



DATE: 26 May 2025

Our Ref: P09-23  
Enquire to: Connor Ahnfeldt  
Telephone: (07) 4747 3200

Blake Tully Enterprises  
C/- Reel Planning Pty Ltd  
PO Box 437  
ROCKHAMPTON QLD 4700

Email: [jacob@reelplanning.com](mailto:jacob@reelplanning.com)

Dear Sir/Madam

## Decision Notice – Approval

*Given under section 63 of the Planning Act 2016*

I wish to advise that Council has approved the development application in full.

Details of the decision are as follows:

### DATE OF DECISION

Council's Chief Executive Officer approved the Development Application by delegated authority on 26 May 2025.

### APPLICATION DETAILS

Application No: P09-23  
Approval Sought: Development Permit for a Material Change of Use  
Description of the Development: Rooming Accommodation  
Planning Scheme: *City of Mount Isa Planning Scheme 2020*

### LOCATION DETAILS

Street Address: 141 West Street  
Real Property Description: Lot 3 on plan MPH21960



## DECISION DETAILS

The following type of approval has been issued:

- Development Permit for a Material Change of Use for a Seven Bedroom Rooming Accommodation Facility (Rooming Accommodation).

## CURRENCY PERIOD

The use of the subject land must be commenced within a period of six (6) years from the date, unless otherwise stated, the approval takes effect in accordance with section 71 of the *Planning Act 2016*. Should the subject use not be commenced prior to the expiry of such period, this approval will lapse.

## ASSESSMENT MANAGER CONDITIONS

This approval is subject to the conditions in Attachment 1.

## PROPERLY MADE SUBMISSIONS

Not applicable – no part of the application required public notification.

## REFERRAL AGENCIES

There were no referral agencies as part of this application.

## FURTHER DEVELOPMENT PERMITS REQUIRED

- Development Permit for Building Work.
- Development Permit for Plumbing and Drainage Work

## OTHER REQUIREMENTS UNDER SECTION 43 OF THE PLANNING REGULATION 2017

Not Applicable

## APPROVED PLANS AND SPECIFICATIONS

The approved plans are attached to this Decision Notice (Attachment 2)

## RIGHTS OF APPEAL

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the Planning Act 2016 is attached (Attachment 4).

## OTHER DETAILS

You are further advised that the truth and accuracy of the information provided in the application form and accompanying information is relied on when assessing and deciding this application. If you find an inaccuracy in any of the information provided above or have a query or need to seek clarification about any of these details, please contact Mount Isa City Council on (07) 4747 3200.

## DELEGATED PERSON

  
Tim Rose  
Chief Executive Officer

Enc. **Attachment 1** – Conditions imposed by the Assessment Manager  
**Attachment 2** – Approved Plans  
**Attachment 3** – Notice about a Decision Notice  
**Attachment 4** – Extract of Appeal Provisions (*Planning Act 2016*)



## CONDITIONS IMPOSED BY THE ASSESSMENT MANAGER

NUMBER	CONDITION	TIMING
<b>PLANNING</b>		
<b>General</b>		
1.	The development shall be carried out generally in accordance with the approved plans and drawings attached to this approval except where conditions of this approval dictate otherwise.  <i>For clarity, any change to the development that is not generally in accordance with the approved plans and drawings must be approved by Council pursuant to a 'change application' under Chapter 3, Part 5, Division 2, Subdivision 2 of the Planning Act 2016;</i>	<i>At all times</i>
2.	The owner/developer shall bear the cost of all alterations necessary to public utility mains, services or installations necessitated by this approval and such works shall be to Council specifications and satisfaction;	<i>As specified</i>
3.	All buildings/structures are to be wholly contained within Lot 3 on plan MPH21960. All gates shall open inwards onto the subject property and not outwards onto the road reserve/verge;	<i>At all times</i>
4.	No access to the rear of the property is to be gained via Lot 102 on plan CP891613;	<i>At all times</i>
5.	All stormwater shall be collected onsite and directed to a lawful point of discharge. The development shall not result in a worsening of stormwater runoff to adjoining properties;	<i>At all times</i>
<b>Amenity</b>		
6.	Services and utilities such as air conditioner condensers and hot water systems shall be screened or otherwise obscured to ensure they are not visible from adjoining properties or the street;	<i>At all times</i>
7.	Outdoor lighting shall comply with Australian Standard AS4282 (Control of the Obtrusive Effects of Outdoor Lighting) and be designed in a way so as not to cause a nuisance to the surrounding properties and traffic;	<i>At all times</i>
8.	The understorey area between the floor level of the accommodation buildings / decking and ground level shall be screened with aluminum slats, lattice, or similar, prior to the commencement of use. Such screening shall be at least 50% permeable to allow for the passage of floodwaters;	<i>Prior to the commencement of use and to be maintained for the life of the development</i>
9.	The bin storage area shall be provided in accordance with the approved Site Plan (Project No. SCD 23-267, Sheet No. A01, Rev No. 4 - as amended in red) and shall be screened from the street and adjoining properties, surfaced with an impervious material and are to be accessible by a tap for washing down;	<i>Prior to the commencement of use and to be maintained for life of the development</i>

10.	The owner/developer shall install a dedicated pedestrian footpath to the southern side of the driveway as indicated on the approved Site Plan (Project No. SCD 23-267, Sheet No. A01, Rev No. 4 - as amended in red). The footpath shall incorporate hard-wired bollard lighting from the property boundary to the accommodation buildings. Outdoor lighting is to be designed in such a way so as not to cause a nuisance to the adjoining properties.	<i>Prior to the commencement of use and to be maintained for life of the development</i>
11.	The owner/developer shall install the clothes drying area to the east of the accommodation buildings as indicated on the approved Site Plan (Project No. SCD 23-267, Sheet No. A01, Rev No. 4 - as amended in red). All clothes drying areas are to be screened from the street and adjoining residences and surfaced either with an impervious material or grassed;	<i>Prior to the commencement of use and to be maintained for life of the development</i>
<b>Carparking</b>		
12.	The owner/developer shall provide one (1) additional carparking space along the rear boundary; and a further two additional spaces in-lieu of the setdown bay to the rear of the existing dwelling house; as indicated on the approved Site Plan (Project No. SCD 23-267, Sheet No. A01, Rev No. 4 - as amended in red). Parking shall be provided on site in accordance with the Australian Standards AS2890.1 (Off-street Car Parking). All nine (9) carparking bays shall be provided and maintained for the life of the development;	<i>Prior to the commencement of use and to be maintained for life of the development</i>
13.	All carparking areas, vehicle access and manoeuvring areas, and pedestrian footpaths are to be clearly delineated and provided with a durable dust-free surface;	<i>Prior to the commencement of use and to be maintained for life of the development</i>
<b>Landscaping</b>		
14.	Landscaping is to be provided in accordance with the approved Site Plan (Project No. SCD 23-267, Sheet No. A01, Rev No. 4 - as amended in red) and is to be installed prior to the commencement of use. The owner/developer shall adequately maintain the landscaping to ensure it is neat and tidy at all times and not overgrown and/or unsightly;	<i>Prior to the commencement of use and to be maintained for life of the development</i>
15.	Landscaping between the accommodation buildings and the northern boundary shall incorporate species of sufficient height at maturity to ensure they are visible above the height of the northern boundary fencing. This is to ensure the landscaping can mitigate visual impacts of the accommodation buildings from the street;	<i>Prior to the commencement of use and to be maintained for life of the development</i>
16.	The full verge along West Street is to be grassed prior to the commencement of use and adequately maintained for the life of the development;	<i>Prior to the commencement of use and to be maintained for life of the development</i>
17.	An automatic water irrigation system is to be installed to all landscaping provided, including the grassed verge. The automatic water irrigation system must be maintained to all landscaping to promote and sustain healthy robust growth for the life of the development;	<i>Prior to the commencement of use and to be maintained for life of the development</i>



18.	All areas of the site not occupied by buildings or paved areas shall be landscaped in accordance with the approved Site Plan (Project No. SCD 23-267, Sheet No. A01, Rev No. 4 - as amended in red) with any remaining areas to be grassed;	<i>At all times</i>
<b>ENVIRONMENTAL SERVICES</b>		
<b>General</b>		
19.	<p>The operator must achieve the 'general environmental duty' to mitigate any environmental harm and/or nuisance described under the <i>Environmental Protection Act 1994</i>.</p> <p>(a) there is no discharge to land or water of contaminants that may harm the environment or create a nuisance from the operation of the activity</p> <p>(b) there is no discharge to air of contaminants that may harm the environment or create a nuisance from the operation of the activity</p> <p>(c) noise nuisance is prevented or minimised at noise sensitive places</p> <p>(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>	<i>At all times</i>
20.	Chemicals and other liquids such as fuels, solvents, <b>oils</b> , 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;	<i>At all times</i>
<b>Waste</b>		
21.	<p>All waste generated in carrying out the activity must be reused, recycled, or lawfully disposed of offsite.</p> <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>At all times</i>
22.	Construction/demolition waste – All waste generated because of the proposed development must be effectively controlled and contained entirely within the boundaries of the site before disposal. All waste is to be disposed of in accordance with the <i>Environmental Protection (Waste Management) Regulation 2000</i> ;	<i>During construction</i>
<b>Air</b>		
23.	The release of dust and/or particulate matter resulting from the activity must not cause environmental harm or cause environmental nuisance at any nuisance sensitive or commercial place;	<i>At all times</i>
<b>Water</b>		
24.	A contaminant must not be placed in a position where it could reasonably be expected to move or wash into a roadside gutter, stormwater drain or waters;	<i>At all times</i>

Noise		
25.	Prevent/minimise the emission of noise that causes or is likely to cause environmental nuisance at a sensitive or commercial place. All work must be undertaken within the prescribed timeframe as mentioned in <i>Environmental Protection Act 1994</i> ;	<i>At all times</i>
Odour		
26.	Prevent noxious or offensive odours that cause or are likely to cause environmental nuisance at a sensitive or commercial place.	<i>At all times</i>



## **APPROVED PLANS**

Attached under separate cover (this page has been intentionally left blank)

## SITE NOTES:

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

## NOTE - UNDERGROUND SERVICES

Location and extent of underground services has not been provided or is unknown at time of drafting (sewer and storm water lines, manholes and house connection points etc). Builder is to establish extent of these services before commencing construction. A Build-Over-Sewer relaxation permit may be required upon receiving as constructed plans.

## NOTE - SITE & PAD LEVEL & F.F.L.

Correct contours and levels across block in accordance with flood inundation levels as required by MICC are yet to be established. F.F.L. of residence is to be checked upon confirmation of these levels.

## RPD

LOT 3 on MPH21960  
PARISH of **Haslingden**  
COUNTY of **Rochdale**

AREA: 1067.58 m<sup>2</sup>

SITE COVER: 26.31%

Building Classification: Class 3

## Legend

- 1:100 ARI Flood Level
- Landscaped Area - 224.63m<sup>2</sup>
- Sewer Main - Zone of Influence

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DO NOT SCALE

Written dimensions to have preference over scaled dimensions

Any discrepancies between drawings are to be immediately verified.  
Builder to Confirm ALL Dimensions Prior to Construction.

IF IN DOUBT ASK

Lot on Plan: Lot 3 on MPH21960  
Climate Zone: 3  
Wind Class: N2

## Revision Schedule

Rev.	Description	Date
1	For MCU Application	20/07/2023
2	Revision 1 - Stormwater	05/10/2023
3	Revision 2 - Carpark	19/03/2024
4	Revision 3 - Reduce Areas	20/04/2025

Project Title  
**Proposed Non-Resident Workers Accomodation**

Site Address  
**141 West Street  
Menzies. QLD 4823**

Client  
**Blake Tully Investments  
Pty Ltd**

Sheet Title  
**Site Plan**

Builder  
TBA  
Engineer

**TJP Structural**  
Engineering Consultants  
E: trent@tjpstructural.com.au  
Ph: 0439 953 023

**SCD**  
**SOUTHERN CROSS**  
**DESIGN AND DRAFTING**

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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

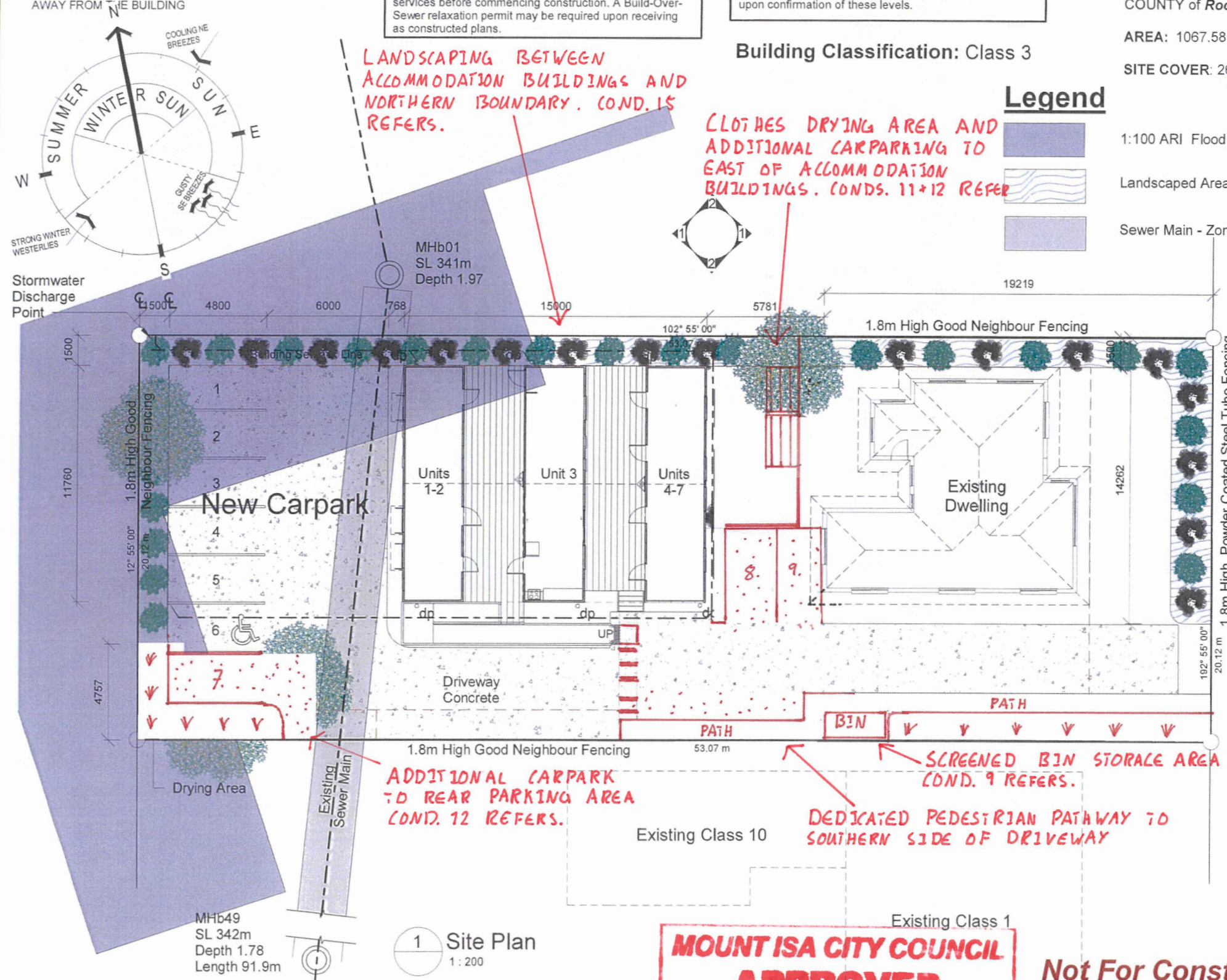
Drawn by  
TL  
Original Issue  
Date  
June 2023

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

Project No.  
SCD 23 - 267  
Sheet No.  
A01

4

West Street



LANDSCAPING BETWEEN  
ACCOMMODATION BUILDINGS AND  
NORTHERN BOUNDARY. COND. 15  
REFERS.

CLOTHES DRYING AREA AND  
ADDITIONAL CARPARKING TO  
EAST OF ACCOMMODATION  
BUILDINGS. CONDS. 11+12 REFER

ADDITIONAL CARPARK  
TO REAR PARKING AREA  
COND. 12 REFERS.

**MOUNT ISA CITY COUNCIL**  
**APPROVED**

MATERIAL CHANGE OF USE  
PO9-23 FOR ROOMING ACCOMMODATION

Date: 26/05/2025

**Not For Construction**  
MCU APPLICATION ISSUE

1 Site Plan  
1:200



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Lot on Plan: Lot 3 on MPH21960  
Climate Zone: 3  
Wind Class: N2

Revision Schedule

Rev.	Description	Date
1	For MCU Application	20/07/2023
2	Revision 1 - Stormwater	05/10/2023
3	Revision 2 - Carpark	19/03/2024
4	Revision 3 - Reduce Areas	20/04/2025

Project Title  
Proposed Non-Resident  
Workers Accommodation

Site Address  
141 West Street  
Menzies. QLD 4823

Client  
Blake Tully Investments  
Pty Ltd

Sheet Title  
Floor Plan

Builder  
TBA  
Engineer

TJP Structural  
Engineering Consultants  
E: trent@tjpsstructural.com.au  
Ph: 0439 983 023

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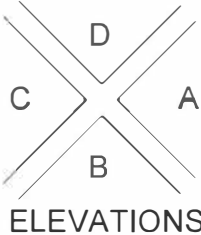
Email: ted@southerncrossdrafting.com.au  
79 Anne Street, Aitkenvale Q. 4814  
Ph: 0410 488 1765  
A.B.N. 42 054 834 038  
QBSA LIC. No. 733305 - BUILDING DESIGN MEDIUM RISE

Drawn by  
TL  
Original Issue  
Date  
June 2023

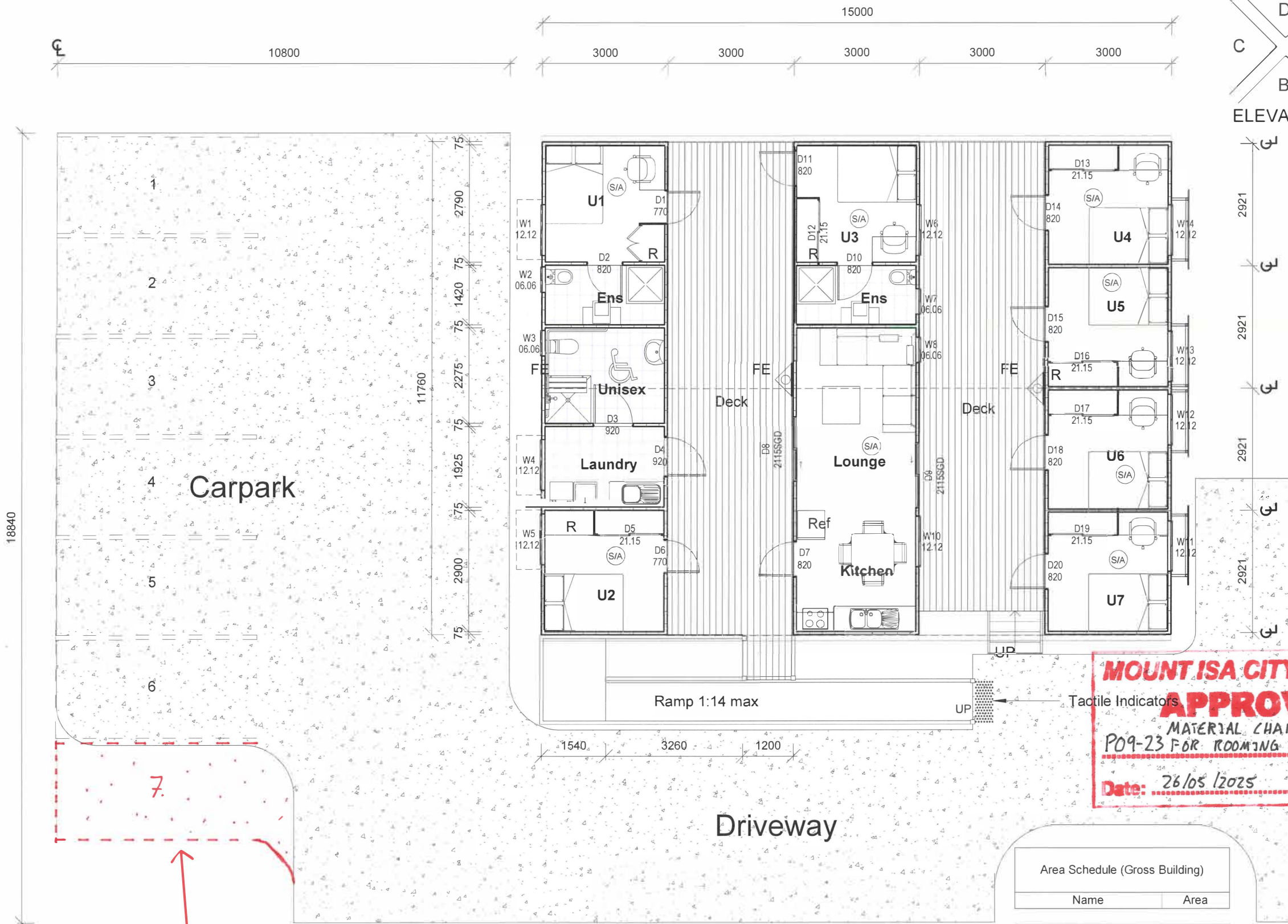
SIGNATURE OF  
BUILDING  
DESIGNER:  
C.D. Larson  
Scale (A3)  
As indicated

Project No.  
SCD 23 - 267  
Sheet No.  
A02

4



ELEVATIONS



ADDITIONAL CARPARKING SPACE  
TO REAR PARKING AREA. COND.12  
REFERS.

1 Units - Floor Plan  
A03 1 : 100

### Builders Note

All Dimensions to be checked and  
varified on site prior to construction.  
IF IN DOUBT ASK

Building Classification: Class 3

Area Schedule (Gross Building)	
Name	Area
Existing Dwelling	104.88 m <sup>2</sup>
Units 1-7	105.85 m <sup>2</sup>
Combined Deck	70.20 m <sup>2</sup>
Grand total: 3	280.93 m <sup>2</sup>

MOUNT ISA CITY COUNCIL  
**APPROVED**  
MATERIAL CHANGE OF USE  
P09-23 FOR ROOMING ACCOMMODATION  
Date: 26/05/2025

**Not For Construction**  
MCU APPLICATION ISSUE



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DO NOT SCALE  
Written dimensions to have preference over scaled dimensions  
Any discrepancies between drawings are to be immediately verified.  
Builder to Confirm ALL Dimensions Prior to Construction.

IF IN DOUBT ASK

Lot on Plan: Lot 3 on MPH21960  
Climate Zone: 3  
Wind Class: N2

Revision Schedule

Rev.	Description	Date
1	For MCU Application	20/07/2023
2	Revision 1 - Stormwater	05/10/2023
3	Revision 2 - Carpark	19/03/2024
4	Revision 3 - Reduce Areas	20/04/2025

Project Title  
**Proposed Non-Resident  
Workers Accomodation**

Site Address  
**141 West Street  
Menzies. QLD 4823**

Client  
**Blake Tully Investments  
Pty Ltd**

Sheet Title  
**Elevations A - B**

Builder  
TBA

Engineer

**TJP Structural**  
Engineering Consultants  
E: [tjp@tjpstructural.com.au](mailto:tjp@tjpstructural.com.au)  
Ph: 0439 983 023

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QBSA LIC. No. 733305 - BUILDING DESIGN MEDIUM RISE

Drawn by  
TL  
Original Issue  
Date  
June 2023

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

Project No.  
SCD 23 - 267  
Sheet No.  
A03

4

## NOTES

Hatchings and fittings are indicative only.  
Refer Builders Specifications.

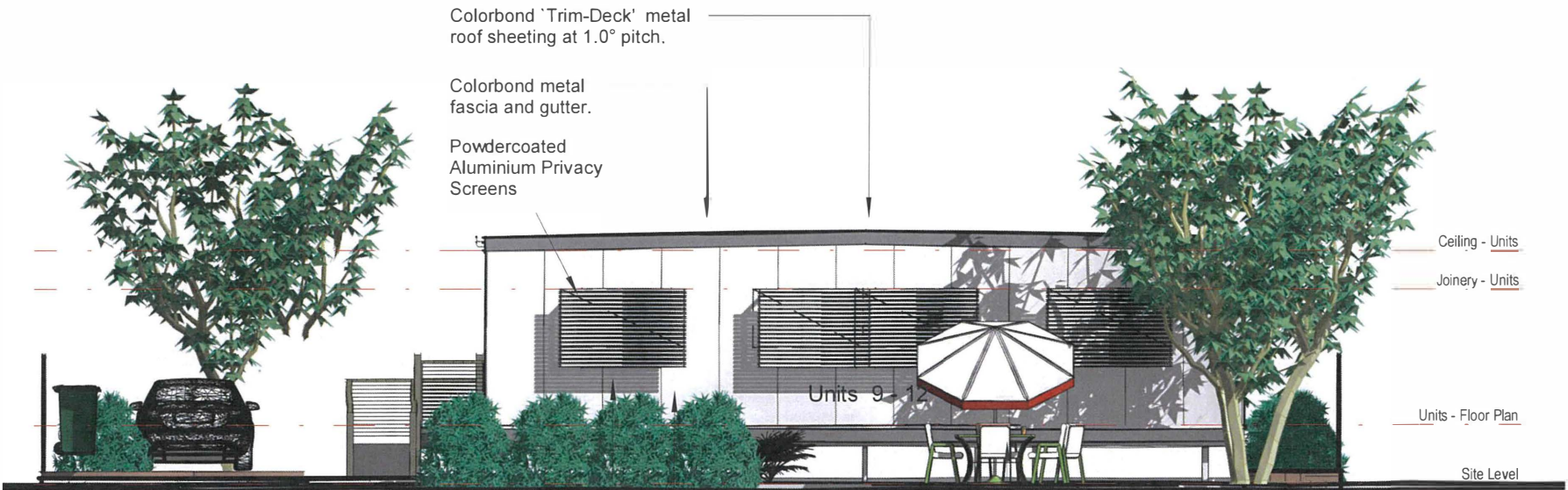
Line underside of external covered areas  
with FC sheeting

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

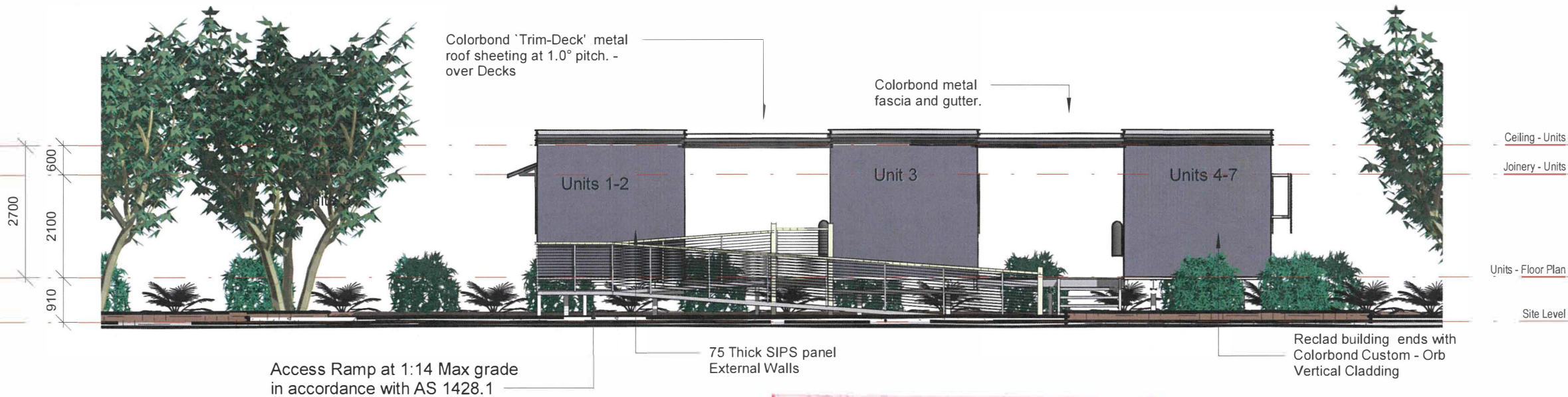
Stairs & Balustrades to be constructed in  
accordance with the current BCA Part  
3.9.1- Stair Construction & Part 3.9.2 -  
Balustrades

## N2

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



1  
A01  
**Elevation A (EASTERN ELEVATION)**  
1 : 100



2  
A01  
**Elevation B (SOUTHERN ELEVATION)**  
1 : 100

**MOUNT ISA CITY COUNCIL  
APPROVED**

MATERIAL CHANGE OF USE FOR  
PO9-23 ROOMING ACCOMMODATION

Date: 16/10/2025

**Not For Construction**  
MCU APPLICATION ISSUE



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Builder to Confirm ALL Dimensions Prior to Construction.

Lot on Plan: Lot 3 on MPH21960  
Cimate Zone: 3  
Wind Class: N2

Project Title  
**Proposed Non-Resident  
Workers Accomodation**

Site Address  
141 West Street  
Menzies, QLD 4823

Client  
**Blake Tully Investments  
Pty Ltd**

Sheet Title  
Elevations C - D

Builder  
TBA

Engineer

**TJP Structural**  
Engineering Consultants  
E: trent@tjpstructural.com.au  
Ph: 0439 953 023

**SCD**  
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QBSA LIC. No. 733305 - BUILDING DESIGN MEDIUM RISE

Drawn by TL	Original Issue Date June 2023
----------------	-------------------------------------

SIGNATURE OF  
BUILDING  
DESIGNER:

Project No. SCD 23 - 267  
Sheet No. A04

4

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



**Not For Construction**  
**MCU APPLICATION ISSUE**

## NOTICE ABOUT DECISION – STATEMENT OF REASONS

*This Notice is prepared in accordance with s63(5) and s83(9) of the Planning Act 2016 to provide information about a decision that has been made in relation to a development application. The purpose of the Notice is to enable a public understanding of the reasons for the planning decision, specifically having regard to:*

- *the relevant parts of the Planning Scheme and Assessment Benchmarks against which the application was assessed; and*
- *any other information, documents or other material Council was either required to, or able to, consider in its assessment.*

*All terms used in this Notice have the meanings given them in the Planning Act 2016 or otherwise their ordinary meaning.*

### APPLICATION DETAILS

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Application No:	P09-23
Applicant:	Blake Tully Enterprises C/- Reel Planning Pty Ltd.
Proposal:	Development Permit for Material Change of Use
Description of the Development:	Rooming Accommodation
Street Address:	141 West Street
Real Property Description:	Lot 3 on plan MPH21960
Planning Scheme:	<i>City of Mount Isa Planning Scheme 2020</i>
Land Zoning:	Medium Density Residential Zone
Assessment Type:	Code Assessable

### DECISION DETAILS

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Type of Decision:	Approved in Full with Conditions
Type of Approval:	Development Permit for Material Change of Use
Date of Decision:	26 May 2025

### ASSESSMENT BENCHMARKS

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The following Assessment Benchmarks applied to the development from the following Categorising Instruments:

#### **Categorising Instrument (*Planning Regulation 2017*)**

This application did not trigger any matters prescribed by the regulation



## **Categorising Instrument (State Planning Policy - July 2017)**

This application did not trigger any matters prescribed by the policy.

## **Local Categorising Instrument (City of Mount Isa Planning Scheme 2020):**

- Medium Density Residential Zone Code
- Residential Activities Code
- Parking, Access and Loading Code
- Engineering Works and Services Code
- Excavation and Filling Code
- Landscaping Code
- Airport Environs Overlay Code
- Flood Hazard Overlay Code
- Major Infrastructure Overlay Code

## **Local Categorising Instrument (Variation Approval)**

- Not applicable.

## **Local Categorising Instrument (Temporary Local Planning Instrument)**

- Not applicable.

## **PUBLIC NOTIFICATION**

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Not applicable – no part of the application required public notification.

## **REASONS FOR THE DECISION**

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The application is **approved** on the following grounds:

- The proposal is compliant with the assessment benchmarks and consistent with the City of Mount Isa Planning Scheme 2020.

## **REASONS FOR APPROVAL DESPITE NON-COMPLIANCE WITH ASSESSMENT BENCHMARKS**

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Not applicable.

## **ADDITIONAL RELEVANT MATTERS FOR IMPACT ASSESSMENT**

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Not applicable.

## **OTHER MATTERS PRESCRIBED BY THE PLANNING REGULATION 2017**

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Not applicable.

## **OTHER DETAILS**

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If you wish to obtain more information about Council's decision, please refer to Council's webpage at <https://www.mountisa.qld.gov.au>

## **APPEAL RIGHTS**

*(Planning Act 2016 & Planning Regulation 2017)*

Attached under separate cover (this page has been intentionally left blank)

- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.

- (3) In this section—

***conduct*** means an act or omission.

***representative*** means—

- (a) of a corporation—an executive officer, employee or agent of the corporation; or
- (b) of an individual—an employee or agent of the individual.

***state of mind***, of a person, includes the person's—

- (a) knowledge, intention, opinion, belief or purpose; and
- (b) reasons for the intention, opinion, belief or purpose.

## 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



- (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
- (h) 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.

- (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



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

***appointment notice*** means—

  - (a) if the Minister gives the notice—a gazette notice; or
  - (b) if the chief executive gives the notice—a notice given to the person appointed as a referee.

- (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.



- 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

- (4) The chief executive must give the notice within 10 business days after the document is given to the chief executive.
- (5) If the chief executive does excuse the noncompliance, the chief executive may act under section 242 as if the noncompliance had not happened.

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

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

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

- there are no qualified referees or insufficient qualified referees because of a conflict of interest
  - the referees who are available will not be able to decide the proceedings in a timely way
- (2) If the chief executive considers a tribunal established for tribunal proceedings—
    - (a) does not have the expertise to hear or decide the proceedings; or
    - (b) is not able to make a decision for proceedings (because of a tribunal member's conflict of interest, for example);the chief executive may decide to suspend the proceedings and establish another tribunal, complying with section 242(c), to hear or re-hear the proceedings.
  - (3) However, the chief executive may instead decide to end the proceedings if the chief executive considers it is not reasonably practicable to establish another tribunal to hear or re-hear the proceedings.
  - (4) If the chief executive makes a decision under subsection (1) or (3), the chief executive must give a decision notice about the decision to the parties to the proceedings.
  - (5) Any period for starting proceedings in the P&E Court, for the matter that is the subject of the tribunal proceedings, starts



- (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
  - (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.

## **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—



- (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.