

20 October 2023

Enquiries: Daniel Lamond
Our Ref: MCUC 2022_4956/1 (1190518)
Your Ref: 2022-03-01-MARRIOTT-14 HIBISCUS

Administration Office
64 - 66 Front St Mossman
P 07 4099 9444
F 07 4098 2902

S Marriott
C/- Daniel Favier (Aspire Town Planning)
PO Box 1040
MOSSMAN QLD 4873

Dear Sir/Madam

**Development Application for Material Change of Use (Dwelling house)
At 14 Hibiscus Court ROCKY POINT
On Land Described as LOT: 26 RP: 749732**

Please find attached the Decision Notice for the above-mentioned development application.

Please quote Council's application number: MCUC 2022_4956/1 in all subsequent correspondence relating to this development application.

Should you require any clarification regarding this, please contact Daniel Lamond on telephone 07 4099 9444.

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

encl.

- Decision Notice
 - Approved Drawing(s) and/or Document(s)
 - Reasons for Decision
- Advice For Making Representations and Appeals (Decision Notice)



Decision Notice

Approval (with conditions)

Given under s 63 of the Planning Act 2016

Applicant Details

Name: S Marriott
Postal Address: C/- Daniel Favier (Aspire Town Planning)
PO Box 1040
MOSSMAN QLD 4873
Email: admin@aspireqld.com

Property Details

Street Address: 14 Hibiscus Court ROCKY POINT
Real Property Description: LOT: 26 RP: 749732
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit - Material Change of Use (Dwelling house)

Decision

Date of Decision: 20 October 2023
Decision Details: Approved (subject to conditions)

Approved Drawing(s) and/or Document(s)

Copies of the following plans, specifications and/or drawings are enclosed.

| Drawing or Document | Reference | Date |
|---------------------|---|-------------------|
| 3D Views | Greg Skyring Design and Drafting Pty Ltd Plan 211-21, Rev E, Sheet 1 of 6 | 20 September 2023 |
| Site Plan | Greg Skyring Design and Drafting Pty Ltd Plan 211-21, Rev E, Sheet 2 of 6 | 20 September 2023 |

| | | |
|----------------------------|---|-------------------|
| Site Plan- Contour Overlay | Greg Skyring Design and Drafting Pty Ltd Plan 211-21, Rev E, Sheet 3 of 6 | 20 September 2023 |
| Floor Plan | Greg Skyring Design and Drafting Pty Ltd Plan 211-21, Rev E, Sheet 4 of 6 | 20 September 2023 |
| Elevations- Sheet 1 | Greg Skyring Design and Drafting Pty Ltd Plan 211-21, Rev E, Sheet 5 of 6 | 20 September 2023 |
| Elevations- Sheet 2 | Greg Skyring Design and Drafting Pty Ltd Plan 211-21, Rev E, Sheet 6 of 6 | 20 September 2023 |

Assessment Manager Conditions & Advices

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:-
 - (a). The specifications, facts and circumstances as set out in the application submitted to Council;
 - (b). The following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

Except where modified by these conditions of approval

Timing of Effect

2. The conditions of the Development Permit must be effected prior to Commencement of use, except where specified otherwise in these conditions of approval.

Exterior Finishes

3. The exterior finishes and colors of the house must be non-reflective and must blend with the natural colors of the surrounding environment. The exterior finishes must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

Damage to Council Infrastructure

4. In the event that any part of Council's existing sewer, water or road infrastructure is damaged as a result of construction activities occurring on the site, the applicant/owner must notify Council immediately of the affected infrastructure and have it replaced at no cost to Council.

Sediment and Erosion Control

5. All earthworks must be carried out in accordance with section CP1.13 and D5 of the FNQROC Development Manual. A copy of the contractors Erosion and Sediment Control Plan (ESCP) is to be submitted to Council prior to the issue of a Development Permit for Building Work. Measures nominated in the ESCP must be implemented prior to commencement of any earthworks. The ESC Plan must address the Institution of

Geotechnical Report

6. All works must be carried out in accordance with the requirements and recommendations from the Geotechnical Investigation by Douglas Partners project 214803.00 dated June 2020.

On-site Effluent Disposal System

7. The method of on-site effluent disposal must be generally in accordance with the recommendations of the effluent disposal report prepared by ACOR Consultants dated 24 June 2022.

Geotechnical Report

8. The certification and construction of the updated house design must be carried out in accordance with the relevant requirements and recommendations from the Geotechnical Investigation by GEO Design, report 22020AA-D-R01-v1 dated 26 April 2022. Prior to the issue of a Development Permit for Building Work, the detailed design plans must be reviewed by a Geotechnical RPEQ and confirmation must be issued to Council that the plans represent a low to very low risk landslide hazard in accordance with the 2007 AGS Guidelines.

Drainage Plan

9. Provide an RPEQ certified stormwater drainage plan. The plan must direct all concentrated flows to Hibiscus Court. The plan must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

Advice note: the stormwater discharge location should be to the West of the existing crossover where possible.

Water Connection

10. The house must be connected to Council's reticulated water supply network in accordance with the specifications and requirements of the FNQROC Development Manual.

Further Development Permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- All Building Work

All Plumbing and Drainage Work must only be carried in compliance with the Queensland *Plumbing and Drainage Act 2018*.

Currency Period for the Approval

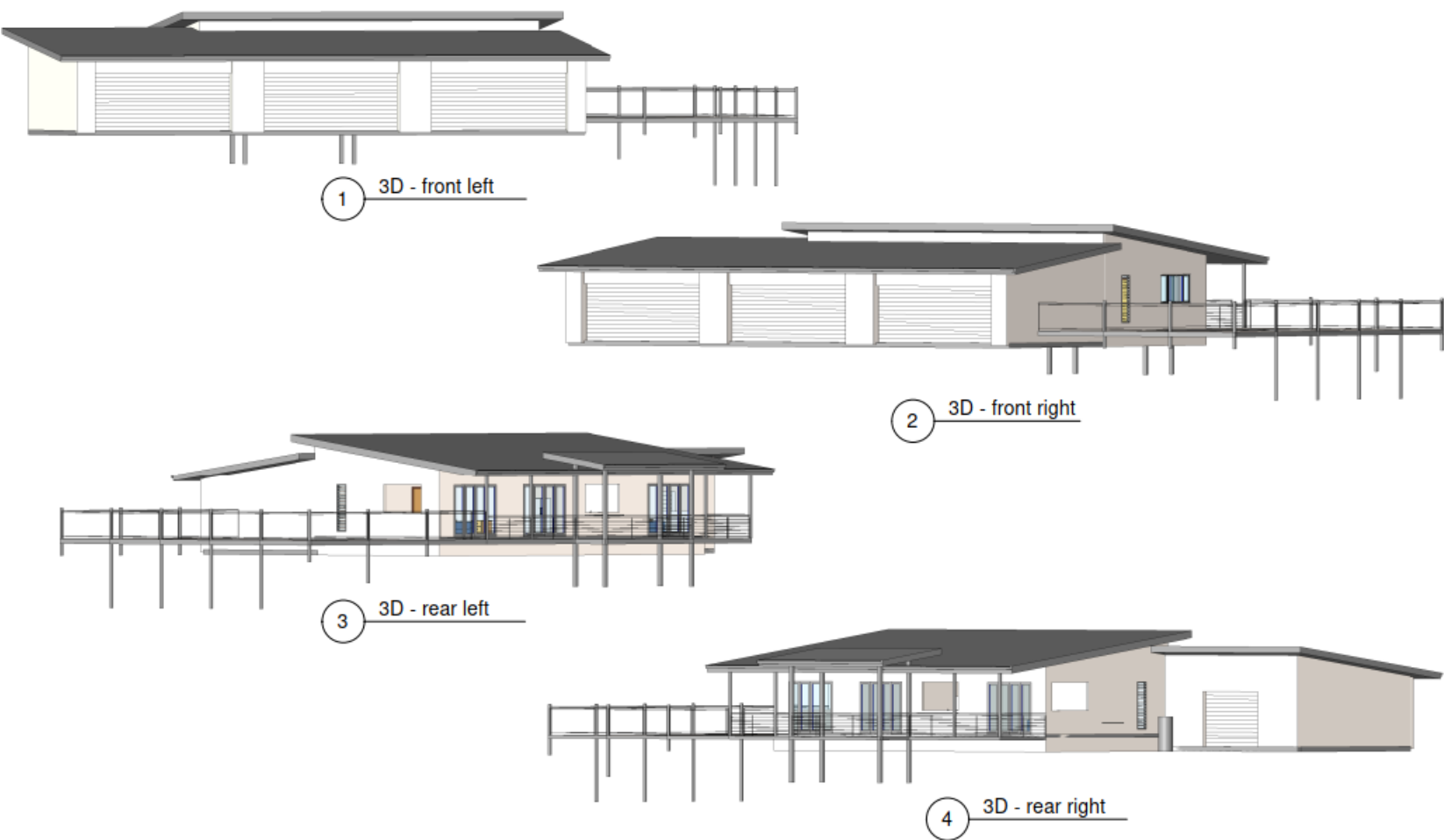
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

Rights to make Representations & Rights of Appeal

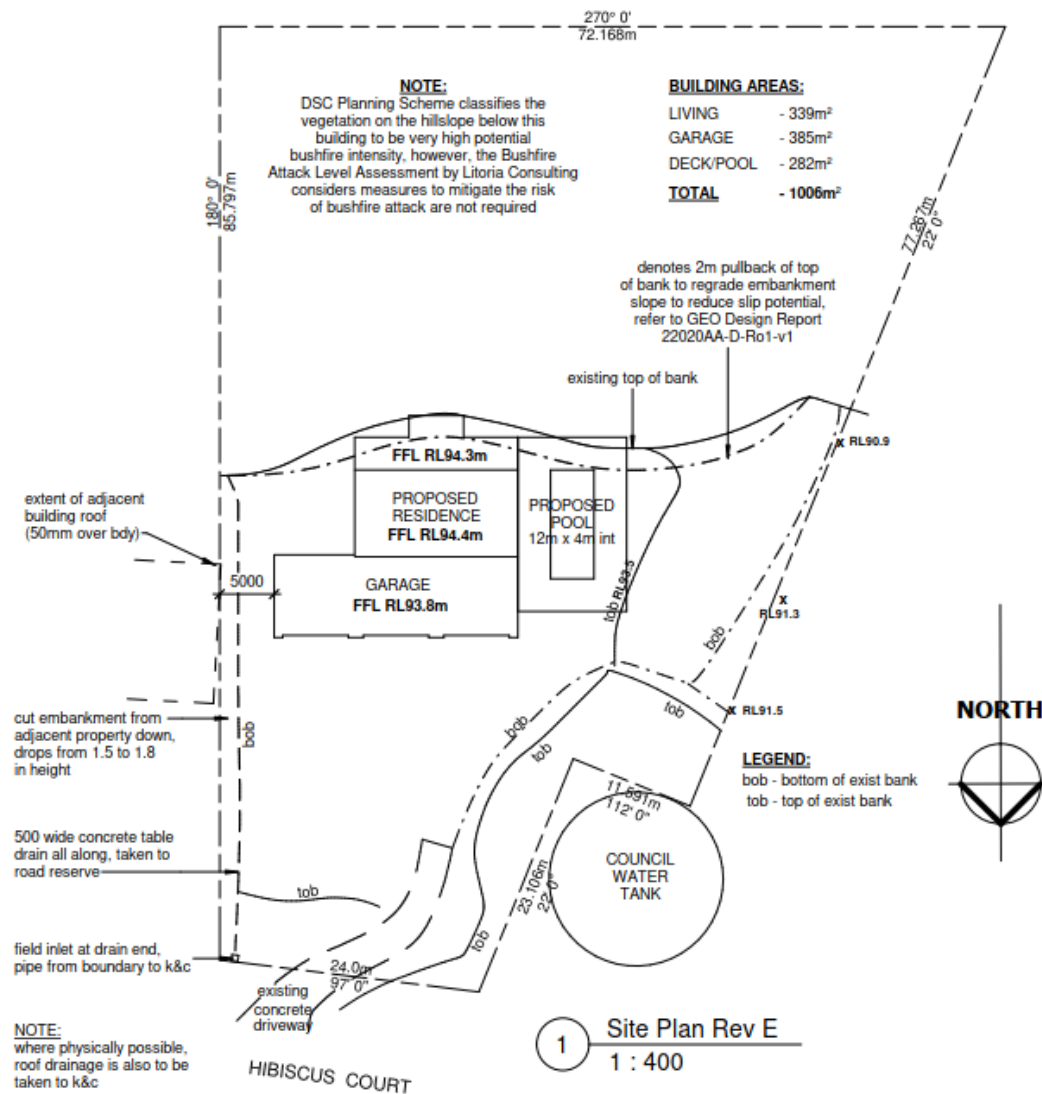
The rights of applicants to make representations and rights to appeal to a Tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*.

A copy of the relevant appeal provisions is attached.

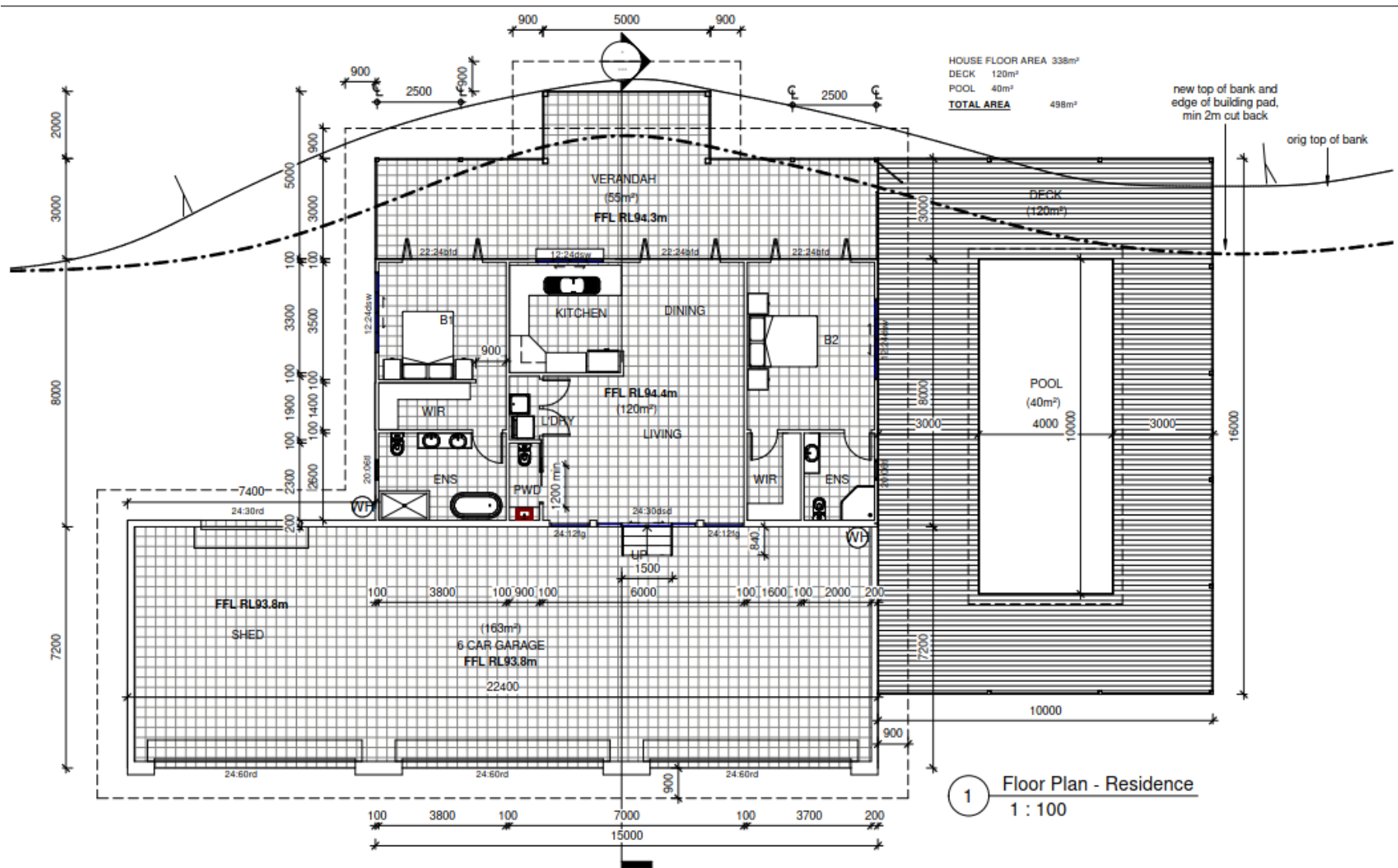
Approved Drawing(s) and/or Document(s)



| | | | | | | |
|--|--|-----------------------|------------------------|---------------------------|-----------------------|-----------------|
| GREG SKYRING <i>Design</i> and DRAFTING Pty. Ltd. <small>Lic Under QBSA Act 1991 - No 1040371</small> 11 Noli Close, Mossman Q. 4873 <small>Phone/Fax: (07) 40982061 Mobile: 0419212652 Email: greg@skyringdesign.com.au</small> | PROJECT Proposed Residence, L26 RP749732, 14 Hibiscus Court, ROCKY POINT | CLIENT S. Marriott | | WIND CLASS C3 | PLAN NUMBER 211-21 | SHEET 1 of 6 |
| | | SCALES | PLAN TITLE 3D Views | DATE OF ISSUE 20.09.23 | REV E | |



| | | |
|---|----------------------|--|
| | | |
| REV | DATE | DESCRIPTION |
| GREG SKYRING <i>Design</i> and DRAFTING Pty. Ltd. Lic Under QBSA Act 1991 - No 1040371 | | |
| 11 Noli Close, Mossman Q. 4873 | | Phone/Fax: (07) 40982061 Mobile: 0419212652 Email: greg@skyringdesign.com.au |
| PROJECT Proposed Residence, L26 RP749732, 14 Hibiscus Court, ROCKY POINT | | |
| PLAN TITLE Site Plan | | |
| CLIENT S. Marriott | | |
| SCALES 1 : 400 | WIND CLASS C3 | PLAN NO 211-21 REV. E SHEET NO 2 of 6 |



GREG SKYRING
Design and DRAFTING Pty. Ltd.
Lic Under QBSA Act 1991 - No 1040371
11 Noli Close,
Mossman Q. 4873
Phone/Fax: (07) 40982061
Mobile: 0419212652
Email: greg@skyringdesign.com.au

PROJECT
Proposed Residence,
L26 RP749732,
14 Hibiscus Court,
ROCKY POINT

CLIENT
S. Marriott

WIND CLASS
C3

PLAN NUMBER
211-21

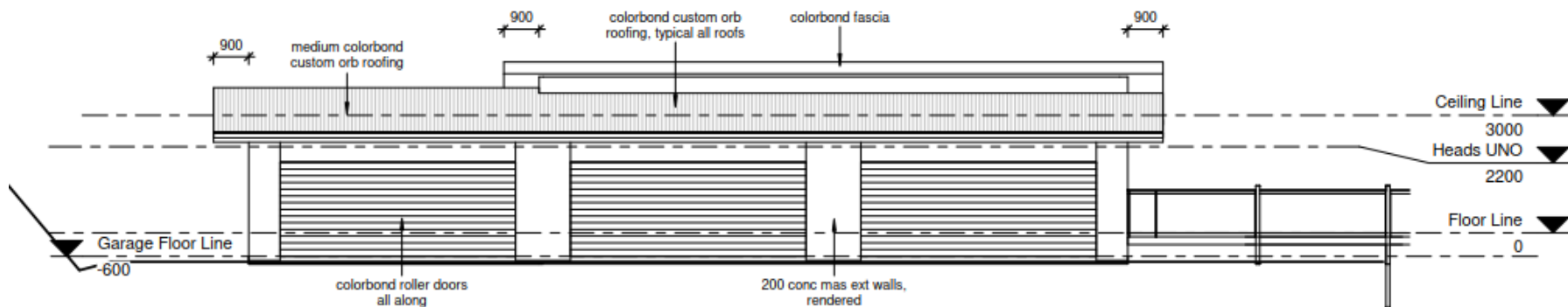
SHEET
4 of 6

SCALES
1 : 100

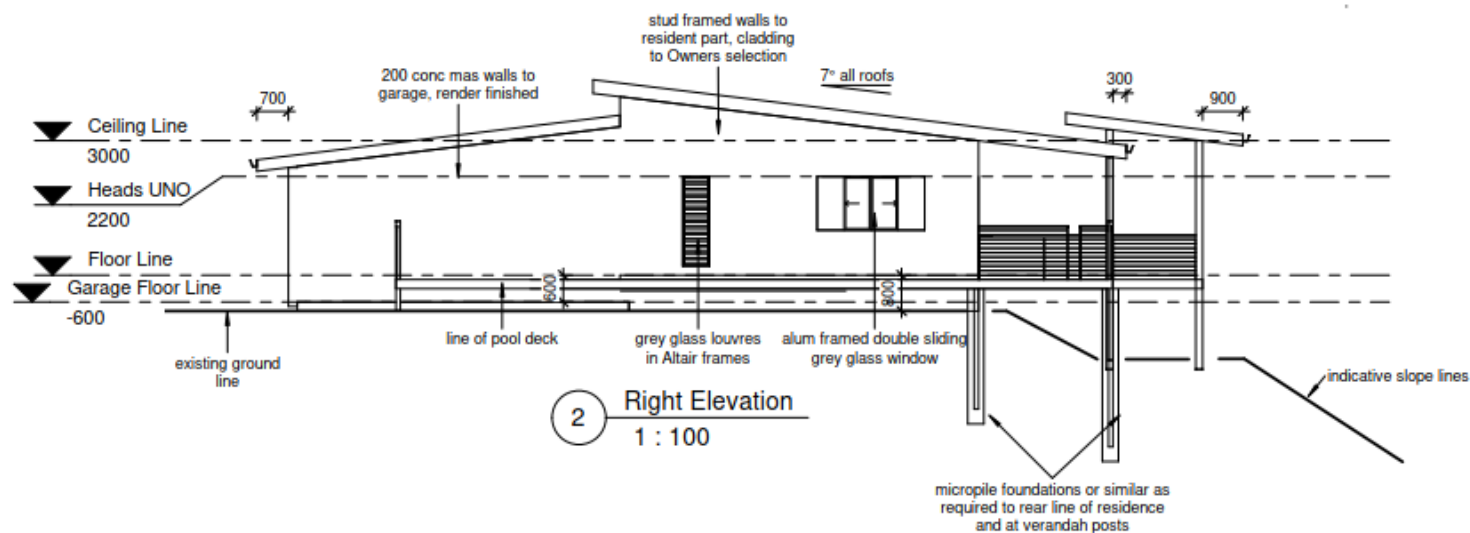
PLAN TITLE
Floor Plan

DATE OF ISSUE
20.09.23

REV
E



1 Front Elevation
1 : 100

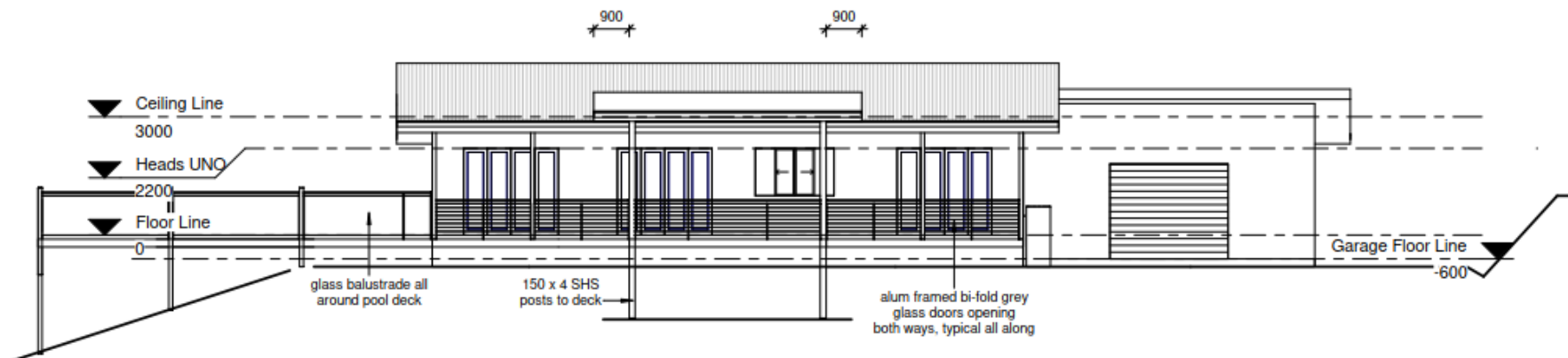


2 Right Elevation
1 : 100

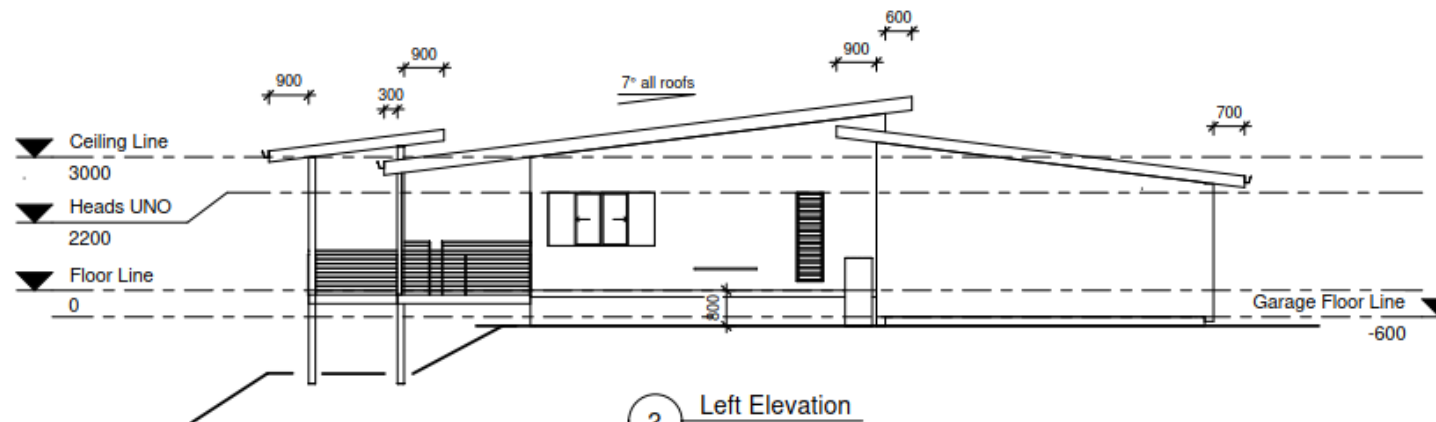
GREG SKYRING
Design and DRAFTING Pty. Ltd.
Lic Under QBSA Act 1991 - No 1040371
11 Noli Close,
Mossman Q. 4873
Phone/Fax: (07) 40982061
Mobile: 0419212652
Email: greg@skyringdesign.com.au

PROJECT
Proposed Residence,
L26 RP749732,
14 Hibiscus Court,
ROCKY POINT

| | | | |
|-----------------------|------------------------------------|---------------------------|-----------------|
| CLIENT S. Marriott | WIND CLASS C3 | PLAN NUMBER 211-21 | SHEET 5 of 6 |
| SCALES 1 : 100 | PLAN TITLE Elevations - Sheet 1 | DATE OF ISSUE 20.09.23 | REV E |



1 Rear Elevation
1 : 100



2 Left Elevation
1 : 100

GREG SKYRING
Design and DRAFTING Pty. Ltd.
Lic Under QBSA Act 1991 - No 1040371
11 Noli Close,
Mossman Q. 4873
Phone/Fax: (07) 40982061
Mobile: 0419212652
Email: greg@skyringdesign.com.au

PROJECT
Proposed Residence,
L26 RP749732,
14 Hibiscus Court,
ROCKY POINT

| | | | | | | | |
|--------|-------------|------------|----------------------|---------------|----------|-------|--------|
| CLIENT | S. Marriott | WIND CLASS | C3 | PLAN NUMBER | 211-21 | SHEET | 6 of 6 |
| SCALES | 1 : 100 | PLAN TITLE | Elevations - Sheet 2 | DATE OF ISSUE | 20.09.23 | REV | E |

Reasons for Decision

- a. Sections 60, 62 and 63 of the *Planning Act 2016*;
 - b. to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; and
 - c. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
- a. the development application was properly lodged to the Douglas Shire Council 27/07/2022 under section 51 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*;
 - b. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
- a. the development triggered assessable development under the Assessment Table associated with the Environmental Management Zone Code;
 - b. Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
 - c. the applicant's reasons have been considered and the following findings are made:
 - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

Planning Act 2016
Chapter 3 Development assessment

[s 74]

Division 2 Changing development approvals

Subdivision 1 Changes during appeal period

74 What this subdivision is about

- (1) This subdivision is about changing a development approval before the applicant's appeal period for the approval ends.
- (2) This subdivision also applies to an approval of a change application, other than a change application for a minor change to a development approval.
- (3) For subsection (2), sections 75 and 76 apply—
 - (a) as if a reference in section 75 to a development approval were a reference to an approval of a change application; and
 - (b) as if a reference in the sections to the assessment manager were a reference to the responsible entity; and
 - (c) as if a reference in section 76 to a development application were a reference to a change application; and
 - (d) as if the reference in section 76(3)(b) to section 63(2) and (3) were a reference to section 83(4); and
 - (e) with any other necessary changes.

75 Making change representations

- (1) The applicant may make representations (*change representations*) to the assessment manager, during the applicant's appeal period for the development approval, about changing—
 - (a) a matter in the development approval, other than—
 - (i) a matter stated because of a referral agency's response; or

-
- (ii) a development condition imposed under a direction made by the Minister under chapter 3, part 6, division 2; or
 - (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(c).
- (2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
- (3) Only 1 notice may be given.
- (4) If a notice is given, the appeal period is suspended—
- (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
 - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
 - (i) the applicant withdraws the notice, by giving another notice to the assessment manager; or
 - (ii) the applicant receives notice that the assessment manager does not agree with the change representations; or
 - (iii) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- (5) However, if the assessment manager gives the applicant a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

76 Deciding change representations

- (1) The assessment manager must assess the change representations against and having regard to the matters that

- must be considered when assessing a development application, to the extent those matters are relevant.
- (2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
- (a) the applicant; and
 - (b) if the assessment manager agrees with any of the change representations—
 - (i) each principal submitter; and
 - (ii) each referral agency; and
 - (iii) if the assessment manager is not a local government and the development is in a local government area—the relevant local government; and
 - (iv) if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
 - (v) another person prescribed by regulation.
- (3) A decision notice (a *negotiated decision notice*) that states the assessment manager agrees with a change representation must—
- (a) state the nature of the change agreed to; and
 - (b) comply with section 63(2) and (3).
- (4) A negotiated decision notice replaces the decision notice for the development application.
- (5) Only 1 negotiated decision notice may be given.
- (6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.

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.