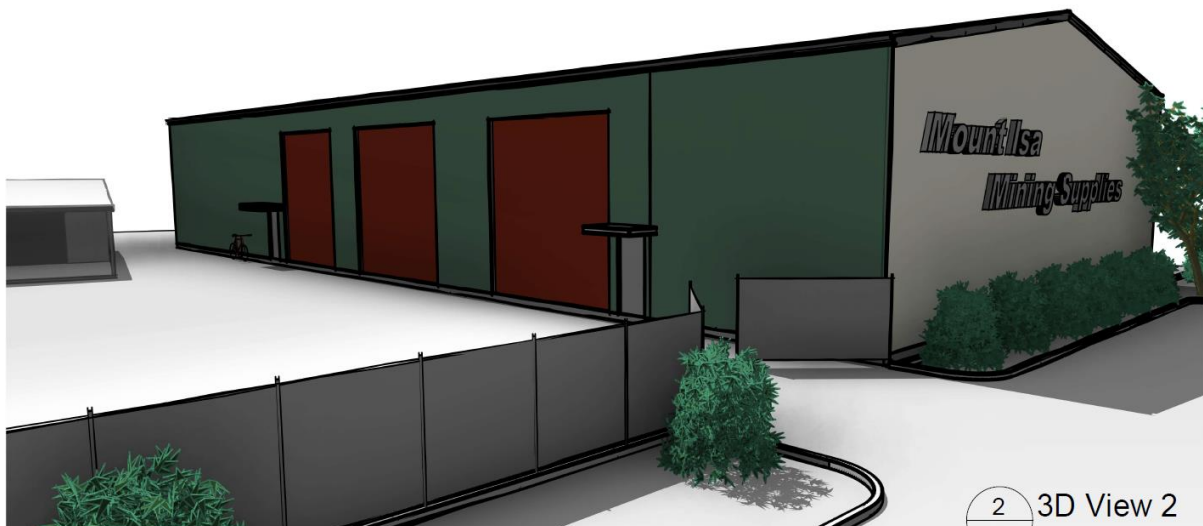


Illustration by Southern Cross Design & Drafting

June 2023

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Appendices

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1 SUMMARY

This report has been prepared on behalf of Mount Isa Mining Supplies and seeks approval for a code assessable development application for a Material Change of Use (Warehouse) over land at 97 Duchess Road, Healy also described as Lot 2 on MPH31509.

The development will involve the construction of a new shed for a warehouse. The warehouse will have a gross floor area of 828.63m² and will be comprised of 2 adjoining compartments and a mezzanine level.

This report describes the site and surrounds of the proposed development which is consistent with the intent of the Medium Impact Industry zone. All applicable development requirements should be read in conjunction with the relevant attachments.

It is submitted that Council approval of the application is warranted, subject to reasonable and relevant conditions.

| APPLICATION DETAILS | |
|------------------------------------|---|
| Site Details | |
| Land Owner | M.I.M.S. Investments Pty Ltd A.C.N. 114 679 177 (Trustee) |
| Property Address | 97 Duchess Road, Healy QLD 4825 |
| Real Property Description | Lot 2 on MPH31509 |
| Site Area | 2437m ² |
| Local Authority | Mount Isa City Council |
| Current Land Use | Warehouse |
| Proposal | Material Change of Use (Medium Impact Industry) |
| STATUTORY DETAILS | |
| State Government Assessment | |
| State Referral Agencies | Area within 25m of a state transport corridor |
| Local Government Assessment | |
| Planning Scheme | City of Mount Isa Planning Scheme 2020 |
| Zone | Low Impact Industry |
| Local Plan Area | N/A |
| Level of Assessment | Code |
| Overlays | <ul style="list-style-type: none"> • Biodiversity Overlay • Bushfire Hazard Overlay • Flood Hazard Overlay |
| Development Codes | <ul style="list-style-type: none"> • Industry and Infrastructure Activities Code • Parking, access and loading code • Landscaping code • Engineering works and services code • Excavation and filling code • Water quality code |



2 SITE DETAILS

2.1 Existing Use and Description

The development site has an area of 2437m² and is currently used for a warehouse for mining supplies. The site is relatively flat and adjoins the Leichhardt River at the rear of the property.



2.2 Surrounding Land Uses

The development site is adjoined by lots zoned low impact industry to the north and south, and medium density residential to the east on the other side of Duchess Road. The immediate surrounding area is comprised of a mix of zonings and development uses (predominantly industrial and residential).



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3 PROPOSAL

The application seeks approval for a code assessable development permit for a Material Change of Use (Warehouse) at 97 Duchess Road, Healy in accordance with the submitted plans (refer to Appendix C).

3.1 Built Form

The development will involve constructing a new industrial shed that has a gross floor area of 828.63m² and will be used for a warehouse. The shed will have dimensions of 39.8m by 18m and will be comprised of 2 compartments with a mezzanine over part of one of the compartments.

There is an existing shed on site that has a gross floor area of 259.60m² which will be retained. The total gross floor area for the site will be 1088.23m² and will have a site cover of 34.03%.

3.2 Access and Parking

The development proposes two new vehicle access driveways from Duchess Road. The two driveways will enable suitable on-site vehicle manoeuvring for service vehicles. The development will provide a total of 12 car parking spaces in accordance with Council's prescribed car parking rates with 7 of the spaces provided within the development site and 5 of the spaces provided within the road verge.

3.3 Landscaping

The development will provide a total of 248.3m² of landscaped areas internal of the site and an additional 106m² of landscaping along the site frontage within the road verge. Internal of the site will be provided along the rear boundary and part of the southern side boundary.

The existing 1.8m high chainwire fence will be retained along the site frontage with new gates provided at the driveway access points which will open inwards to the development site.

3.4 Services

The development is located on an already developed site that is connected to water, sewer electrical and telecommunication services and infrastructure. The development does not propose any changes to services and stormwater flows will be directed to a legal point of discharge.



4 STATUTORY ASSESSMENT – STATE GOVERNMENT

4.1 Referral and State Development Assessment Provisions

A review of the State Assessment Referral Agency DA online mapping system shows the site mapped within 25m of a state-controlled road. In accordance with Schedule 10 of the Planning Regulation 2017, the development will require referral to SARA as a concurrence agency for a material change of use within 25m of a state-controlled road.

State Code 1 from the State Development Assessment Provisions will be addressed as part of the referral of the development application.

5 STATUTORY ASSESSMENT – LOCAL GOVERNMENT

5.1 Code Assessment

The proposed development triggers code assessment as determined in accordance with Part 5 Tables of Assessment from the City of Mount Isa Planning Scheme 2020 as the development is for a material change of use within the code assessable overlay areas.

In general this application complies with the acceptable outcomes from the applicable planning scheme codes. Commentary for a performance outcome satisfied by an alternative means is provided below.

5.1.1 Low Impact Industry Zone

The proposed development satisfies the purpose and overall outcomes sought for the low impact industry zone which is to provide for a range of low impact industry and service industry uses that support.

5.1.2 Industry and Infrastructure Activities Code

Table 9.3.4.1 – Assessment benchmarks for assessable development and requirements for accepted development

| Performance Outcomes | Acceptable Outcomes | Comment |
|---|---|--|
| PO 1 Development addresses the street, facilitates casual surveillance of the street and provides for safe pedestrian access. | AO 1.2 The main entry to the building is located on the facade of the building that faces the primary road frontage, and is easily identifiable and directly accessible from the primary road frontage. | Performance Solution The entry to the new shed is located on the southern façade of the building which is not facing the road frontage. Whilst the new shed is not facing towards the road frontage, the existing shed and car parking layout facilitates casual surveillance of the street. |
| PO 5 Development is designed and located to: | AO 5.3 The development footprint excluding landscaping is | Performance Solution The new shed proposes a front boundary setback of 0.2m |

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| | | |
|---|--|--|
| <p>(a) enhance the character of the zone; and (b) enhance the visual amenity of the main approaches to the urban areas of Mount Isa; and (c) be of a size, bulk and form consistent with the existing or preferred character of the zone in which it is located; and (d) prevent adverse impacts on nearby premises; and (e) provide for and maintain a sense of open space; and (f) provide a dedicated pedestrian entry that is protected from the sun and rain.</p> | <p>setback from any road frontage and side and rear boundaries, in accordance with Table 9.3.4.3 – Industry and infrastructure activities, road and boundary setbacks.</p> | <p>which does not comply with the prescribed 6m front boundary setback. The front boundary setback is in line with the character of the surrounding area with numerous lots containing built to front boundary buildings/structures. The development is consistent and compatible with development on the adjoining lots which both contain large built to front boundary sheds. The development also proposes a 2m to 3m wide landscaping buffer along the front boundary within the road verge to assist with screening the built form and improving the visual amenity of the frontage.</p> <p>The new shed complies with the prescribed minimum side and rear boundary setbacks.</p> |
| | <p>AO 5.4 In any zone other than the Medium impact industry and Special industry zones, building dimensions (width and depth) are not greater than 30 metres in any one direction.</p> | <p>Performance Solution The proposed new shed will have dimensions of 39.8m by 18m. The length along the side boundary exceeds the prescribed maximum 30m dimension. The shed is for an industrial use and is located within existing industrial developments. The proposed shed is consistent with the character of the surrounding area and is of similar size to buildings on surrounding lots. Both lots adjoining the site contain buildings with dimensions exceeding 30m. The proposed shed is considered appropriate for the site and will maintain amenity of the area. Landscape screening is proposed along the front boundary within the road verge to assist with enhancing the visual amenity of the area and screening of built form.</p> |
| <p>PO7 For development within the Low impact, Medium Impact, Special industry and Special purpose</p> | <p>AO7.1 A fence that is constructed forward of any building line that faces a road frontage (including</p> | <p>Performance Solution The development proposes to utilise the existing chainwire fence located along the front</p> |

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| | | |
|---|---|---|
| <p>zones:</p> <p>Fences must contribute positively to the character of the streetscape and enhance the amenity of the site.</p> | <p>building lines that face both road frontages on a corner lot) is located behind any landscaping strip required by this Planning Scheme, and within the lot (rather than between the landscaping strip and the road).</p> | <p>boundary which is fit for purpose. The development proposes landscaping within the road verge to assist in screening the built form and enhancing the streetscape amenity. The chainwire mesh fence along the front boundary satisfies corresponding performance outcome PO7 as landscaping along the front boundary within the road verge will positively contribute to the character of the streetscape and enhance the amenity of the site.</p> |
| <p>PO 10 Landscaping: (a) provides an attractive streetscape; and (b) enhances the amenity of the zone; and (c) reduces the visual and environmental impact of hard surface areas; and (d) achieves maximum on-site rainwater infiltration; and (e) minimises additional burden on stormwater drainage infrastructure.</p> | <p>AO 10.2 A densely planted landscape strip (Refer Figure f) is provided that is within the boundary of the site; and: (a) is at least 2 metres in depth; and (b) extends along the entire length of any road frontage, except for the areas required for vehicle and pedestrian access.</p> | <p>Performance Solution The development proposes a 2m to 3m wide landscaping strip along the front boundary within the road verge. Provision of landscaping within the road verge is consistent with adjoining site 99 Duchess Road. Landscaping along the front will provide an attractive streetscape that enhances the amenity of the area and assists in visually screening the built form on the development site.</p> |
| <p>PO14 The design and layout of vehicle parking, loading, crossover and access areas: (a) provides safe and efficient vehicular and pedestrian movement; and (b) enables the loading and unloading of goods and waste to occur wholly within the site; and (c) does not dominate the road frontage; and (d) is visually unobtrusive from the street and complements the character and amenity of the area.</p> | <p>AO14.4 Vehicle parking areas are located at the side or the rear of the front building line on the site.</p> | <p>Performance Solution Vehicle parking areas are located at the front of the development with five car parking spaces also proposed within the road verge. Car parking within the site will be screened by landscaping provided along the front boundary. Car parking spaces proposed within the road verge is consistent with the character and amenity of the area. Duchess Rd provides a road verge width of approximately 25m. Provision of landscaping along the front boundary will assist in screening development and enhancing the streetscape amenity of the surrounding area.</p> |

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Table 9.3.4.2 – Assessment benchmarks for assessable development only

| Performance Outcomes | Acceptable Outcomes | Comment |
|---|---|--|
| <p>PO 9 The traffic and parking generated by the proposed development does not:</p> <ul style="list-style-type: none"> (a) adversely affect the surrounding or future planned road network; and (b) adversely affect the amenity of the surrounding neighbourhood; and (c) create safety conflicts with pedestrians; and (d) result in an increased demand for on-street parking. | <p>AO 9.1 A traffic impact assessment report is prepared by a registered professional traffic engineer that:</p> <ul style="list-style-type: none"> (a) identifies the traffic impact, including any potential safety conflicts related to the development and on-street car parking demands; and (b) demonstrates the site has a safe and convenient vehicular and pedestrian access and parking layout; and (c) outlines mitigation measures to appropriately address the related traffic impacts. | <p>Performance Solution No traffic impact assessment has been provided as part of this development application. The proposal is for a warehouse house and the development satisfies the minimum number of car parking spaces required by the City of Mount Isa Planning Scheme 2020.</p> |

5.1.3 Parking, Access and Loading Code

Table 9.4.6.1 – Assessment benchmarks for assessable development and requirements for accepted development

| Performance Outcomes | Acceptable Outcomes | Comment |
|--|--|--|
| <p>PO 1 The layout, design and construction of the access:</p> <ul style="list-style-type: none"> (a) is safe, convenient and legible for all users including people with disabilities, pedestrians and cyclists; and (b) does not interfere with the planned function, safety, capacity and operation of the transport network; and (c) includes appropriate and sufficient signage to ensure safe and convenient use. | <p>AO 1.2 Dedicated pedestrian entry to the site and building is provided separately from vehicle entry and manoeuvring areas.</p> | <p>Performance Solution The development site does not provide dedicated pedestrian entry that is separate to the site's vehicle entries. Pedestrian activity will be generally limited to staff due to the nature of the use being warehouse and staff movements will be predominantly within the sheds.</p> |
| <p>PO 4 Sufficient parking spaces are provided for the number and type of vehicles likely to be associated with the development.</p> | <p>AO 4.4 All parking, access and manoeuvring requirements are met on-site.</p> | <p>Performance Solution The development proposes a total of 12 car parking spaces as required by the code. However five of these car parking spaces are provided within the road verge adjoining the front boundary. Whilst not</p> |

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| | | |
|--|--|--|
| | | all car parking spaces are provided within the site, the proposed car parking layout is consistent with the character and amenity of the surrounding area. Duchess Road has a wide verge that is approximately 25m wide between the road carriageway and front boundary, with numerous sites providing car parking within the verge. The proposed car parking arrangement will not interfere with the road network and is suitable for the development site. |
|--|--|--|

5.1.4 Landscaping Code

No performance outcome from this code required satisfaction by alternative means. Compliance with acceptable outcomes can be conditioned as part of a development approval.

5.1.5 Engineering Works and Services Code

No performance outcome from this code requires satisfaction by alternative means. The development site is already connected to services and compliance with acceptable outcomes can be conditioned as part of a development approval.

5.1.6 Excavation and Filling Code

No performance outcome from this code requires satisfaction by alternative means.

5.1.7 Water Quality Code

No further assessment against this code is required as the development site does not exceed 2500m².

5.1.8 Biodiversity Overlay Code

Table 8.2.2.1 – Assessment benchmarks for assessable development and requirements for accepted development

| Performance Outcomes | Acceptable Outcomes | Comment |
|---|---|---|
| PO 1 Development that may result in impacts on Matters of State Environmental Significance (MSES) is avoided or where disturbance cannot be avoided the loss or decrease of values is | AO 1.1 Development ensures that the development footprint including roads, services, fire management buffers, stormwater management or waste water infrastructure and | Performance Solution The development proposes a new shed partially within mapped biodiversity overlay areas. The development site is currently being used for an existing warehouse use and |

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| | | |
|------------|---|---|
| minimised. | any associated filling or excavation, is located wholly outside areas identified within the Biodiversity overlay. | involves storage of equipment and goods in the location of the proposed shed. As the shed is located within a cleared area and on part of the site that is already being used for industrial activities, the proposal is considered to satisfy the corresponding performance outcomes. |
| | <p>AO 1.2 The development footprint, design and layout are informed by an ecological assessment prepared by a professional ecologist that:</p> <ul style="list-style-type: none"> (a) identifies and evaluates biodiversity values and ecological features and processes; and (b) identifies the likely impacts of the development to biodiversity; and (c) outlines how any potential impacts on biodiversity will be avoided or mitigated. | <p>Performance Solution No ecological assessment has been provided as part of this development application as it is deemed unnecessary for the nature of the development. The proposed new shed is located on a site currently already used for industrial activities and is located on a cleared section of the site. The proposal is considered to satisfy the corresponding performance outcome.</p> |

5.1.9 Bushfire Hazard Overlay Code

No performance outcome from this code requires satisfaction by alternative means.

5.1.10 Flood Hazard Overlay Code

No performance outcome from this code requires satisfaction by alternative means. Only the rear boundary is mapped within the flood hazard overlay area and no part of the proposed new shed will occur within the mapped flood hazard area.





6 CONCLUSION

This report has been prepared as part of a code assessable development application seeking approval for a Material Change of Use (Warehouse) over land at 97 Duchess Road, Healy also described as Lot 2 on MPH31509.

The development will involve the construction of a new shed for a warehouse. The warehouse will have a gross floor area of 828.63m² and will be comprised of 2 adjoining compartments with a mezzanine level partially above one compartment. The shed will have dimensions of 39.8m by 18m.

The proposed development is consistent with the Mount Isa City Council planning scheme and this report has demonstrated that the applicable codes have been satisfied. The proposal satisfies the applicable overall outcomes sought for the Low Impact Industry Zone as it will provide a warehouse use that supports low impact industry activities.

Appendix C provides the required detail to demonstrate compliance with the applicable planning scheme codes. It is submitted that Council approval of the application is warranted subject to reasonable and relevant conditions.

GENERAL NOTES

- NOTE: ANY DISCREPANCIES BETWEEN DRAWINGS ARE TO BE IMMEDIATELY VERIFIED.
- PROJECT PARTICULARS
BUILDING CLASSIFICATION 7b (BCA part A3.2)
DESIGN WIND SPEED N2
CLIMATE ZONE 3
- ALL TIMBER CONSTRUCTION IN ACCORDANCE WITH AS1684.2 RESIDENTIAL TIMBER-FRAMED CONSTRUCTION.
- ALL STEELWORK TO BE PRIMED & PAINTED. ALL WELDS TO BE 6.0mm CONTINUOUS FILLETS UNO.
- PROVIDE D.P.C TO UNDER SIDE OF ALL WALLS ON GROUND FLOOR.
- ALL HANDRAILS TO BE 1000mm MIN. ABOVE FINISHED FLOOR (CARPET, TILES ETC), AND WITH 125mm MAX. SPACING BETWEEN THE BALUSTRADING.
- ALL TIMBER FRAMED WALLS TO WET AREAS TO BE LINED WITH F.C.
- WRITTEN DIMENSIONS TO HAVE PREFERENCE OVER SCALED DIMENSIONS.

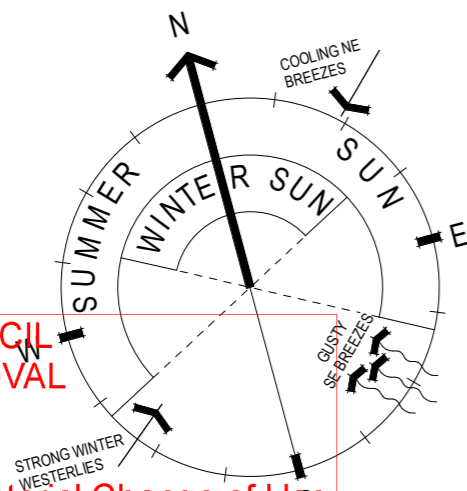
SITE NOTES:

- THE GROUND ADJACENT TO THE BUILDING IS TO BE GRADED AWAY FROM THE BUILDING.
- DOWN PIPES AND OUTLET DRAINS ARE TO DRAIN AWAY FROM THE BUILDING

RPD

LOT 2 on MPH31509
PARISH of **Stuart**
COUNTY of **Elphinstone**

AREA: 2435m²



DEVELOPMENT SUMMARY

These Drawings are issued for MCU Application and NOT FOR CONSTRUCTION.

Carparking Required: 10
Supplied: 7
Bicycle Parking: 1

Building Use: Warehouse Class 7b

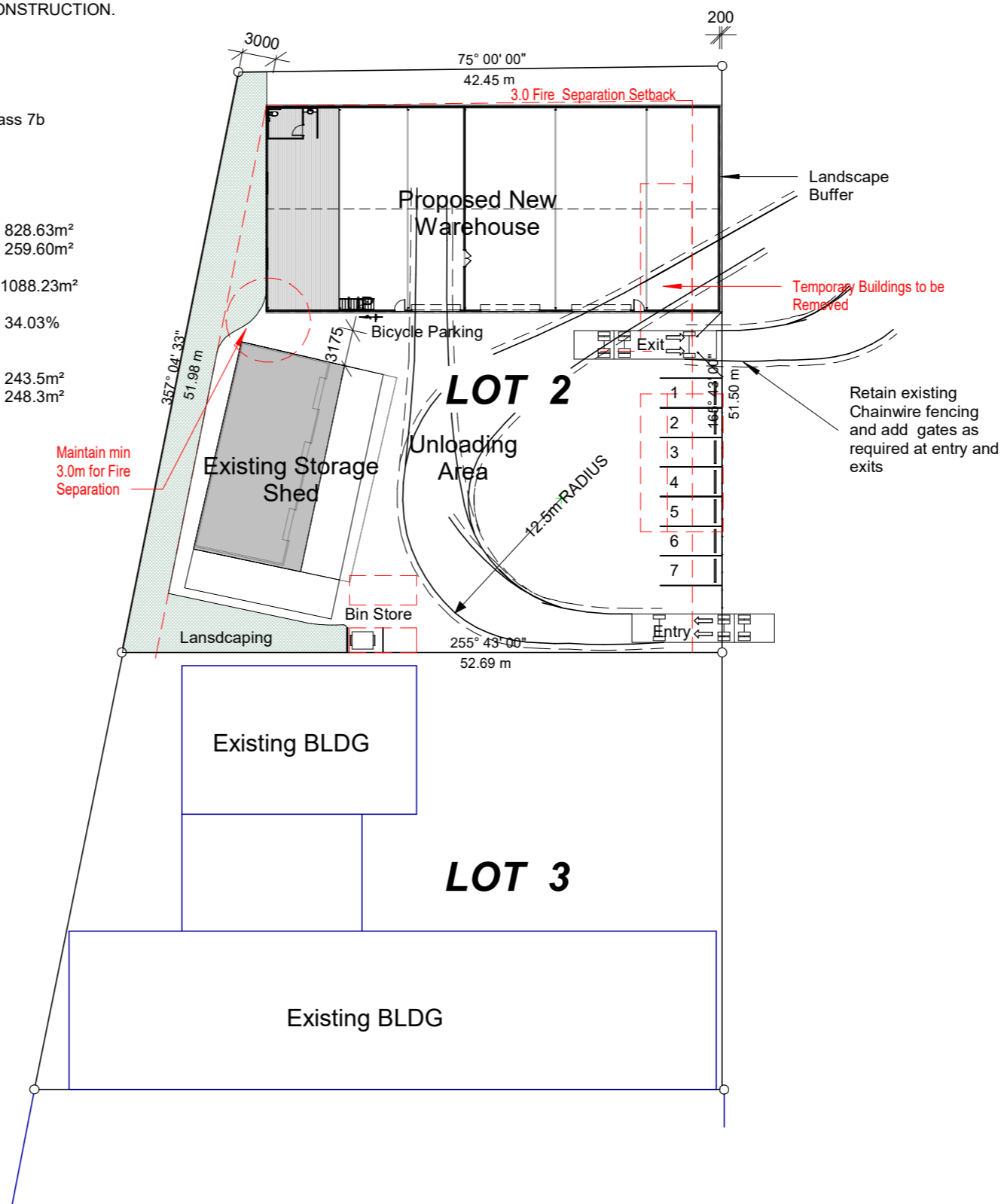
Rise in Storeys: 1
Construction Type: C
No. of Fire Compartments: 2

GFA: New Warehouse 828.63m²
Existing Shed 259.60m²

TOTAL: 1088.23m²

Site Cover: 34.03%

Landscaping Required: 243.5m²
Supplied: 248.3m²



1 A-1 Site Plan
A03 1:500

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Written dimensions to have preference over scaled dimensions
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Builder to Confirm ALL Dimensions Prior to Construction.

IF IN DOUBT ASK

Lot on Plan: Lot 2 on MPH31509
Climate Zone: 3
Wind Class: N2

Revision Schedule

| Rev. | Description | Date |
|------|---------------------|------------|
| 1 | Preliminary | 17/12/2022 |
| 2 | Revision | 20/12/2022 |
| 3 | DA ISSUE | 24/01/2023 |
| 4 | DA Revision | 04/05/2023 |
| 5 | Information Request | 29/09/2023 |

Project Title
Proposed New Warehouse

Site Address
**97 DUCHESS RD
HEALY Qld. 4825**

Client
Mount Isa Mining Supplies

Sheet Title
Site Plan

Builder
TBA

Engineer 
townsville@glynntucker.com.au
Ph: 4772 4722



Design for a sustainable future

www.southerncrossdrafting.com.au

Email: ted@southerncrossdrafting.com.au
79 Anne Street, Aitkenvale Q. 4814
Ph: 0410 488 1765
A.B.N. 42 054 834 038
QBSA LIC. No. 733305 - BUILDING DESIGN MEDIUM RISE

Drawn by TL Original Issue Date Dec 2022

SIGNATURE OF BUILDING DESIGNER: *E.D. Larson* Scale (A3) As indicated

Project No. SCD 22-202 Sheet No. A01

5

**MOUNT ISA CITY COUNCIL
DEVELOPMENT APPROVAL**

Permit No.: P36-22
Type of Development: Material Change of Use
Approved Use: Warehouse
Approved By: Mr Tim Rose
Title: Acting Chief Executive Officer
Date: 20/12/2023

TR

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Project Title
Proposed New Warehouse

Site Address
**97 DUCHESS RD
HEALY Qld. 4825**

Client
Mount Isa Mining Supplies

Sheet Title
Floor Plan

Builder
TBA

Engineer

townsville@glynntucker.com.au
Ph: 4772 4722



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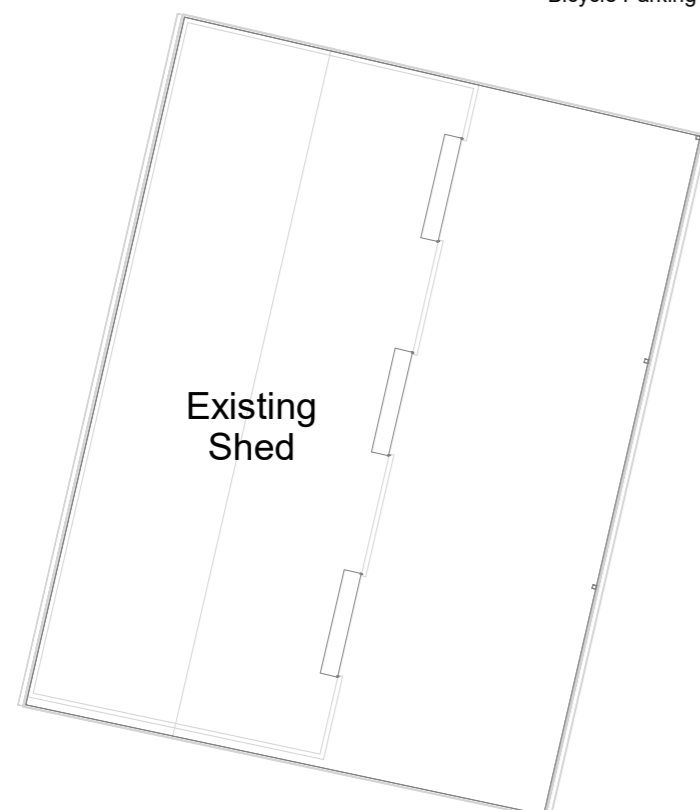
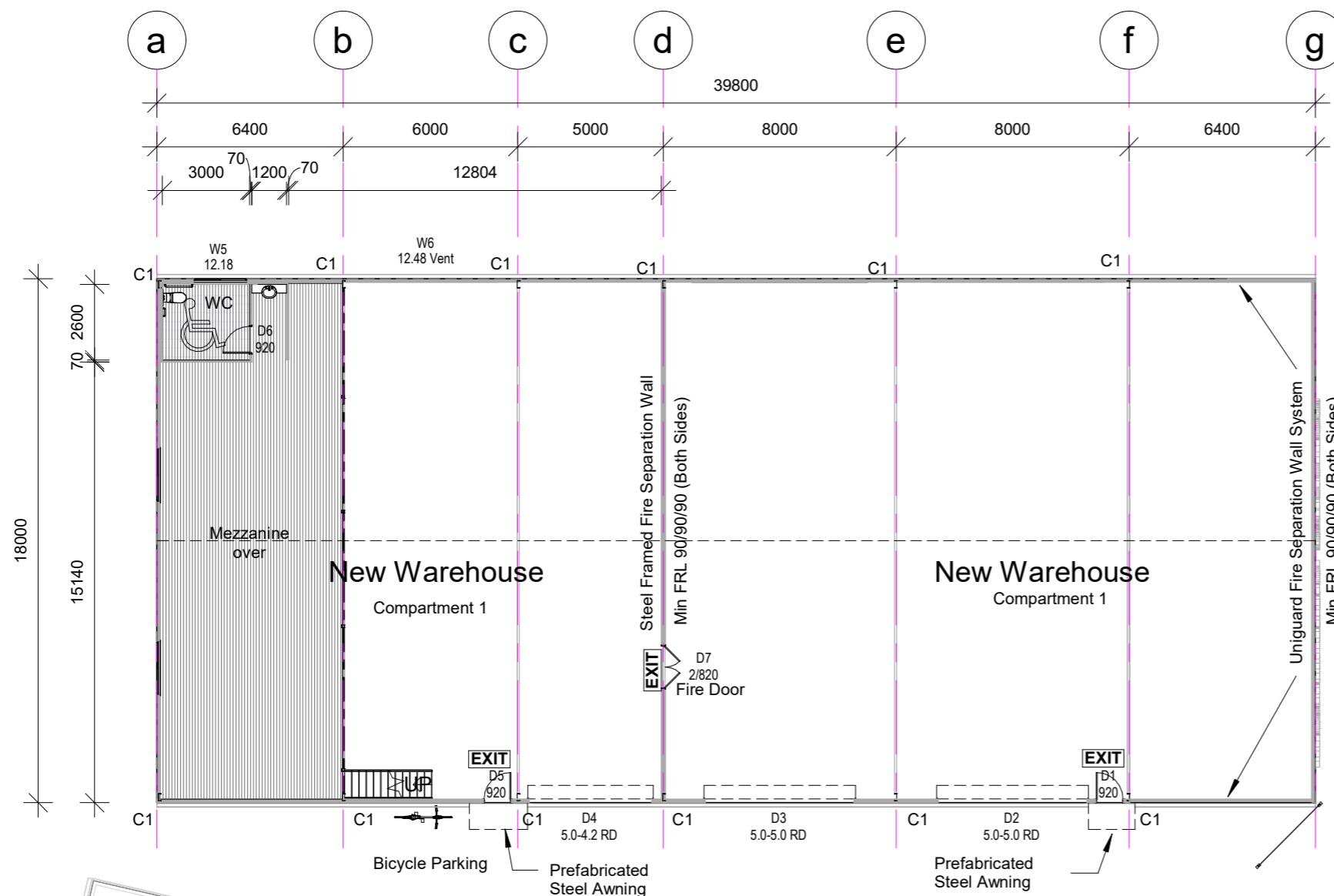
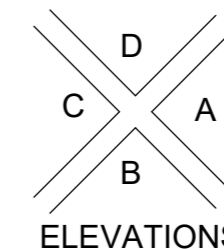
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A.B.N. 42 054 834 038
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Drawn by
TL
Original Issue
Date
Dec 2022

SIGNATURE OF
BUILDING
DESIGNER:
C.D. Larson
Scale (A3)
As indicated

Project No.
SCD 22-202
Sheet No.
A02

5



**MOUNT ISA CITY COUNCIL
DEVELOPMENT APPROVAL**

Permit No.: P36-22
Type of Development: Material Change of Use
Approved Use: Warehouse
Approved By: Mr Tim Rose
Title: Acting Chief Executive Officer
Date: 20/12/2023

Jh.

Unloading Area

1 Floor Plan
A03 1 : 200

| Area Schedule (Gross Building) | |
|--------------------------------|------------------------|
| Name | Area |
| Compartment 1 | 312.01 m ² |
| Compartment 2 | 399.33 m ² |
| Mezzanine | 117.29 m ² |
| Existing Shed | 259.60 m ² |
| Grand total: 4 | 1088.23 m ² |

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IF IN DOUBT ASK

Lot on Plan: Lot 2 on MPH31509
Climate Zone: 3
Wind Class: N2

Revision Schedule

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Project Title
Proposed New Warehouse

Site Address
97 DUCHESS RD
HEALY Qld. 4825

Client
Mount Isa Mining Supplies

Sheet Title
Elevations A & B

Builder
TBA

Engineer

townsville@glynntucker.com.au
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Drawn by TL Original Issue Date Dec 2022

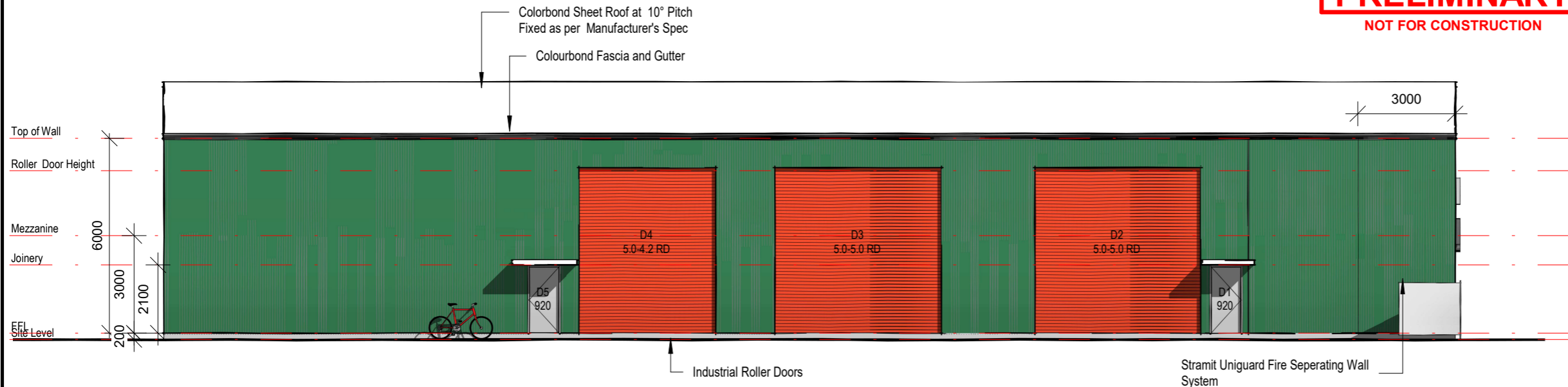
SIGNATURE OF BUILDING DESIGNER: *C.D. Larson* Scale (A3) As indicated

Project No. SCD 22-202 Sheet No. A03

5

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1 Elevation A
1 : 150

Note: Reduced Scale to fit page

MOUNT ISA CITY COUNCIL DEVELOPMENT APPROVAL

Permit No.: P36-22
Type of Development: Material Change of Use
Approved Use: Warehouse
Approved By: Mr Tim Rose
Title: Acting Chief Executive Officer
Date: 20/12/2023

NOTES

Hatchings and fittings are indicative only. Refer Builders Specifications.

All doors and windows are to be Aluminium framed unless noted otherwise.

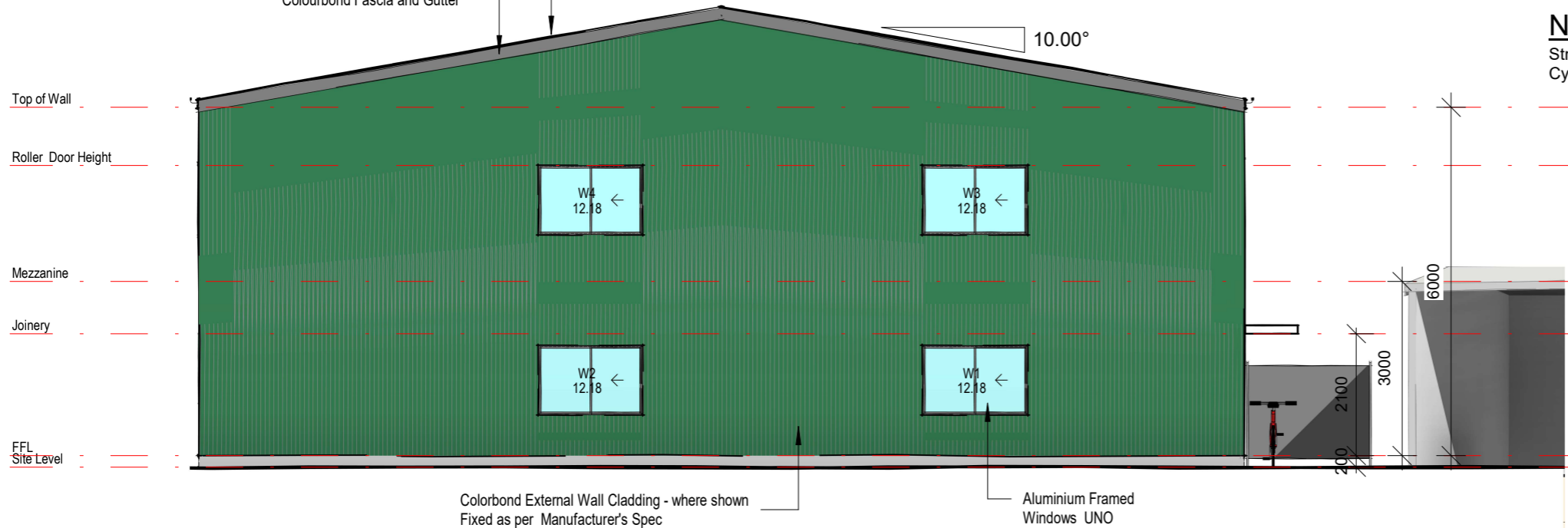
Stairs & Balustrades to be constructed in accordance with the current BCA Part 3.9.1- Stair Construction & Part 3.9.2 - Balustrades

N2

Structural design based upon Non Cyclonic N2 for wind speeds to 33m/s.

Colorbond Sheet Roof at 10° Pitch Fixed as per Manufacturer's Spec

Colourbond Fascia and Gutter



2 Elevation B
1 : 100

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Project Title
Proposed New Warehouse

Site Address
97 DUCHESS RD
HEALY Qld. 4825

Client
Mount Isa Mining Supplies

Sheet Title
Elevations C & D

Builder

TBA

Engineer



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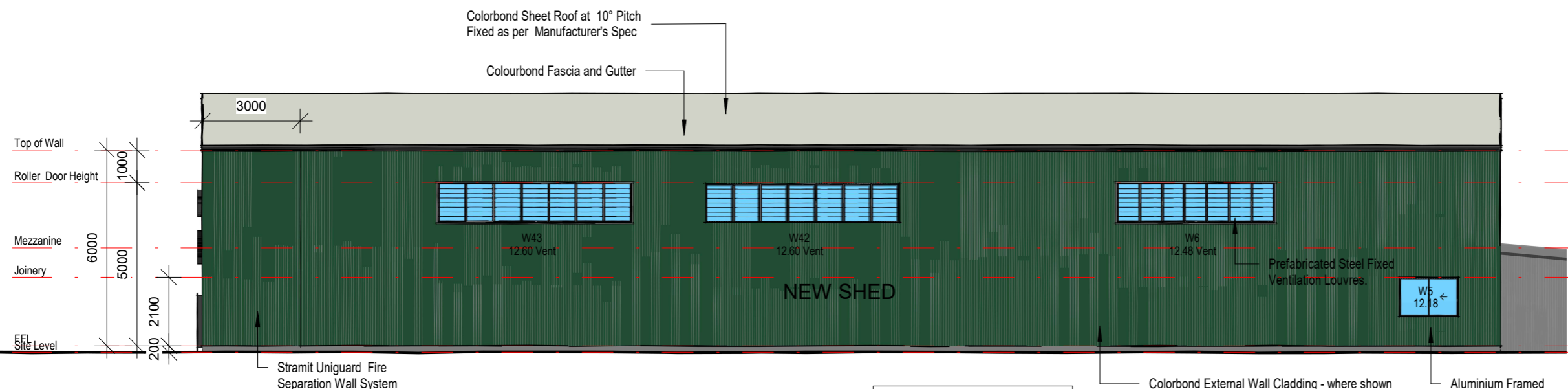
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QBSA LIC. No. 733305 - BUILDING DESIGN MEDIUM RISE

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SIGNATURE OF BUILDING DESIGNER: C.D. Larson Scale (A3) As indicated

Project No. SCD 22-202 Sheet No. A04

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1 Elevation C
1 : 150

NOTES

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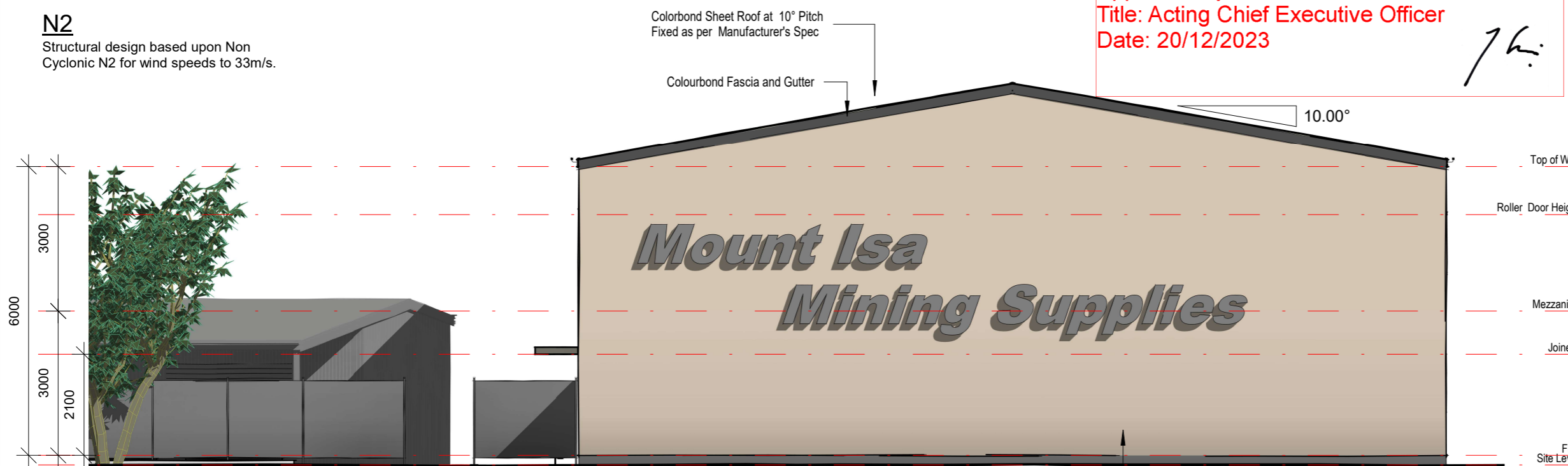
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MOUNT ISA CITY COUNCIL
DEVELOPMENT APPROVAL
Permit No.: P36-22
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Approved Use: Warehouse
Approved By: Mr Tim Rose
Title: Acting Chief Executive Officer
Date: 20/12/2023

Jh.



2 Elevation D
1 : 100

PRELIMINARY
NOT FOR CONSTRUCTION



ATTACHMENT 3

PLANNING ACT 2016
EXTRACT ON APPEAL RIGHTS

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.

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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

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- (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.

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.

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.