

25 October 2023

Enquiries: Jenny Elphinstone
Our Ref: MCUC 2022_5179/2 (Doc ID 1191456)
Your Ref: 24 Macrossan Street

Macrossan Street Pty Ltd
C/- Hunt Design.
Mowbray Qld 4877

Email: sam@huntdesign.com.au

Attention Mr Sam Drummond

Dear Sir

**Development Application for Minor Change for
Material Change of Use (Multiple Dwellings & Shop)
At 24 Macrossan Street Port Douglas
On Land Described as Lot 118 on PTD2091**

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

Please quote Council's application number: MCUC 2022_5179/2 in all subsequent correspondence relating to this development application.

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

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

cc. State Assessment and Referral Agency (SARA) E: CairnsSARA@dilgp.qld.gov.au

encl.

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



Decision Notice

Approval (with conditions)

Given under s 83 of the Planning Act 2016

Applicant Details

Name: Macrossan Street Pty Ltd (Tte)
Postal Address: C/- Hunt Design.
Mowbray Qld 4877
Attention Mr Sam Drummond
Email: sam@huntdesign.com.au

Property Details

Street Address: 24 Macrossan Street Port Douglas
Real Property Description: Lot 118 on PTD2091
Local Government Area: Douglas Shire Council

Details of Proposed Development

Minor Change to the Development Permit for Material Change of Use for Shops and Multiple Dwelling.

Decision

Date of Decision: 25 October 2023. (This Decision Notice changes that dated 12 January 2023.)

Decision Details: Approved whereby

1. The table of approved drawings and documents is amended as follows.

APPROVED AMENDED DRAWING(S) AND / OR DOCUMENT(S)

The term 'approved drawing(s) and / or document(s)' or other similar expressions means:

Drawing or Document	Reference	Date
DA Issue, Site Plan - Proposed	Hunt Designs, Project GADALETA002, Drawing No. DA-02, Revision 4 <u>02</u> .	23 November 2022 <u>12 October 2023.</u>
DA Issue, Ground Floor Plan	Hunt Designs, Project GADALETA002, Drawing No. DA-03, Revision 4 <u>02</u> .	23 November 2022 <u>12 October 2023.</u>
DA Issue, First Floor Plan	Hunt Designs, Project GADALETA002, Drawing No. DA-04, Revision 4 <u>02</u> .	23 November 2022 <u>12 October 2023.</u>
DA Issue, Roof Plan	Hunt Designs, Project GADALETA002, Drawing No. DA-05, Revision 4 <u>02</u> .	23 November 2022 <u>12 October 2023.</u>
DA Issue, Elevations (South & West)	Hunt Designs, Project GADALETA002, Drawing No. DA-06, Revision 4 <u>02</u> .	23 November 2022 <u>12 October 2023.</u>
DA Issue, Elevations (North & East)	Hunt Designs, Project GADALETA002, Drawing No. DA-07, Revision 4 <u>02</u> .	23 November 2022 <u>12 October 2023.</u>
DA Issue, Landscape Plan	Hunt Designs, Project GADALETA002, Drawing No. DA-10, Revision 4 <u>02</u> .	4 December 2022. <u>12 October 2023.</u>
DA Issue, Visualisation 01	Hunt Designs, Project GADALETA002, Drawing No. DA-08, Revision 4 <u>02</u> .	23 November 2022 <u>12 October 2023.</u>
DA Issue, Visualisation 02	Hunt Designs, Project GADALETA002, Drawing No. DA-09, Revision 4 <u>02</u> .	23 November 2022 <u>12 October 2023..</u>
FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access		
Access Crossovers	Standard Drawing S1015 Issue E	27 August 2020
Concrete driveway for allotment access	Standard Drawing S1110 Issue F	27 August 2020

2. All other conditions and advices of the approval remain unchanged.

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

Copy of the approved amended plans are enclosed.

Original Decision Notice

Copy of the original Decision notice is enclosed.

Currency Period for the Approval

There has been no change to the currency period, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the original decision notice approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

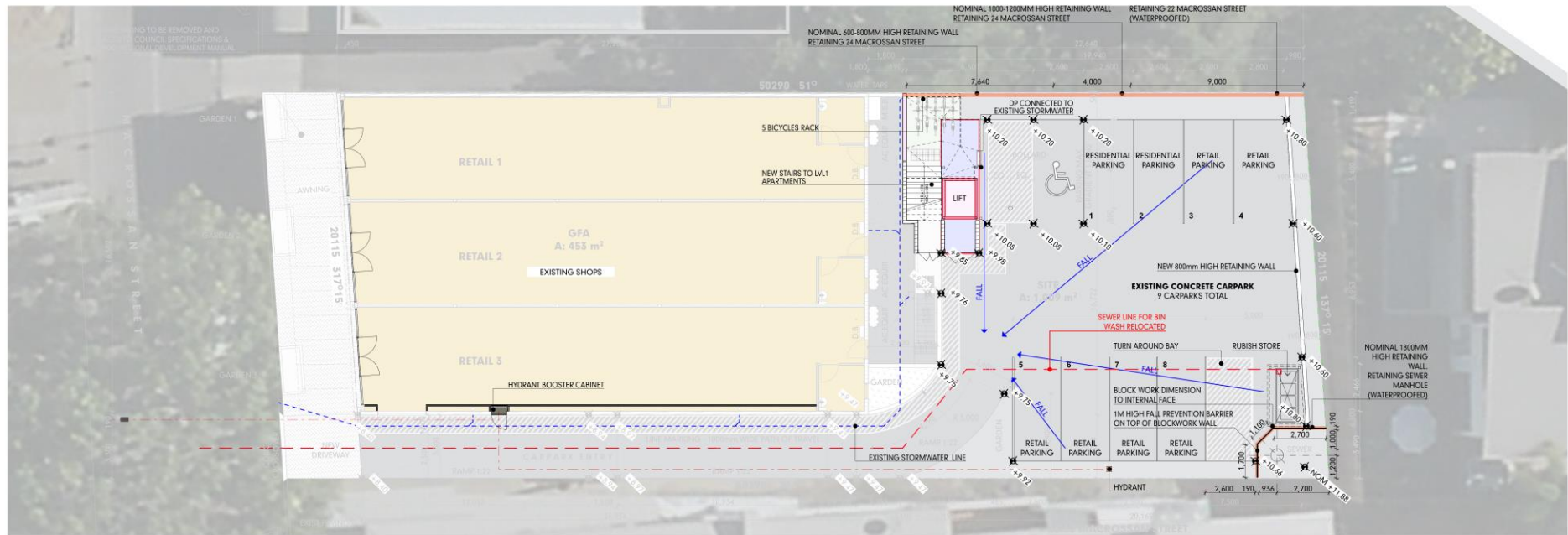
Rights of Appeal

The rights of applicants 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 Amended Drawing(s) and/or Document(s)





SITE PLAN 1:100
SCALE:1:100

INTERNAL AREAS		
	Name	Area
ACCOMMODATION	APARTMENT 1	143.5
ACCOMMODATION	APARTMENT 2	145.9
		289.4 m²

GROSS FLOOR AREA	
	Area
FIRST FLOOR	
	GFA 323.3
	323.3 m²

CAR PARKING	
EXISTING SHOPS	7 SPACES (6 for retail, 1 disabled parking)
RESIDENTIAL	2 SPACES (At 1 spaces per 3 Bedroom apartment)
TOTAL	9 SPACES

RESIDENTIAL DEVELOPMENT
FOR : MACROSSAN STREET TRUST
SAM GADALETA
MACROSSAN STREET PTY LTD

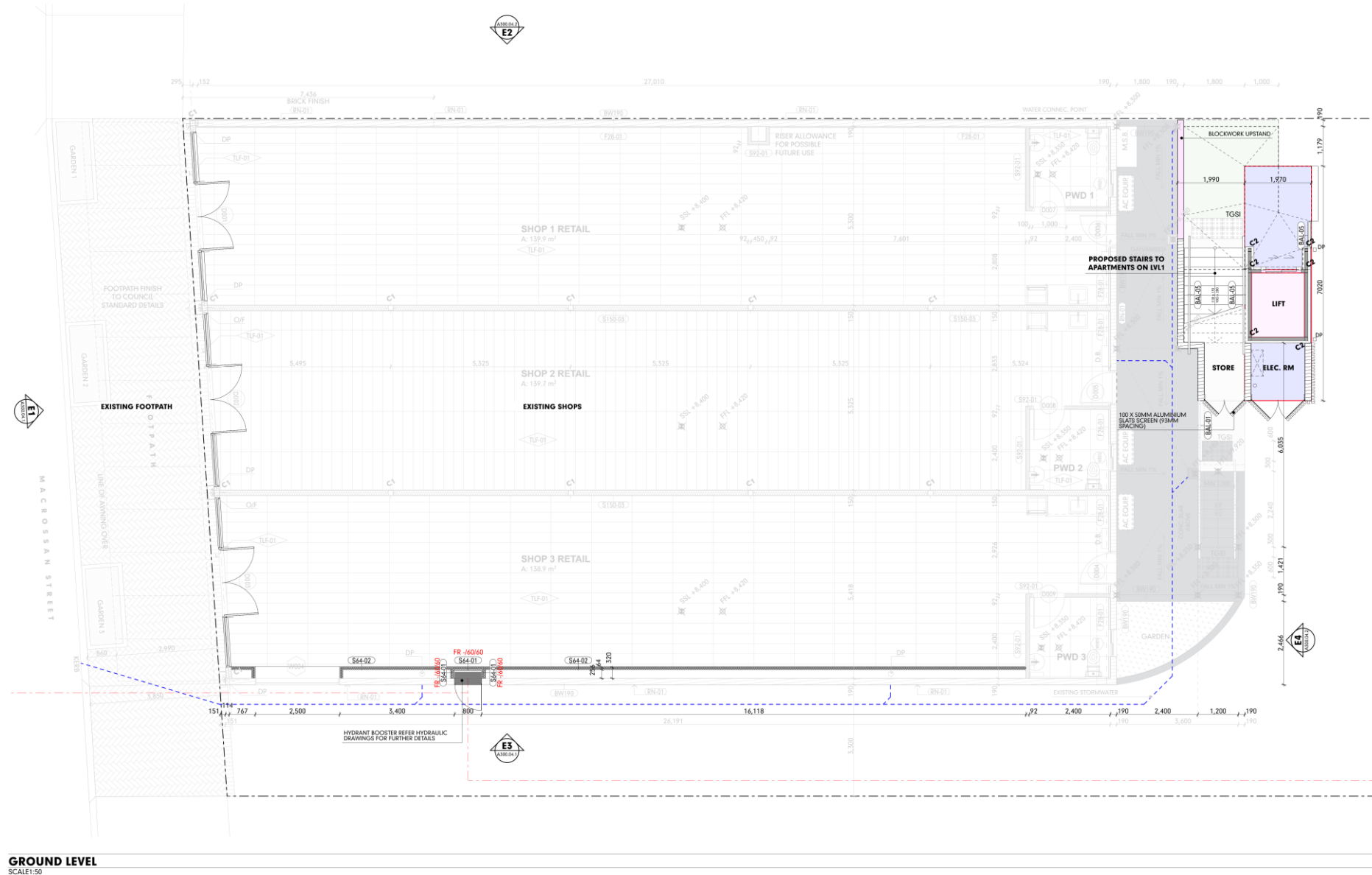
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24 MACROSSAN STREET, PORT DOUGLAS
DA ISSUE
SITE PLAN - PROPOSED

PROJECT NO. GADALETA002
DRAWING NO. DA-02
REVISION NO. 1
DATE 12/10/2023



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DESIGN



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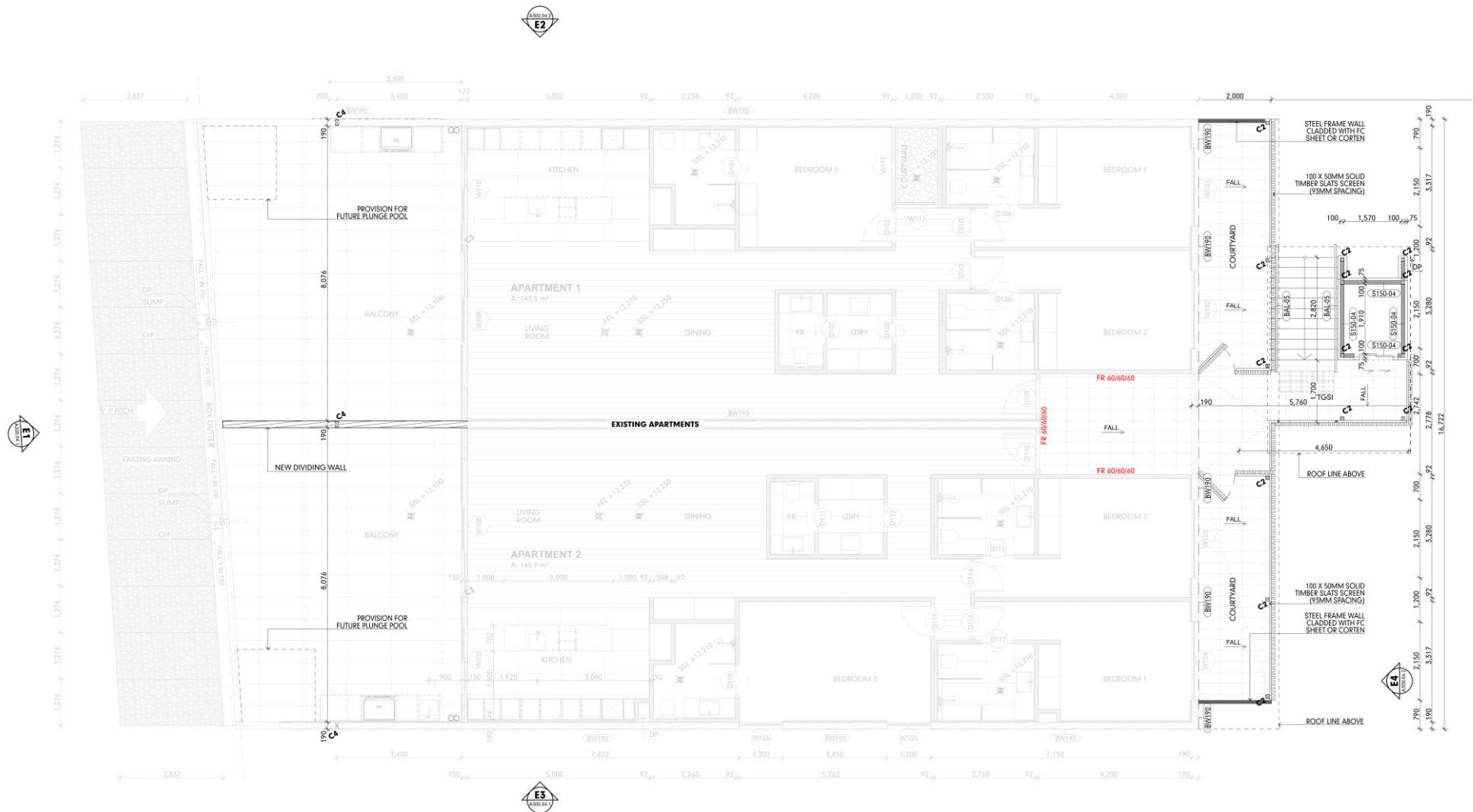
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24 MACROSSAN STREET, PORT DOUGLAS
DA ISSUE
GROUND FLOOR PLAN

PROJECT NO. GADALETA002
DRAWING NO. DA-03
REVISION NO. 1
DATE 12/10/2023



HUNT
DESIGN



FIRST FLOOR APARTMENTS
SCALE:1:50

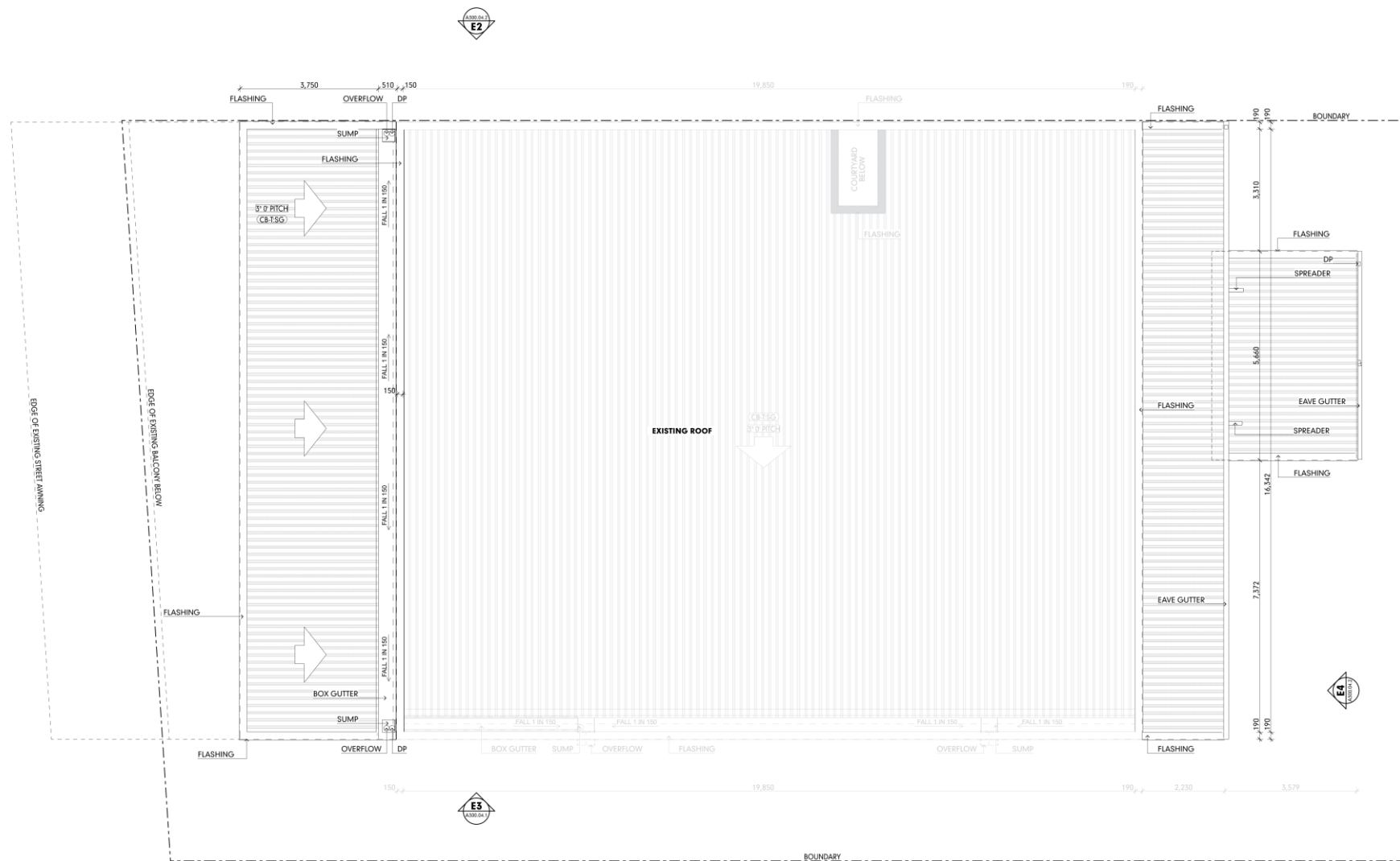
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FOR : MACROSSAN STREET TRUST
SAM GADALETA
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24 MACROSSAN STREET, PORT DOUGLAS
DA ISSUE
FIRST FLOOR PLAN

PROJECT NO. GADALETA002
DRAWING NO. DA-04
REVISION NO. 1
DATE 12/10/2023





ROOF PLAN SCALE: 1:50

RESIDENTIAL DEVELOPMENT
FOR : MACROSSAN STREET TRUST
SAM GADALETA
MACROSSAN STREET PTY LTD

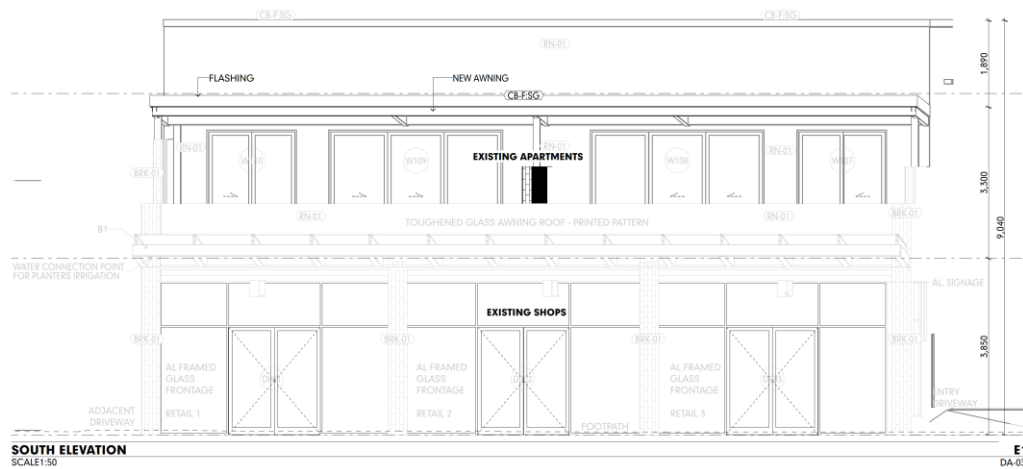
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24 MACROSSAN STREET, PORT DOUGLAS
DA ISSUE
ROOF PLAN

PROJECT NO. GADALETA002
DRAWING NO. DA-05
REVISION NO. 1
DATE 12/10/2023



HUNT
DESIGN



LEGEND FINISHES	
(PF-01)	FINISH LABEL
AF	AWNING FRAME PAINT FINISH - MONUMENT
BRK-01	BRICK TILE - ROBERTSON'S PARCHMENT
RN-01	BLOCKWORK - RENDER PAINT FINISH DULUX ANTIQUE WHITE
CB-T-SG	TRIMDEK ROOF SHEET - SHALE GREY
CLB01	TIMBER LINING BOARDS - AUSTRALIAN TIMBER CEILINGS, TWO-SLAT BLACKBUTT
CB-F-SG	COLORBOND FLASHINGS - SHALE GREY
GL-01	GLASS BALUSTRADE
HP	HANGING PLANTER DULUX COPPER PEARL
PF-01	PAINT FINISH 01 - DULUX ANTIQUE WHITE
PF-02	PAINT FINISH 02 - WET AREA DULUX ANTIQUA WHITE
SCR	SCREEN - TIMBER LOOK FINISH
TG	TOUGHENED GLASS - PRINTED PATTERN
TBS-01	SOLID TIMBER BATTENS
TLF-01	PORCELAIN TILES 1200 X 300mm
LAM-03	LAMINEX PEWTER SUPERMATTE (Grey)
LAM-04	LAMINEX STORM (DARK GREY)



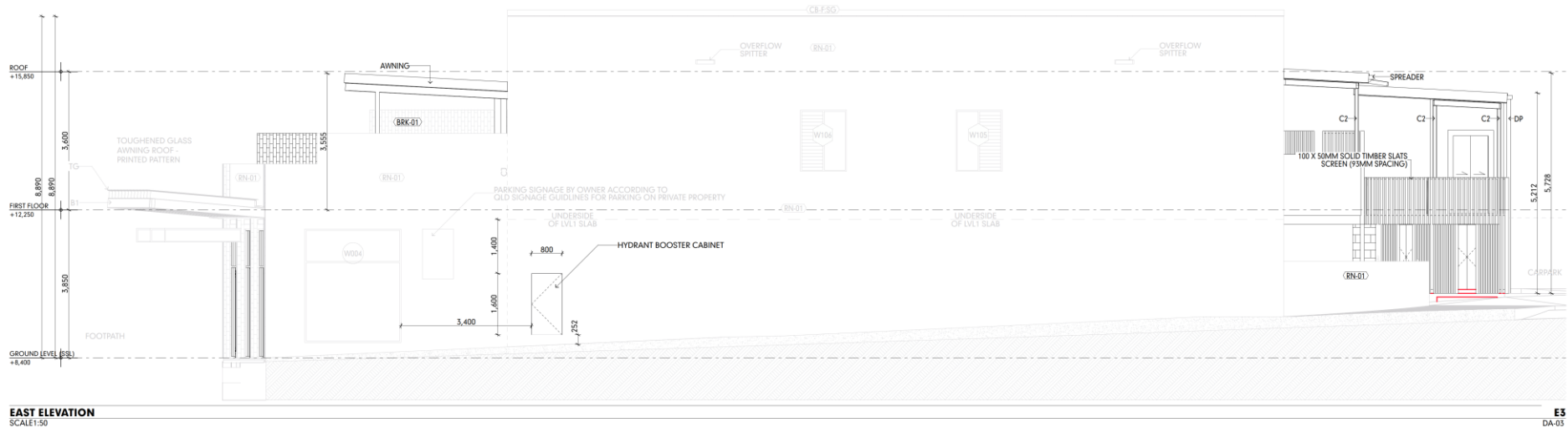
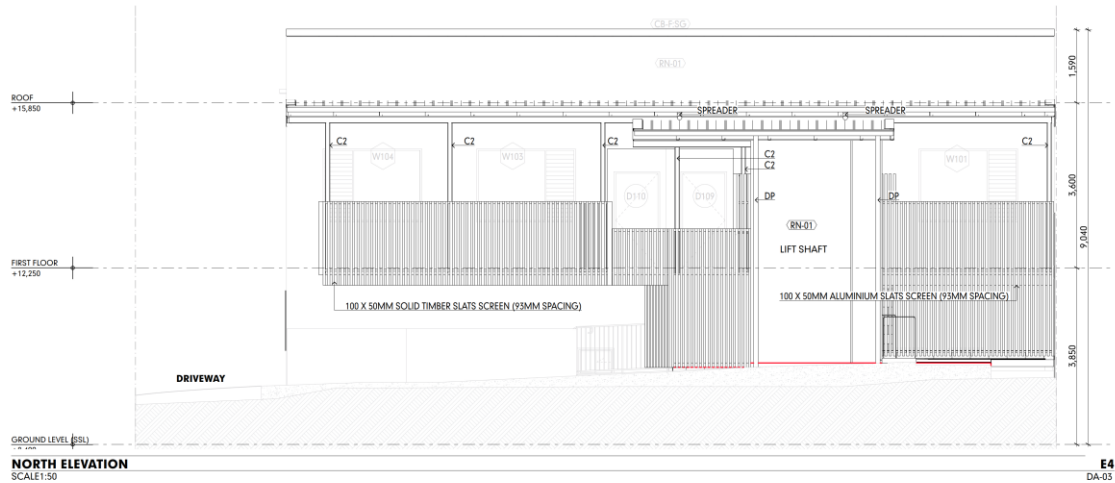
RESIDENTIAL DEVELOPMENT
FOR : MACROSSAN STREET TRUST
SAM GDALETA
MACROSSAN STREET PTY LTD

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24 MACROSSAN STREET, PORT DOUGLAS
DA ISSUE
ELEVATIONS (SOUTH & WEST)

PROJECT NO. GADALETA002
DRAWING NO. DA-06
REVISION NO. 1
DATE 12/10/2023

HUNT
DESIGN



RESIDENTIAL DEVELOPMENT
FOR : MACROSSAN STREET TRUST
SAM GADALETA
MACROSSAN STREET PTY LTD

24 MACROSSAN STREET, PORT DOUGLAS
DA ISSUE
ELEVATIONS (NORTH & EAST)

PROJECT NO. GADALETA002
DRAWING NO. DA-07
REVISION NO. 1
DATE 12/10/2023

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DESIGN



RESIDENTIAL DEVELOPMENT
 FOR : MACROSSAN STREET TRUST
 SAM GDALETA
 MACROSSAN STREET PTY LTD

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24 MACROSSAN STREET, PORT DOUGLAS
DA ISSUE
VISUALISATION 01

PROJECT NO. GADALETA002
 DRAWING NO. DA-08
 REVISION NO. 1
 DATE 12/10/2023

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SAM GADALETA
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24 MACROSSAN STREET, PORT DOUGLAS
DA ISSUE
VISUALISATION 02

PROJECT NO. GADALETA002
 DRAWING NO. DA-09
 REVISION NO. 1
 DATE 12/10/2023

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RESIDENTIAL DEVELOPMENT
 FOR : MACROSSAN STREET TRUST
 SAM GADALETA
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24 MACROSSAN STREET, PORT DOUGLAS
DA ISSUE
VISUALISATION 03

PROJECT NO. GADALETA002
 DRAWING NO. DA-10
 REVISION NO. 1
 DATE 12/10/2023

HUNT
 DESIGN

Reasons for Decision

1. The reasons for this decision are:
 - a. Sections 81, 81A and 83 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 for a minor change was properly lodged to the Douglas Shire Council 18 October 2023 under section 79 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 Centre Zone Code;
 - b. Council undertook an assessment in accordance with the provisions of sections 81, 81A and 83 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.

Non-Compliance with Assessment Benchmarks

None. Through the conditions of the approval the development complies with the planning scheme and no concerns are raised.

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.



PO Box 723 Mossman Qld 4873
www.douglas.qld.gov.au
enquiries@douglas.qld.gov.au
ABN 71 241 237 800

12 January 2023

Enquiries: Jenny Elphinstone
Our Ref: MCUC 2022_5179/1 (Doc ID 1124876)
Your Ref: 24 Macrossan Street

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

Macrossan Street Pty Ltd (Tte)
C/- RPS AAP Consulting Pty Ltd
PO Box 1949
CAIRNS QLD 4870

Email: Patrick.clifton@rpsgroup.com.au

Attention Mr Patrick Clifton

Dear Sir

**Development Application for Material Change of Use (Multiple Dwellings & Shop)
At 24 Macrossan Street Port Douglas
On Land Described as Lot 118 on PTD2091**

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

Please quote Council's application number: MCUC 2022_5179/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully

A handwritten signature in black ink, appearing to read "P. Hoyer", with a stylized flourish at the end.

**For
Paul Hoyer
Manager Environment & Planning**

cc. State Assessment and Referral Agency (SARA) E: CairnsSARA@dilgp.qld.gov.au
encl.

- Decision Notice
 - Approved Drawing(s) and/or Document(s)
 - Concurrence Agency Response
 - Reasons for Decision
- Advice For Making Representations and Appeals (Decision Notice)
- Adopted Infrastructure Charges Notice
- Advice For Making Representations and Appeals (Infrastructure Charges)



Decision Notice

Approval (with conditions)

Given under s 63 of the Planning Act 2016

Applicant Details

Name: Macrossan Street Pty Ltd (Tte)
Postal Address: C/- RPS AAP Consulting Pty Ltd
PO Box 1949
Cairns Qld 4870
Attention Mr Patrick Clifton
Email: Patrick.clifton@rpsgroup.com.au

Property Details

Street Address: 24 Macrossan Street Port Douglas
Real Property Description: Lot 118 on PTD2091
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for Material Change of Use for Shops and Multiple Dwelling.

Decision

Date of Decision: 12 January 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.

The term 'approved drawing(s) and/or document(s) or other similar expressions means the following plans.

Drawing or Document	Reference	Date
DA Issue, Site Plan - Proposed	Hunt Designs, Project GADALETA002, Drawing No. DA-02, Revision 1.	23 November 2022.
DA Issue, Ground Floor Plan	Hunt Designs, Project GADALETA002, Drawing No. DA-03, Revision 1.	23 November 2022.
DA Issue, First Floor Plan	Hunt Designs, Project GADALETA002, Drawing No. DA-04, Revision 1.	23 November 2022.
DA Issue, Roof Plan	Hunt Designs, Project GADALETA002, Drawing No. DA-05, Revision 1.	23 November 2022.
DA Issue, Elevations (South & West)	Hunt Designs, Project GADALETA002, Drawing No. DA-06, Revision 1.	23 November 2022.
DA Issue, Elevations (North & East)	Hunt Designs, Project GADALETA002, Drawing No. DA-07, Revision 1.	23 November 2022.
DA Issue, Landscape Plan	Hunt Designs, Project GADALETA002, Drawing No. DA-10, Revision 1.	1 December 2022.
DA Issue, Visualisation 01	Hunt Designs, Project GADALETA002, Drawing No. DA-08, Revision 1.	23 November 2022.
DA Issue, Visualisation 02	Hunt Designs, Project GADALETA002, Drawing No. DA-09, Revision 1.	23 November 2022.
FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access		
Access Crossovers	Standard Drawing S1015 Issue E	27 August 2020
Concrete driveway for allotment access	Standard Drawing S1110 Issue F	27 August 2020

Assessment Manager Conditions & Advices

Conditions

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.

Water Supply and Sewerage Works Internal

3. Undertake the following water supply and sewerage works internal to the subject land:
 - a. Provide a single internal sewer connection which must be clear of any buildings or structures;
 - b. Provide a single internal water connection;
 - c. Water supply sub-metering must be designed and installed in accordance with the *Queensland Development Code* and the *Water Supply (Safety and Reliability) Act 2008*
 - d. Relocate the existing sewer or site the proposed building such that the sewer is a minimum of 1.5 metres away from the building and clear of the zone of influence from the footings and foundations of any building/structure; or
Replace the existing sewer main under or within 1.5 metres of the building and within the zone of influence of the footings and foundations with uPVC sewer pipe class SN8.

All the above works must be designed and constructed in accordance with the FNQROC Development Manual.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer prior to Commencement of Use or approval and dating of the Building Format Plan, whichever occurs first.

External Works

4. Undertake the following works external to the land at no cost to Council:
 - a. Construct a footpath to Macrossan Street in accordance with the proposed Landscape Plan and the FNQROC Regional Development Manual having regard to the use of Wirecut Acorn pavers in a design that matches that occurring in the street.
 - b. Provision of a new concrete crossover and apron in accordance with FNQROC Development Manual Standard Drawing S1015; and
 - c. Construct landscaped garden beds as per the approved landscape plans;

All works in the road reserve need to be properly separated from pedestrians and vehicles, with any diversions adequately signed and guarded. Particular attention must be given to providing safe passage for people with disabilities i.e., the provision of temporary kerb ramps if pedestrian diversions are necessary.

The external works outlined above must be constructed with a suitable approval from the Department of Transport and Main Roads.

Three (3) copies of a plan of the works at A1 size and one (1) copy at A3 size must be endorsed by the Chief Executive Officer prior to commencement of such works. Such work must be constructed in accordance with the endorsed plan to the satisfaction of the Chief Executive Officer prior to Commencement of Use or approval and dating of the Building Format Plan, whichever occurs first.

Note: the above works are not considered to be creditable or trunk related works in accordance with Section 145 of the *Planning Act 2016*.

Lawful point of discharge.

5. The study must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work with the necessary works being undertaken prior to Commencement of Use or approval and dating of the Building Format Plan, whichever occurs first.

Vehicle Parking

6. The amount of vehicle parking must be as specified in Council's Planning Scheme which is a minimum of nine car parking spaces (seven spaces for the shops, two spaces for the multiple dwellings and including one disability car parking space) and five (5) bicycle parking spaces. The car parking layout must comply with the Australian Standard AS2890 Parking Facilities – off-street car parking and be constructed in accordance with Austroads and good engineering design. In addition, all parking, driveway and vehicular maneuvering areas must be imperviously sealed, drained and line marked.

Access to rear Car Park

7. No boom gate, pay machine or any other regulatory device is to be installed to access to the rear car park. The car parking is to be maintained as accessible to all users of the premises including any public users.

Landscape Plan and Landscaped Areas

8. The site must be landscaped in accordance with details included on a Landscaping Plan. Landscaped areas must be maintained at all times to the satisfaction of the Chief Executive Officer.

Parking Signage

9. Erect signs advising of the location of the off-street visitor parking area and access thereto. The signs must be erected prior to Commencement of Use.

Lighting

10. All lighting installed upon the premises including car parking areas must be certified by Ergon Energy (or such other suitably qualified person). The vertical illumination at a distance of 1.5 metres outside the boundary of the subject land must not exceed eight (8) lux measured at any level upwards from ground level. The rear car parking area and the driveway must be sufficiently illuminated for all times that the car park area is in use.

All lighting and landscaping requirements are to comply with Council's General Policy Crime Prevention Through Environmental Design (CPTED).

Stockpiling and Transportation of Fill Material

11. Soil used for filling or spoil from the excavation is not to be stockpiled in locations that can be viewed from adjoining premises or a road frontage for any longer than one (1) month from the commencement of works.

Transportation of fill or spoil to and from the site must not occur within:

- a. peak traffic times;
 - b. before 7:00 am or after 6:00 pm Monday to Friday;
 - c. before 7:00 am or after 1:00 pm Saturdays; or
 - d. on Sundays or Public Holidays.
12. Dust emissions or other air pollutants, including odours, must not extend beyond the boundary of the site and cause a nuisance to surrounding properties.

Storage of Machinery and Plant

13. The storage of any machinery, material and vehicles must not cause a nuisance to surrounding properties, to the satisfaction of the Chief Executive Officer.

Damage to Council Infrastructure

14. 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, including but not limited to; mobilisation of heavy construction equipment, stripping and grubbing, the applicant/owner must notify Council immediately of the affected infrastructure and have it repaired or replaced at the developer's/owners/builders cost, prior to the Commencement of Use.

Construction Signage

15. Prior to the commencement of any construction works associated with the development, a sign detailing the project team must be placed on the road frontage of the site and must be located in a prominent position. The sign must detail the relevant project coordinator for the works being undertaken on the site, and must list the following parties (where relevant) including telephone contacts:
 - a. Architect
 - b. Builder;
 - c. Landscape Architect

Advices

1. 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*.
2. All building site managers must take all action necessary to ensure building materials and/or machinery on construction sites are secured immediately following the first potential cyclone warning and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
3. This approval does not negate the requirement for compliance with relevant Local Laws and statutory requirements.
4. The approval has issued for multiple dwellings. The approval does not give authorisation for the use of Short-term accommodation. Where use is sought for short-term accommodation consideration should be given to the Standards and the National Construction Code requirements relating to disability access.
5. For future use of the premises as a Centre Activities (Food and drink outlet) note that a Trade Waste Permit is usually required for a pre-treatment device (grease trap).
6. For information relating to the *Planning Act 2016* log on to www.dsdmip.qld.gov.au. To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au.

Infrastructure Charges Notice

7. A charge levied for the supply of trunk infrastructure is payable to Council towards the provision of trunk infrastructure in accordance with the Infrastructure Charges Notice. The original Infrastructure Charges Notice will be provided under cover of a separate letter.

The amount in the Infrastructure Charges Notice has been calculated according to Council's Infrastructure Charges Resolution.

Please note that this Decision Notice and the Infrastructure Charges Notice are stand-alone documents. The *Planning Act 2016* confers rights to make representations and appeal in relation to a Decision Notice and an Infrastructure Charges Notice separately.

The amount in the Infrastructure Charges Notice is subject to index adjustments and may be different at the time of payment. Please contact the Development Assessment Team at council for review of the charge amount prior to payment.

The time when payment is due is contained in the Adopted Infrastructure Charges Notice.

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*.

Concurrence Agency Response

Concurrence Agency	Concurrence Reference	Agency Date	Doc ID
State Assessment and Referral Agency (SARA)	2211-32252 SRA	22 December 2022	1131696

Note – Concurrence Agency Response is attached. This Concurrence Agency Response maybe amended by agreement with the respective agency.

Currency Period for the Approval

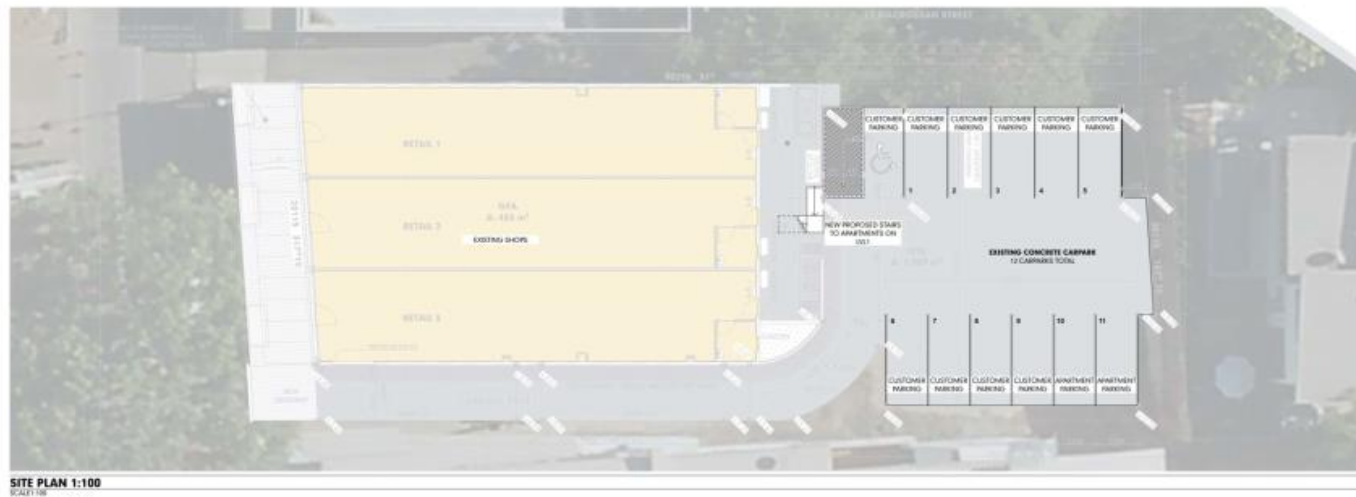
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

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)



INTERNAL AREAS		
	Name	Area
ACCOMMODATION	APARTMENT 1	145.5
ACCOMMODATION	APARTMENT 2	145.9
		291.4 m²

GROSS FLOOR AREA	
	Area
UPPER SLAB LEVEL	
GFA	525.3
	525.3 m²

CAR PARKING	
EXISTING SHOPS	10 SPACES (At 1 space per 50m ²)
RESIDENTIAL	2 SPACES (At 1 spaces per 3 Bedroom apartment)
TOTAL	12 SPACES

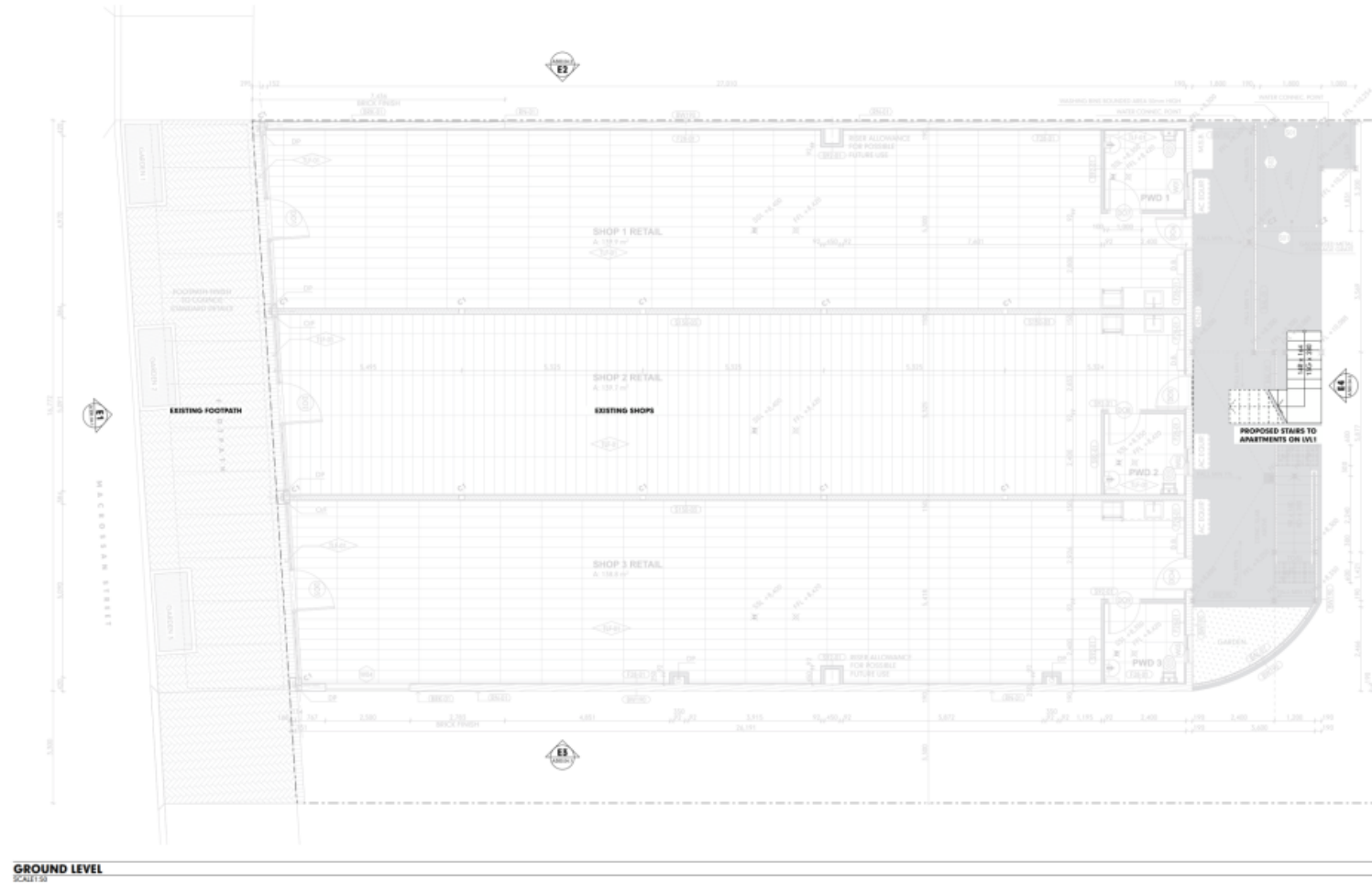
RESIDENTIAL DEVELOPMENT
FOR : MACROSSAN STREET TRUST
SAM GADALETA
MACROSSAN STREET PTY LTD
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24 MACROSSAN STREET, PORT DOUGLAS
DA ISSUE
SITE PLAN - PROPOSED

PROJECT NO. GADALETA001
DRAWING NO. DA-01
REVISION NO. 1
DATE 25/11/22



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24 MACROSSAN STREET, PORT DOUGLAS
DA ISSUE
GROUND FLOOR PLAN

PROJECT NO. GADALETA002
DRAWING NO. DA-03
REVISION NO. 1
DATE 25/11/22





FIRST FLOOR APARTMENTS SCALE 1:50

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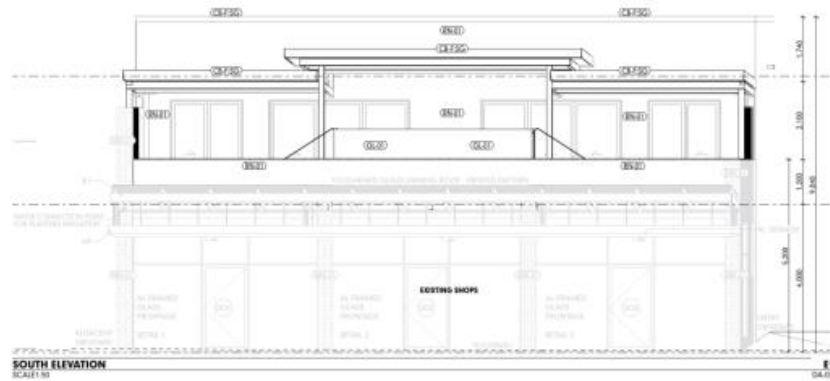
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24 MACROSSAN STREET, PORT DOUGLAS
DA ISSUE
FIRST FLOOR PLAN

PROJECT NO. GADALETA062
DRAWING NO. DA-04
REVISION NO. 1
DATE 23/11/22



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DESIGN



LEGEND FINISHES	
FINISH LABEL	
AF	AWNING FRAME PAINT FINISH - MONUMENT
BR-01	BRICK TILE - ROBERTSON'S PARCHMENT
BN-01	BLOCKWORK - RENDER PAINT FINISH DULUX ANTIQUE WHITE
CB-TSG	TRIMMER ROOF SHEET - SHALE GREY
CLB-01	TIMBER LINING BOARDS - AUSTRALIAN TIMBER CELESTIAL, THORPE & BLACKBURN
CB-FSG	COLORBOND FLASHINGS - SHALE GREY
GL-01	GLASS BALUSTRADE
HP	HANGING PLASTER DULUX COPPER PEARL
PF-01	PAINT FINISH-01 - DULUX ANTIQUE WHITE
PF-02	PAINT FINISH-02 - WET AREA DULUX ANTIQUA WHITE
SCR	SCREEN - TRIMER LOCK FINISH
TD	TOUGHENED GLASS - PRINTED PATERN
TB-01	SOLID TIMBER BATTING
TP-01	PORCELAIN TILE 1200 X 600mm
LAM-03	LAMINEX PEXTER SUPREMANTE (DHW)
LAM-04	LAMINEX STORM (DARK GREY)



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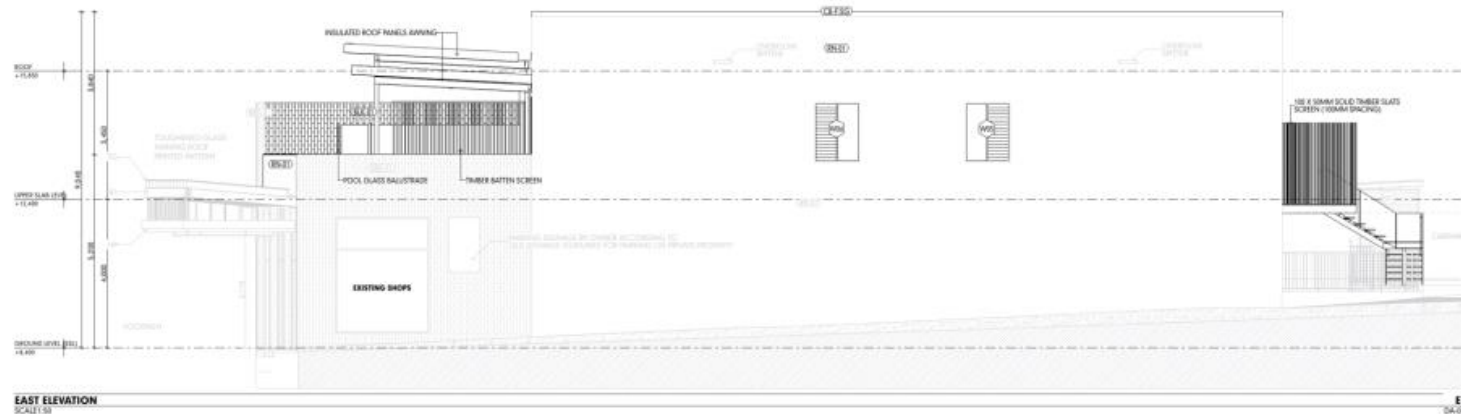
**24 MACROSSAN STREET, PORT DOUGLAS
DA ISSUE
ELEVATIONS (SOUTH & WEST)**

PROJECT NO. GADALETA002
DRAWING NO. DA-04
REVISION NO. 1
DATE 23/11/22

**HUNT
DESIGN**



LEGEND FINISHES	
FINISH LABEL	
AF	AWNING FRAME PAINT FINISH - MONUMENT
BRX-01	BRICK TILE - ROBERTSON'S PARCHMENT
BN-01	BLOCKWORK - RENDER PAINT FINISH DULUX ANTIQUE WHITE
CB-TSG	TIMBER ROOF SHEET - SHALE GREY
CLB-01	TIMBER LINING BOARDS - AUSTRALIAN TIMBER CELERIOS, THORCLAT BLACKBUTT
CB-FSG	COLORBOND FLASHINGS - SHALE GREY
GL-01	GLASS BALUSTRADE
HP	HANGING PLASTER DULUX COPPER PEARL
PF-01	PAINT FINISH-01 - DULUX ANTIQUE WHITE
PF-02	PAINT FINISH-02 - WET AREA DULUX ANTIQUA WHITE
SCR	SCREEN - TIMBER LOCK FINISH
TD	TOUGHENED GLASS - PRINTED PATTERN
TB-01	SOLID TIMBER BATTING
TL-01	PORCELAIN TILES 1200 X 900mm
LAM-03	LAMINEX PEXTER SUPERMATE (DHN)
LAM-04	LAMINEX STORM (DARK GREY)



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**24 MACROSSAN STREET, PORT DOUGLAS
DA ISSUE
ELEVATIONS (NORTH & EAST)**

PROJECT NO. GADALETA002
DRAWING NO. DA-07
REVISION NO. 1
DATE 23/11/22

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24 MACROSSAN STREET, PORT DOUGLAS
 DA ISSUE
 VISUALISATION 01

PROJECT NO. GADALETA002
 DRAWING NO. DA-08
 REVISION NO. 1
 DATE 23/11/22

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24 MACROSSAN STREET, PORT DOUGLAS
 DA ISSUE
 VISUALISATION 02

PROJECT NO. GADALETA002
 DRAWING NO. DA-07
 REVISION NO. 1
 DATE 23/11/22

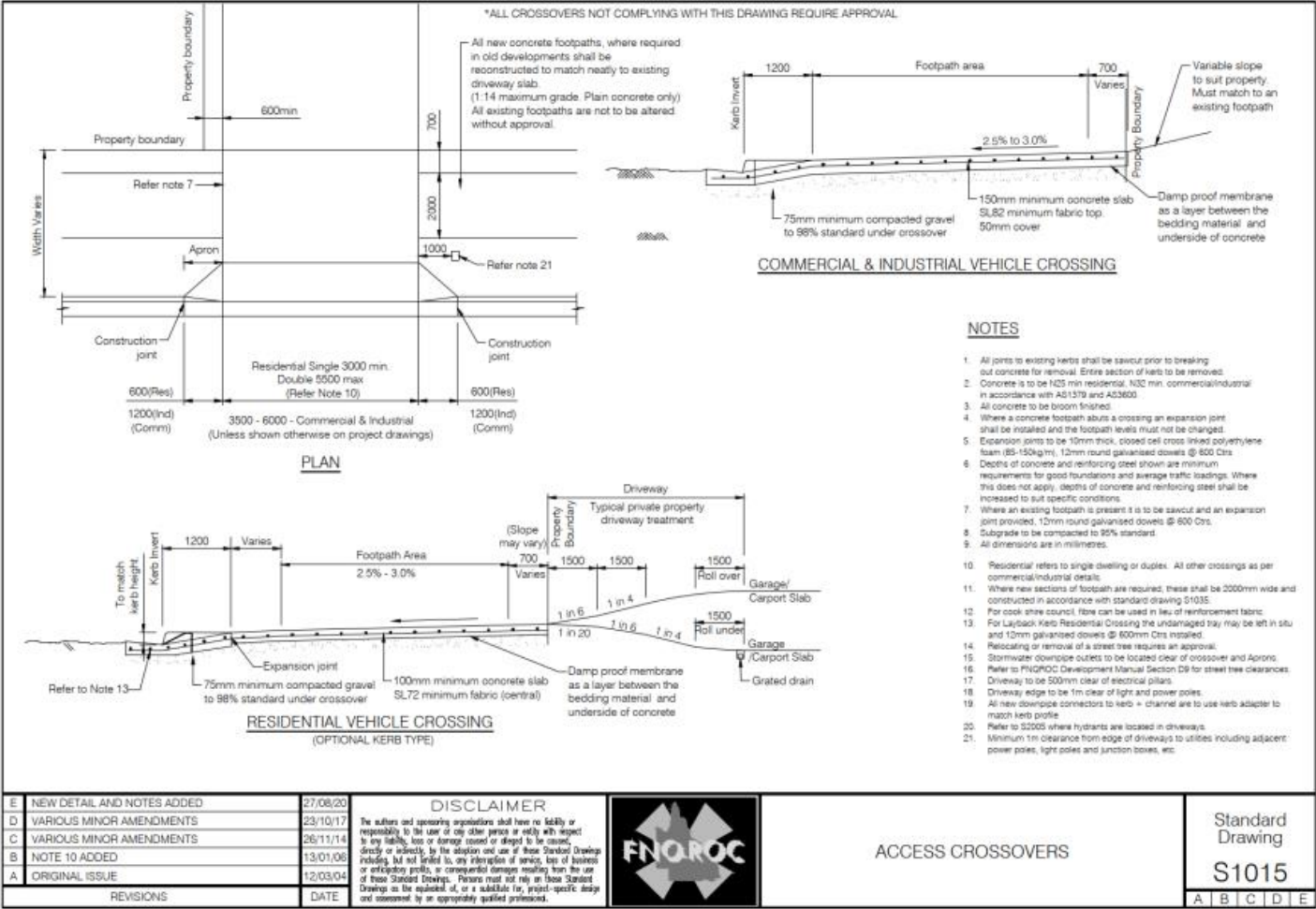
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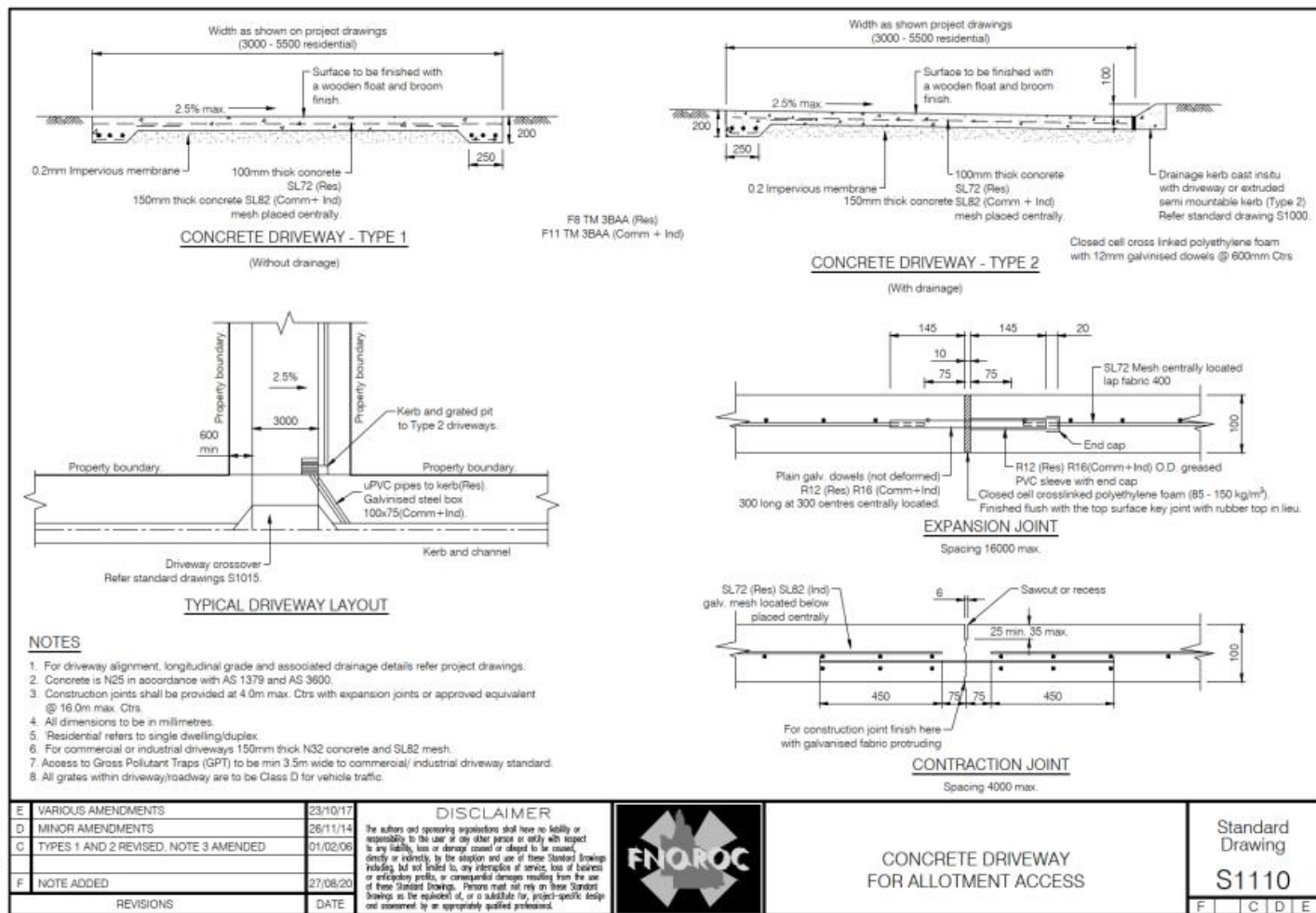
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MCUC. 2022_5179/1

Page 16 of 44

FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access





Concurrence Agency Conditions

RA6-N



SARA reference: 2211-32252 SRA
Council reference: MCUC2022_5179/1
Applicant reference: 24 Macrossan Street

21 December 2022

Chief Executive Officer
Douglas Shire Council
PO Box 723
MOSSMAN QLD 4873
enquiries@douglas.qld.gov.au

Attention: Jenny Elpinstone

Dear Sir/Madam

SARA response—Shop and Multiple Dwelling at 24 Macrossan Street, Port Douglas (Lot 118 on PTD2091)

(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 30 November 2022.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	21 December 2022
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 for shop and multiple dwelling
SARA role:	Referral Agency	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning	

Page 1 of 7

Far North Queensland regional office
Ground Floor, Cnr Grafton and Hartley
Street, Cairns
PO Box 2358, Cairns QLD 4870

Regulation 2017) – Material change of use near a state-controlled road

SARA reference: 2211-32252 SRA

Assessment Manager: Douglas Shire Council

Street address: 24 Macrossan Street, Port Douglas

Real property description: Lot 118 on PTD2091

Applicant name: Macrossan Street Pty Ltd

Applicant contact details: C/- RPS AAP Consulting Pty Ltd
PO Box 1949
Cairns QLD 4870
Patrick.Clifton@rpsgroup.com.au

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 Anthony Westbury, Planning Officer, on 40373214 or via email CairnsSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc Macrossan Street Pty Ltd C/- RPS AAP Consulting Pty Ltd, Patrick.Clifton@rpsgroup.com.au

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations provisions
Attachment 5 - Approved plans and specifications

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 plans and specifications 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 condition(s):		
1.	<p>The balcony and pool areas of Apartment 1 and Apartment 2 on Level 1 as shown on First Floor Plan prepared by Hunt Design, dated 23/11/22, Reference DA-04 and Revision 1 as amended in red must include:</p> <p>(a) balustrades to the external edges that are solid, gap-free and continuous for their complete length other than gaps required for drainage purposes in accordance with the Building Code of Australia; and</p> <p>(b) highly acoustically absorbent material treatment for the total area of the roof panels above these areas.</p>	Prior to the commencement of use and to be maintained at all times.
2.	The road access location is to be located generally in accordance with TMR Layout Plan (6504 – 5.75km), prepared by Queensland Government Transport and Main Roads, dated 06/09/2021, Reference TMR21-33788 (500-1624), Issue B.	At all times.

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v3.0. If a word remains undefined it has its ordinary meaning.
2.	<p>Awning design</p> <p>The awning design and other encroachments and works beyond the site boundary into the state-controlled road corridor are not assessed as part of this application. Separate approval processes for awning and footpath works are required under section 50(2) and Schedule 6 of the <i>Transport Infrastructure Act 1994</i> (TIA) and Part 5 and Schedule 1 of the <i>Transport Infrastructure (State-Controlled Roads) Regulation 2006</i>.</p> <p>Please contact the Department of Transport and Main Roads to make an application for a Road Corridor Permit via email cairns.office@tmr.qld.gov.au. This approval must be obtained prior to commencing any works in the state-controlled road reserve. If approved the process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ).</p>
3.	<p>Transport noise corridor</p> <p>Mandatory Part (MP) 4.4 of the Queensland Development Code (QDC) commenced on 1 September 2010 and applies to building work for the construction or renovation of a residential building in a designated <i>transport noise corridor</i>. MP4.4 seeks to ensure that the habitable rooms of Class 1, 2, 3 and 4 buildings located in a <i>transport noise corridor</i> are designed and constructed to reduce transport noise. <i>Transport noise corridor</i> means land designated under Chapter 8B of the <i>Building Act 1975</i> as a <i>transport noise corridor</i>. Information about <i>transport noise corridors</i> is available at state and local government offices.</p> <p>A free online search tool can be used to find out whether a property is located in a designated <i>transport noise corridor</i>. This tool is available at the State Planning Policy Interactive Mapping System website: https://spp.dsdip.esriaustraliaonline.com.au/geoviewer/map/planmaking and allows searches on a registered lot number and/or property address to determine whether and how the QDC applies to the land. Transport Noise Corridors are located under Information Purposes within Transport Infrastructure of the State Planning Policy (SPP) mapping system.</p>

Attachment 3—Reasons for referral agency response

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

The reasons for the SARA decision are:

The proposed development, with conditions, complies with the relevant provisions of State code 1 of the SDAP, in that:

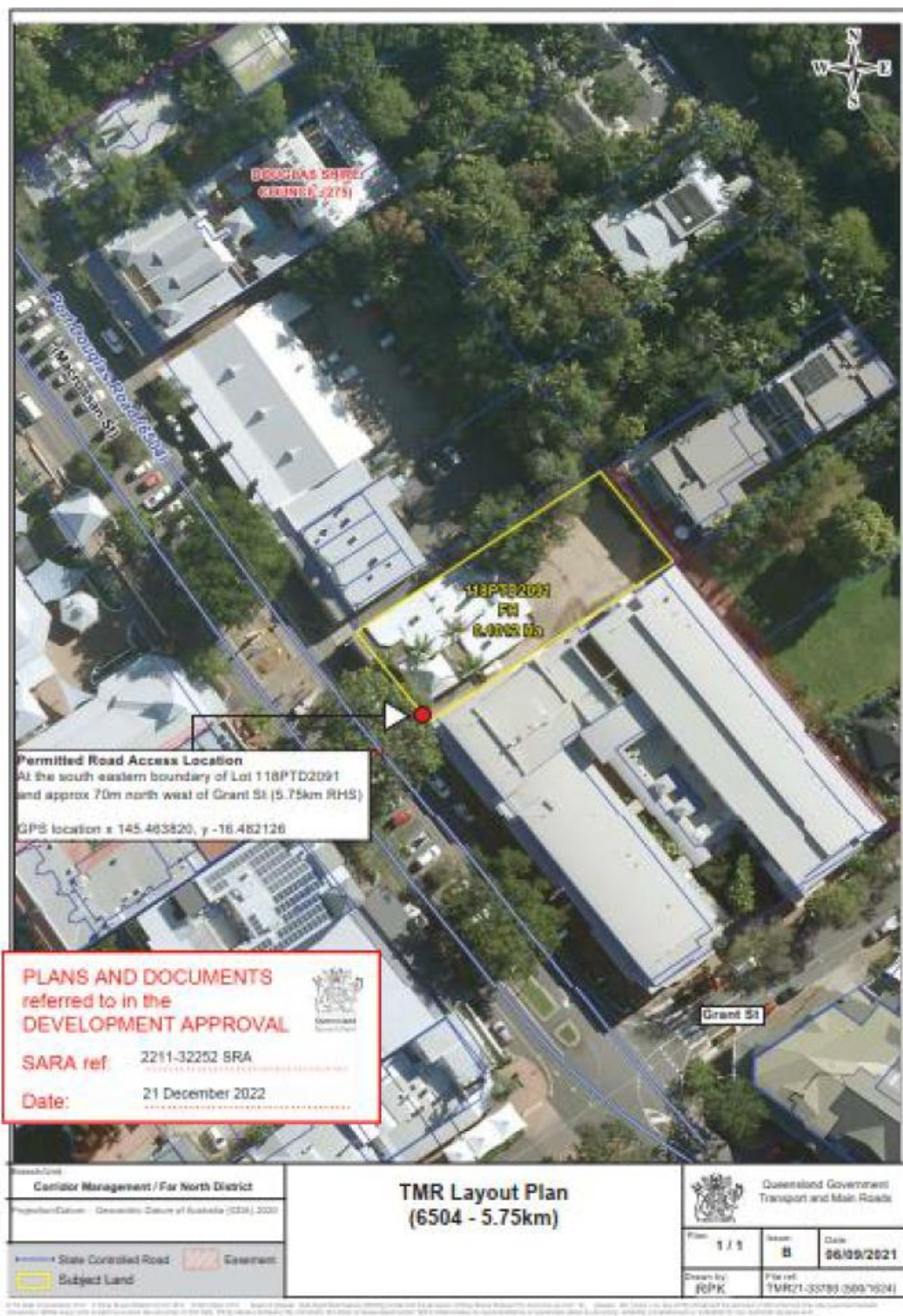
- The proposed development is unlikely to compromise the safety, function, and efficiency of Macrossan Street (Port Douglas Road), a state-controlled road.
- Vehicle access to Macrossan Street is located and constructed in accordance with the appropriate Department of Transport and Main Roads standards.
- The site is fully impervious with the proposed development unlikely to cause additional stormwater impacts to Macrossan Street.
- The multiple dwelling is located, and can be constructed, to minimise noise impacts from vehicles using Macrossan Street.

Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the State Development Assessment Provisions (version 3.0)
- the Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system
- *Human Rights Act 2019*

Attachment 5—Approved plans and specifications

(page left intentionally blank – attached separately)





Balustrade location
as per Condition 1(a)

PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE

SARA ref: 2211-32252 SRA

Date: 21 December 2022

Amended in red by SARA on
21 December 2022

FIRST FLOOR APARTMENTS
SCALE 1:50

RESIDENTIAL DEVELOPMENT
FOR : MACROSSAN STREET TRUST
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24 MACROSSAN STREET, PORT DOUGLAS
DA ISSUE
FIRST FLOOR PLAN

PROJECT NO. GADA12A382
DRAWING NO. DA-04
REVISION NO. 1
DATE 25/11/22



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Reasons for Decision

1. The reasons for this decision are:
 - 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 23 November 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 Centre 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.

Non-Compliance with Assessment Benchmarks

None. Through the conditions of the approval the development complies with the planning scheme and no concerns are raised.

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

Page 94

Current as at 10 June 2022

Authorised by the Parliamentary Counsel

- (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

Current as at 10 June 2022

Page 95

Authorised by the Parliamentary Counsel

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.

Current as at 10 June 2022

Page 217

Authorised by the Parliamentary Counsel

12 January 2023

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

Enquiries: Jenny Elphinstone
Our Ref: MCUC 2022_5179 (Doc ID)
Your Ref: 24 Macrossan Street

Macrossan Street Pty Ltd (Tte)
C/- RPS AAP Consulting Pty Ltd
PO Box 1949
CAIRNS QLD 4870

Email: Patrick.clifton@rpsgroup.com.au

Attention Mr Patrick Clifton

Dear Sir

**Adopted Infrastructure Charge Notice
For Development Application Material Change of Use for Multiple Dwellings and Shops
At 24 Macrossan Street Port Douglas
On Land Described as Lot 118 on PTD2091**

Please find attached the Adopted Infrastructure Charges Notice issued in accordance with section 119 of the *Planning Act 2016*.

The amount in the Adopted Infrastructure Charges Notice has been calculated according to Council's Adopted Infrastructure Charges Resolution.

Please also find attached extracts from the Act regarding the following:

- your right to make representations to Council about the Adopted Infrastructure Charges Notice; and
- your Appeal rights with respect to the Adopted Infrastructure Charges Notice.

Please quote Council's application number: MCUC 2022_5179 in all subsequent correspondence relating to this matter.

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

Yours faithfully



For

Paul Hoyer
Manager Environment & Planning

encl.

- Adopted Infrastructure Charges Notice
- Rights to Make Representations and Appeals Regarding Infrastructure Charges

Adopted Infrastructure Charges Notice

DOUGLAS SHIRE COUNCIL		2018 Douglas Shire Planning Scheme version 1.0 Applications				
ADOPTED INFRASTRUCTURE CHARGES NOTICE						
Macrossan Street Pty Ltd		N/A	0			
DEVELOPERS NAME		ESTATE NAME	STAGE			
24 Macrossan Street		L118 PTD2091	2300			
STREET No. & NAME		LOT & RP No.s	PARCEL No.			
MCUC Shops & Multiple Dwellings		MCUC 2022_5179	6			
DEVELOPMENT TYPE		COUNCIL FILE NO.	VALIDITY PERIOD (year)			
1125390		1				
DSC Reference Doc. No.		VERSION No.				
<div style="border: 2px solid red; padding: 5px; display: inline-block;"> Payment before commencement of use for MCU; and Prior to signing and sealing of survey form for ROL </div>						
Infrastructure Charges as resolved by Council at the Ordinary Meeting held on 23 February 2021 (Came into effect on 1 March 2021)						
Proposed Demand	Charge per Use	\$ Rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
Commercial_retail Shop	\$_per_m²_GFA	168.35	418.4	\$70,437.64		
Residential Multiple_dwelling	\$_per_3_or_more_bedroom_dwelling	24,553.81	2	\$49,107.62		
Total Demand				\$119,545.26		
Credit						
Existing land use						
Commercial retail Shop	\$_per_m²_GFA	168.35	326.42	\$54,952.81		
Total Credit				\$54,952.81		
Required Payment or Credit				TOTAL	\$64,592.45	
Prepared by	J Elphinstone	29-Nov-22	Amount Paid			
Checked by	R Taranto	29-Nov-22	Date Paid			
Date Payable	MCU - prior to the commencement of use			Receipt No.		
Amendments		Date		Cashier		

Note:
The Infrastructure Charges in this Notice are payable in accordance with Sections 119 and 120 of the *Planning Act 2016* as from Council's resolution from the Ordinary Meeting held on 23 February 2021.

Charge rates under the Policy are subject to indexing.
Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.

Charges are payable to: Douglas Shire Council. You can make payment at any of Council's Business Offices or by mail with your cheque or money order to Douglas Shire Council, PO Box 723, Mossman QLD 4873. Cheques must be made payable to Douglas Shire Council and marked 'Not Negotiable.' Acceptance of a cheque is subject to collection of the proceeds. Post dated cheques will not be accepted.

Any enquiries regarding Infrastructure Charges can be directed to the Development & Environment, Douglas Shire Council on 07 4099 9444 or by email on enquiries@douglas.qld.gov.au

Subdivision 5 Changing charges during relevant appeal period

124 Application of this subdivision

This subdivision applies to the recipient of an infrastructure charges notice given by a local government.

125 Representations about infrastructure charges notice

- (1) During the appeal period for the infrastructure charges notice, the recipient may make representations to the local government about the infrastructure charges notice.
- (2) The local government must consider the representations.
- (3) If the local government—
 - (a) agrees with a representation; and
 - (b) decides to change the infrastructure charges notice;the local government must, within 10 business days after making the decision, give a new infrastructure charges notice (a *negotiated notice*) to the recipient.
- (4) The local government may give only 1 negotiated notice.
- (5) A negotiated notice—
 - (a) must be in the same form as the infrastructure charges notice; and
 - (b) must state the nature of the changes; and
 - (c) replaces the infrastructure charges notice.
- (6) If the local government does not agree with any of the representations, the local government must, within 10 business days after making the decision, give a decision notice about the decision to the recipient.
- (7) The appeal period for the infrastructure charges notice starts again when the local government gives the decision notice to the recipient.

126 Suspending relevant appeal period

- (1) If the recipient needs more time to make representations, the recipient may give a notice suspending the relevant appeal period to the local government.
- (2) The recipient may give only 1 notice.
- (3) If the representations are not made within 20 business days after the notice is given, the balance of the relevant appeal period restarts.
- (4) If representations are made within the 20 business days and the recipient gives the local government a notice withdrawing the notice of suspension, the balance of the relevant appeal period restarts the day after the local government receives the notice of withdrawal.

Division 3 Development approval conditions about trunk infrastructure

Subdivision 1 Conditions for necessary trunk infrastructure

127 Application and operation of subdivision

- (1) This subdivision applies if—
 - (a) trunk infrastructure—
 - (i) has not been provided; or
 - (ii) has been provided but is not adequate; and
 - (b) the trunk infrastructure is or will be located on—
 - (i) premises (the *subject premises*) that are the subject of a development application, whether or not the infrastructure is necessary to service the subject premises; or
 - (ii) other premises, but is necessary to service the subject premises.

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.
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- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
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Current as at 10 June 2022

Page 217

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