

DH : JL

Council File Reference: DA641617
Council Contact: Brett Walsh
Council Contact Phone: (07) 4651 5600

13 November 2017

Jeffrey and Kerry-Ann Bowman
77 Pierce Avenue
LITTLE MOUNTAIN QLD 4551

Development Application for:

**Development Permit—
Material Change of Use:** “Residential Activity” – “Accommodation Building”
(7 Units) and Attached Manager’s Unit
Street Address: 213 Oak Street, Barcaldine
Property Description: Lot 23 on RY183
Applicant: Barcaldine Regional Council
Council File Reference: DA641617

I refer to your development application as described above and advise your development application has been approved in the form and manner as proposed.

Pursuant to sections 334 and 335 of the *Sustainable Planning Act 2009* (SPA), please find attached the **Decision Notice**.

Please contact Brett Walsh of Barcaldine Regional Council (07) 4651 5600 should you have any queries

Yours faithfully,



D A Howard
Chief Executive Officer

DECISION NOTICE – APPROVAL
(Section 334 of the *Sustainable Planning Act 2009*)

Pursuant to section 335 of the *Sustainable Planning Act 2009* (SPA):

(1) DATE OF DECISION

On 13 November 2017, Barcaldine Regional Council, as the assessment manager, decided and approved the development application (Council File Reference: DA641617) seeking:

Development Permit – Material Change of Use for:

“Residential Activity” – “Accommodation Building” (7 Units) and Attached Manager's Unit

(2) APPLICANT DETAILS

Name: Jeffrey Mark and Kerry-Ann Bowman

Postal Address: 77 Pierce Avenue
LITTLE MOUNTAIN QLD 4551

Phone No.: 0477 696 542

Email: abby@bigpond.net.au

(3) SUBJECT SITE – PROPERTY DESCRIPTION

RPD	Street Address
Lot 23 on RY183	213 Oak Street, Barcaldine

(4) REFERRAL AGENCIES

Pursuant to sections 250 and 251 of the *Sustainable Planning Act 2009* (SPA) and *Schedule 7 Referral Agencies and their Jurisdictions* of the *Sustainable Planning Regulation 2009* (SP Reg), the following referral agency was prescribed for the development application.

Referral Agency Name and Type	Referral Agency Address
Department of Infrastructure, Local Government and Planning— as concurrence agency – Department of Transport and Main Roads (DTMR) with Jurisdiction	<u>Via Post:</u> State Assessment and Referral Agency Mackay Isaac Whitsunday Regional Office Level 4, 44 Nelson Street PO Box 257 MACKAY QLD 4740 <u>Via Email:</u> MIWSARA@dilgp.qld.gov.au <u>Via MyDAS:</u> www.dilgp.qld.gov.au

Refer to Attachment B for Department of Infrastructure, Local Government and Planning, Concurrence Agency Response dated 7 September 2017.

(5) **DECISION**

The development application has been assessed and is:

- Approved in Full
- Approved in Part
- Approved in Full, with Conditions
- Approved in Part, with Conditions
- Refused

(6) **APPROVAL UNDER SECTION 331**

Pursuant to section 331 of SPA, the development application has not been deemed to be approved.

(7) **DETAILS OF APPROVAL**

Aspect of Development	Development Permit	Preliminary Approval
Carrying out Building Work	<input type="checkbox"/>	<input type="checkbox"/>
Carry out Operational Work	<input type="checkbox"/>	<input type="checkbox"/>
Making a Material Change of Use for: "Residential Activity" – "Accommodation Building" (7 Units) and Attached Manager's Unit	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Reconfiguring a Lot	<input type="checkbox"/>	<input type="checkbox"/>

(8) **CONFLICT WITH A RELEVANT INSTRUMENT AND REASONS FOR THE DECISION DESPITE THE CONFLICT**

The assessment manager does consider that the assessment manager's decision conflicts with a relevant instrument.

Details of the conflict with the relevant instrument	Reason for the decision, including a statement about the sufficient grounds to justify the decision despite the conflict
<p>1. The proposed development being a "Residential Activity" – "Accommodation Building" is, by definition, not a "Commercial Activity" and, on this basis, is contrary to the Intent and Purpose of the Commercial Zone Code.</p>	<p>The proposed development is approved, despite the conflict, on the following grounds:</p> <ul style="list-style-type: none"> (a) the proposal is limited to a low intensity, single storey development; (b) the subject site is located on the main western access to Barcaldine (Oak Street), a State controlled road (Landsborough Highway); (c) the subject site is located towards the western extent of the Commercial Zone; (d) the subject site is in close proximity to land along Lagoon Creek (to the west of the site) owned by Barcaldine Regional Council and used for park, open space and recreation purposes; and (e) existing residential uses (dwellings) adjoin the subject site to the south and east.

(9) **SUBMISSIONS**

Not applicable

(10) **APPROVED PLANS**

Refer to Attachment A for a copy of the approved plans.

APPROVED PLANS	
Reference:	2517.2 PAGE No. 1
Description:	"SITE PLAN", Caloundra Design and Drafting, dated MAY 2017
Amendments:	Nil
Reference:	2517.2 PAGE No. 2
Description:	"FLOOR PLAN", Caloundra Design and Drafting, dated MAY 2017
Amendments:	Nil
Reference:	2517.2 PAGE No. 3
Description:	"ELEVATIONS", Caloundra Design and Drafting, dated MAY 2017
Amendments:	Nil

(11)

ASSESSMENT MANAGER'S CONDITIONS

NO.	CONDITION	TIMING
Approved Use		
1.	Approval is granted for the purpose of Material Change of Use for: "Residential Activity" – "Accommodation Building" (7 Units) and Attached Manager's Unit	At all times while the use continues.
Approved Plans and Supporting Document		
2.	The development shall be undertaken generally in accordance with the approved plans, as listed in Item 10 (above) of this Decision Notice.	At all times while the use continues.
Works During Construction		
3.	Best practice soil erosion control techniques shall be used at the location of all works on the subject site, in accordance with Schedule 1, Division 1: Standards for Construction Activities, Section 1.1 of the Barcaldine Shire Planning Scheme or to other accepted and Council endorsed engineering standards, and <i>State Planning Policy, April 2016, Part H, Appendix 3 – SPP Code: Water Quality, Table A: Construction phase – stormwater management design objectives.</i>	Prior to the commencement of any works on the subject site and maintained at all times during construction.
4.	Any damage to existing infrastructure (including kerb and channel, footpath, roadway and utility services) that may have occurred during any works carried out in respect of the development shall be repaired at no cost to the local government.	Prior to the commencement of the use.
Stormwater and Drainage		
5.	The subject site shall be adequately drained and all stormwater shall be directed to a legal point(s) of discharge in accordance with Schedule 1, Division 5: Standards for Stormwater Drainage, Section 5.1 of the Barcaldine Shire Planning Scheme or to other accepted and Council endorsed engineering standards.	Prior to the giving of Certificate of Classification by the Building Certifier and at all times while the use continues.
Property Access and Driveways		
6.	A sealed vehicle access crossovers shall be provided from the subject site to Oak Street, as indicated on the approved plans, and shall be designed and constructed in accordance with Schedule 1, Division 2: Standards for Roads, Carparking, Manoeuvring Areas and Access, Section 2.2(1)(b) of the Barcaldine Shire Planning Scheme or to other accepted and Council endorsed engineering standards.	Prior to the giving of Certificate of Classification by the Building Certifier and at all times while the use continues.
7.	Vehicle manoeuvring areas shall be provided to ensure all vehicles associated with the use can enter and leave the subject site in a forward direction.	At all times while the use continues.
8.	All internal driveways and areas where vehicles regularly manoeuvre and park shall be sealed and shall be designed and constructed in accordance with Schedule 1, Division 2: Standards for Roads, Carparking, Manoeuvring Areas and Access, Section 2.2(1)(b) of the Barcaldine Shire Planning Scheme or to other accepted and Council endorsed engineering standards.	Prior to the giving of Certificate of Classification by the Building Certifier and at all times while the use continues.

NO.	CONDITION	TIMING
Landscaping and Fencing		
9.	Appropriate landscaping shall be provided within and along all boundaries of the subject site, as indicated on the approved plans, to soften the visual appearance of the building.	Prior to the giving of Certificate of Classification by the Building Certifier and maintained at all times while the use continues.
10.	A landscaping plan shall be prepared by a suitably qualified and experienced person and shall be submitted to and for the endorsement of Council.	Prior to the giving of Certificate of Classification by the Building Certifier.
11.	Landscaping works shall be carried out in accordance with the endorsed landscaping plan, at the expense of the applicant and at no cost to the local government.	Prior to the giving of Certificate of Classification by the Building Certifier and maintained at all times while the use continues.
11.	A 1.8 metre high screen fence shall be erected along, and for the full length of the eastern, southern and western boundaries of the subject site.	Prior to the giving of Certificate of Classification by the Building Certifier and maintained at all times while the use continues.
Building Appearance		
13.	The external materials and treatments of all buildings shall be as indicated on the approved plans.	Prior to the giving of Certificate of Classification by the Building Certifier and maintained at all times while the use continues.
14.	Battens, or similar screening, shall be provided between the finished floor level and the ground level along the entire outer perimeter of all buildings, as indicated on the approved plans.	Prior to the giving of Certificate of Classification by the Building Certifier and at all times while the use continues.
Water Supply		
15.	The subject site shall be connected to Council's reticulated water supply system in accordance with Schedule 1, Division 3: Standards for Water Supply, Section 3.1 of the Barcaldine Shire Planning Scheme or to other accepted and Council endorsed engineering standards.	Prior to the giving of Certificate of Classification by the Building Certifier and at all times while the use continues.
16.	Each accommodation unit, the guest kitchen and laundry and the manager's unit shall be connected internally to the reticulated water supply system, in accordance with Schedule 1, Division 3: Standards for Water Supply of the Barcaldine Shire Planning Scheme or to other accepted and Council endorsed engineering standards.	Prior to the giving of Certificate of Classification by the Building Certifier and at all times while the use continues.
Sewerage		

NO.	CONDITION	TIMING
17.	The subject site shall be connected to Council's reticulated sewerage system in accordance with Schedule 1, Division 4: Standards for Sewerage, Section 4.1 of the Barcaldine Shire Planning Scheme or to other accepted and Council endorsed engineering standards.	Prior to the giving of Certificate of Classification by the Building Certifier and at all times while the use continues.
18.	Each accommodation unit and the manager's unit shall be connected internally to the reticulated sewerage system, in accordance with Schedule 1, Division 3: Standards for Water Supply of the Barcaldine Shire Planning Scheme or to other accepted and Council endorsed engineering standards.	Prior to the giving of Certificate of Classification by the Building Certifier and at all times while the use continues.
Electricity and Telecommunication Services		
19.	The subject site shall be connected to the reticulated electricity supply and to telecommunication services in accordance with relevant standards required by the service providers.	Prior to the giving of Certificate of Classification by the Building Certifier and at all times while the use continues.
Lighting		
20.	Lighting of the subject site, including any security lighting, shall be such that the lighting intensity does not exceed 8.0 lux at a distance of 1.5 metres from the subject site at any property boundary. All lighting shall be directed or shielded so as to ensure that no glare directly affects nearby properties or the operational safety of Oak Street (Landsborough Highway.	At all times while the use continues.
Carparking and Service Vehicles		
21.	A minimum of seven (7) car parking spaces, with minimum dimensions of 2.5 m x 5.4 m, shall be provided on-site, as indicated on the approved plans.	Prior to giving of Certificate of Classification by Building Certifier and at all times while the use continues.
22.	One (1) additional PWD car parking space shall be provided on-site, with minimum dimensions of 2.4 m x 5.4 m plus associated shared zone with minimum dimensions of 2.4 m x 5.4 m, as indicated on the approved plans.	Prior to giving of Certificate of Classification by Building Certifier and at all times while the use continues.
23.	One (1) additional service bay for a small rigid vehicle shall be provided on-site, with minimum dimensions of 6.4 m x 3.5 m, as indicated on the approved plans.	Prior to giving of Certificate of Classification by Building Certifier and at all times while the use continues.
24.	All carparking spaces and associated driveways and manoeuvring areas shall be designed, constructed and delineated in accordance with Australian Standards AS2890 and AS1428.	At all times while the use continues.
Noise and Air Emissions		
25.	The operation and use of the premises, and of all plant and equipment, including air-conditioning units, shall ensure compliance with <i>Environmental Protection (Noise) Policy 2008</i> and <i>Environmental Protection (Air) Policy 2008</i> .	At all times while the use continues.

NO.	CONDITION	TIMING
Refuse		
26.	Provision shall be made for the on-site collection of general refuse in covered waste containers with a capacity sufficient for the use. Waste containers shall be maintained in a clean and tidy state and shall be emptied and the waste removed from the site on a regular basis.	At all times while the use continues.
Loading and Unloading of Goods		
27.	All loading and unloading of goods shall be carried out within the subject site. No loading or unloading of goods shall occur external to the subject site.	At all times while the use continues.
28.	Loading and unloading of goods shall occur only between the hours of 7:00 am to 6:00 pm, Monday to Saturday. No loading and unloading of goods shall occur on Sundays or Public Holidays.	At all times while the use continues.
Maximum Number of Guests		
29.	The maximum number of persons for whom accommodation is provided at the subject premises must not at any time exceed twelve (12), excluding manager.	At all times while the use continues.
Site Operation and Management Plan		
30.	<p>A site operation and management plan shall be prepared and submitted to and for the endorsement of Council, addressing and incorporating all aspects of the operation and management of the premises, including but not limited to:</p> <ul style="list-style-type: none"> - unit servicing and cleaning - property maintenance - refuse collection and disposal - pest control - guest check-in procedures - emergency procedures and contacts - fire safety installations - evacuation procedures - use of shared facilities - unit configuration and identification and maximum number of guests to be accommodated in each room - furniture, services, facilities and fittings provided in each unit - guest register (name, address, contact details and dates of stay for each guest) 	Prior to giving of Certificate of Classification by Building Certifier and at all times while the use continues.
31.	A current copy of the endorsed operation and management plan shall be kept in the on-site office and made available for inspection by an authorised Council officer.	At all times while the use continues.
Provision of Documents to Building Certifier		
32.	The applicant shall provide the building certifier with a copy of this decision notice and shall ensure the building certifier is familiar with the content and all requirements of the conditions of this decision notice which require	Prior to lodgement of development application for building works.

NO.	CONDITION	TIMING
	compliance "prior to lodgement of development application for building works", "prior to giving of certificate of classification by building certifier" or "prior to commencement of any works on the subject site".	
Provision of Documents to Council		
33.	The applicant shall provide Barcaldine Regional Council with documentation confirming all conditions of this decision notice have been complied with and all works and/or other requirements of each condition have been completed.	Prior to the commencement of the use.
Cost of Works and Services		
34.	The cost of carrying out works and providing services to the subject site, as required by the conditions of approval, shall be at the expense of the applicant and at no cost to the local government.	
Payment of Rates and Charges		
35.	All outstanding rates and charges shall be paid to Council.	Prior to the commencement of the use.

ADVISORY NOTE:

The Relevant Period	
1.	Pursuant to section 341 of the <i>Sustainable Planning Act 2009</i> , this approval shall lapse if the use under this Approval has not commenced within four (4) years from the day the approval takes effect.

(12) **REFERRAL AGENCY CONDITIONS**

Refer to Attachment B for Department of Infrastructure, Local Government and Planning, Concurrence Agency Response dated 7 September 2017.

(13) **CODES FOR SELF-ASSESSABLE DEVELOPMENT**

Not applicable.

(14) **DETAILS OF ANY COMPLIANCE ASSESSMENT REQUIRED**

Not applicable.

(15) **OTHER DEVELOPMENT PERMITS REQUIRED**

Listed below are other development permits that are necessary to allow the development to be carried out

- Carrying out Building Work
- Carry out Operational Work
- Making a Material Change of Use of premises
- Reconfiguring a Lot

(16) **RIGHTS OF APPEAL FOR APPLICANT**

Refer to Attachment C for a copy of the relevant extracts of *Sustainable Planning Act 2009* which detail your appeal rights regarding this decision.

(17) **RIGHTS OF APPEAL FOR SUBMITTERS**

Not applicable.

(18) **ASSESSMENT MANAGER**

^{REGIONAL}
Barcaldine Shire Council

Signature .. 

Date: 13 November 2017

Attachment A – Approved Plans for Material Change of Use for:
“Residential Activity” – “Accommodation Building”
(7 Units) and Attached Manager’s Unit

Attachment B – Referral Agency Response

Attachment C – *Sustainable Planning Act 2009* extract on Appeal Rights