

7 February 2023



Chief Executive Officer
Douglas Shire Council
64-66 Front Street
MOSSMAN QLD 4873

RE: CHANGE APPLICATION (MINOR CHANGE) PURSUANT TO S78 OF THE *PLANNING ACT 2016*, OVER LAND AT 70 MOWBRAY RIVER ROAD, MOWBRAY, MORE FORMALLY DESCRIBED AS LOT 16 ON SPI92603.

Aspire Town Planning and Project Services act on behalf of Marmax Pty Ltd A.C.N. 050 217 555 (the 'Landowners' and the 'Applicants').

On behalf of the Landowners, please accept the following Change Application (Minor Change), pursuant to Section 78 of the *Planning Act 2016* (the 'Act'), which seeks approval to vary the approved form of development to include new Ancillary Buildings for the purpose of a Games Room and Office.

In support of the Change Application (Minor Change) the following documents are attached:

- Certificate of Title (Attachment 1);
- Duly completed Change Application Form – Planning Act Form 5 (Attachment 2);
- Owners Consent Form (Attachment 3); and
- Proposed Site, Floor and Elevation Plans (Attachment 4).

We respectfully request Douglas Shire Council issue an Invoice to facilitate electronic payment of the relevant Application Fee of \$465.00 directly by the Applicant.

Site Description

The subject property is located at 70 Mowbray River Road, Mowbray, is more formally described as Lot 16 on SPI92603 and commonly known as the Big 4 Port Douglas Glengarry Holiday Park, see Image 1 below. The property is located 7km from Port Douglas CBD and approximately 600m along Mowbray River Road when

12 Lloyd Road MIALLO, QLD 4873
PO BOX 1040, MOSSMAN QLD 4873
M. 0418826560
E. admin@aspireqld.com
ABN. 79 851 193 691



Image 1: Subject Property (source: QLDGlobe 2023)

Approval Background

Aspire Town Planning and Project Services are aware there are two historical approvals which remain relevant to the current use of the site. On the 9 November 1988 the Douglas Shire Council granted the Town Planning Consent #491 approving the use of the site for a Caravan Park, Cabins and Ancillary Facilities. On the 27 May 1998 Douglas Shire Council granted Town Planning Consent #909 for the Extension to Camping Ground (Caravan, Tent and Cabin Sites).

A copy of the above Town Planning Consents have been obtained from Douglas Shire Council and reviewed in the context of the proposed Change Application (Minor Change). It is noted that the proposed changes do not conflict either of the existing Town Planning Consents.

The proposed Change Application (Minor Change) seeks to vary the above described Town Planning Consents to facilitate the proposed new Ancillary Buildings for the purpose of a Games Room and Office.

Proposed Minor Change

This Change Application (Minor Change) includes plans to extend the existing 2 storey Residence/Office to provide for an ancillary, ground level Office and Games Room, refer to the Site, Floor and Elevation Plans included under Attachment 4.

The proposed Office is an open plan 6m x 6m space (36m²) with external personal access door and windows for light and ventilation. The proposed Office merely provides additional private space away from the Residence and Reception to support operational needs. The existing Reception and Office space will continue to be used. The proposed changes will not alter the current function of the site including the way guests access the site and check in and out.

The proposed Games Room is attached to the Office and is also an open design comprising a 6m x 12m (72m²) space. Roller door access is provided either end of the building and louver windows are provided along the western wall for light and ventilation. A personal access door is also provided on each long side of the building.

The proposed extension compliments the existing 2 storey Residence/Office in terms of building design, see Image 2 below.

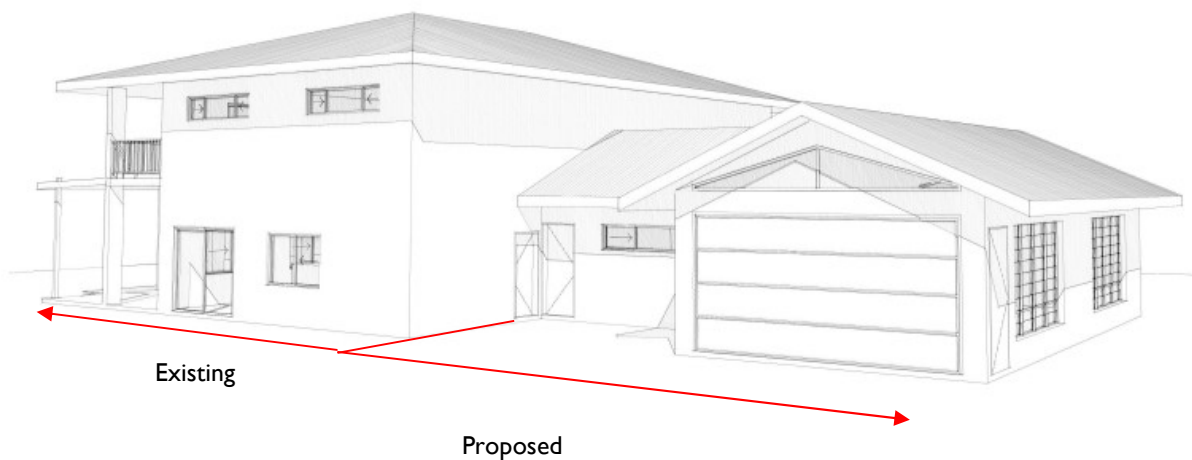


Image 2: Proposal Plan Extract (source: Danny Vos Architect)

Planning Context

The property is located within the Rural Zone of the 2018 Douglas Shire Council Planning Scheme and the land use is defined as a Tourist Park.

The following Overlays relate to the property:

- Acid Sulphate Soils (<5m AHD; 5-20m AHD)
-

- Bushfire Hazard (Potential Impact Buffer; Very High Potential Bushfire Intensity; High Potential Bushfire Intensity)
- Flood and Storm Tide Hazard (Medium Storm Tide Hazard; Floodplain Assessment Overlay)
- Hillslopes (Area Affected by Hillslopes)
- Landscape Values (High Landscape Values; Medium Landscape Values)
- Landslide Hazard (Landslide Hazard High and Medium Risk)
- Natural Areas (MSES Regulated Vegetation Intersecting with a Watercourse; MSES Regulated Vegetation)
- Transport Network (Iconic Recreational Route; Major Rural Road)

A Tourist Park within the Rural Zone is Impact Assessable.

Given the nature of the proposed Change Application (Minor Change), a full documented assessment against all of the Planning Scheme codes is not provided within this application. However, following summary of assessment demonstrates compliance:

Table 1: Code Assessment Summary

Code	Assessment Summary
Rural Zone	<p>Complies – The proposed Ancillary Buildings are sufficiently setback within the property and attached behind the existing Residence/Office. The proposed Ancillary Buildings are single storey with a pitched roof below the maximum building height of 8.5m.</p> <p>The building has been designed to compliment the existing Residence/Office and will be finished in similar surfaces and compatible colours.</p> <p>The proposed use is ancillary to the current approved use, which by definition under the Planning Scheme is a Tourist Park. It is noted that a Tourist Park is not identified as an Inconsistent Use within the Rural Zone.</p>
Acid Sulfate Soils	Complies – the location of the proposed Ancillary Buildings is within the 5-20m AHD category. It is submitted that only minor earthworks will be required to prepare the site for building works. Given the minor nature of these works, it is not expected that the proposed development will disturb potential or actual acid sulfate soils.
Bushfire Hazard	Complies – the location of the proposed Ancillary Buildings is within the Potential Impact Buffer category. The proposed development provides ancillary office and covered recreational spaces only. The proposed development does not exacerbate existing risk to people or property, nor does it hinder emergency vehicle access. The site is serviced by a number of internal roads which buffer the proposed Ancillary Buildings from identified hazard areas.
Flood and Storm Tide	May be conditioned to comply – the location of the proposed Ancillary Buildings is within the Floodplain Assessment category, however it is positioned on the periphery of the mapped area. It is expected that Council's requirements in terms of finished floor height may be appropriately conditioned.
Hillslopes	Not applicable – the location of the proposed Ancillary Buildings is outside the mapped hazard area.
Landscape Values	Not applicable – the location of the proposed Ancillary Buildings is outside the mapped area.

Potential Landslide	Not applicable – the location of the proposed Ancillary Buildings is outside the mapped area.
Natural Areas	Not applicable – the location of the proposed Ancillary Buildings is outside the mapped area.
Transport Network	Complies – the proposed development will not impact on the road network function.
Access, Parking and Services	Complies – the proposed Ancillary Buildings do not impact on the current parking and access arrangement, nor do they generate an increase in onsite parking demand.
Environmental Performance	Complies – any issues noted by Council may be appropriately conditioned.
Filling and Excavation	Complies – only minor site preparation works are required in preparation for building works. The site is relatively level.
Infrastructure Works	Complies – the proposed Ancillary Buildings require only connection to existing electrical supply.
Landscaping	Not applicable – no specific additional landscaping is proposed.

Minor Change Test

By way of definition under the Act, a ‘Minor Change’, means a change that:

“...

(b) for a development approval—

(i) would not result in substantially different development; and

(ii) if a development application for the development, including the change, were made when the change application is made would not cause—

(A) the inclusion of prohibited development in the application; or

(B) referral to a referral agency, other than to the chief executive, if there were no referral agencies for the development application; or

(C) referral to extra referral agencies, other than to the chief executive; or

(D) a referral agency, in assessing the application under section 55(2), to assess the application against, or have regard to, a matter, other than a matter the referral agency must have assessed the application against, or had regard to, when the application was made; or

(E) public notification if public notification was not required for the development application.”

Assessment Comments

In support of the opinion that the proposed changes qualify as a Minor Change, it is submitted that the:

- The proposed Change would not cause prohibited development;
-

-
- If a development application were made, including the proposed Change, it would not trigger referral to a referral agency other than the Chief Executive;
 - The proposed Change does not trigger additional referral agencies other than the Chief Executive; and
 - Public Notification for the original Development Application was required, and would be required under the current Planning Scheme if the application was re-made at today's date.

Assessment as to whether the proposed changes trigger 'Substantially Different Development' is assessed in the following section of this application.

Substantially Different Development Test

The Development Assessment Rules V1.3 offer guidance in relation to assessing whether a proposed Change results in Substantially Different Development:

"A change may be considered to result in a substantially different development if any of the following apply to the proposed change:

- (a) involves a new use; or*
- (b) results in the application applying to a new parcel of land; or*
- (c) dramatically changes the built form in terms of scale, bulk and appearance; or*
- (d) changes the ability of the proposed development to operate as intended; or*
- (e) removes a component that is integral to the operation of the development; or*
- (f) significantly impacts on traffic flow and the transport network, such as increasing traffic to the site; or*
- (g) introduces new impacts or increase the severity of known impacts; or*
- (h) removes an incentive or offset component that would have balanced a negative impact of the development; or*
- (i) impacts on infrastructure provisions."*

Assessment Comments

It is submitted that the proposed Change will not result in Substantially Different Development, in particular it is noted that:

- The Change does not involve a new use. The Change involves an Ancillary Office and Recreational Buildings to support the function and operation of the current approved use;
 - The Change does not introduce a new parcel of land;
 - Although the Change results in a marginal increase in building footprint, overall the proposed Change is inkeeping in scale and design with the existing Residence/Office;
 - The Change does not affect the ability of the development to operate as intended, rather the Change enhances the ability to operate and improves visitor experience;
-

-
- The Change does not remove an integral component of the development;
 - The Change does not impact traffic flow or the transport network;
 - The Change does not introduce new impacts or increase severity of known impacts;
 - The Change does not remove an incentive or offset; and
- The Change will not impact on infrastructure provisions.

Assessing Change Applications for Minor Change

In consideration of the above tests, it is submitted that the proposed Change is a Minor Change.

In assessing Change Applications for Minor Change, s82 of the Act prescribes:

“... the responsible entity must consider—

(a) the information the applicant included with the application; and

(b) if the responsible entity is the assessment manager—any properly made submissions about the development application or another change application that was approved; and

(c) any pre-request response notice or response notice given in relation to the change application; and

(d) if the responsible entity is, under section 78A(3), the Minister—all matters the Minister would or may assess against or have regard to, if the change application were a development application called in by the Minister; and

(da) if paragraph (d) does not apply—all matters the responsible entity would or may assess against or have regard to, if the change application were a development application; and

(e) another matter that the responsible entity considers relevant.”


In relation to the above underlined relevant sections, it is noted that an assessment has been carried out by Aspire Town Planning and Project Services against the relevant Planning Scheme Codes. Given the nature of the proposed Change, a full documented assessment is not included within this application, rather a summary of the assessment is provided within Table I above and demonstrates compliance with the Planning Scheme.

Conclusion

It is demonstrated that the proposed Change satisfies the test for a Minor Change and does not result in Substantially Different Development. The proposed Change remains in keeping with the current approved use for the land and generally complies with the relevant assessment benchmarks under the 2018 Douglas Shire Planning Scheme. Any matters of non-compliance identified by Council may be appropriately conditioned.

Thank you for your time in considering this application and if you wish to inspect the property or have any further queries, please contact the undersigned.

Regards,

A handwritten signature in black ink, consisting of a large loop followed by a series of horizontal strokes.

Daniel Favier
Senior Town Planner
ASPIRE Town Planning and Project Services

Attachment I:

Certificate of Title

Queensland Titles Registry Pty Ltd
ABN 23 648 568 101

Title Reference:	50652140	Search Date:	27/01/2023 09:35
Date Title Created:	26/02/2007	Request No:	43410059
Previous Title:	50112998, 50112999		

ESTATE AND LAND

Estate in Fee Simple

LOT 16 SURVEY PLAN 192603

Local Government: DOUGLAS

REGISTERED OWNER

Dealing No: 713152914 31/03/2010

MARMAX PTY LTD A.C.N. 050 217 555
UNDER INSTRUMENT NO. 713152914

TRUSTEE

EASEMENTS, ENCUMBRANCES AND INTERESTS

1. Rights and interests reserved to the Crown by
Deed of Grant No. 10379040 (POR 17)
Deed of Grant No. 10379050 (SUBN POR 18)
Deed of Grant No. 10439241 (POR 16)
2. MORTGAGE No 715915215 25/07/2014 at 11:28
AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED A.B.N. 11
005 357 522

ADMINISTRATIVE ADVICES

Dealing	Type	Lodgement Date	Status
709660169	ACCESS RIGHT SUGAR INDUSTRY ACT 1999	07/06/2006 08:24	CURRENT

UNREGISTERED DEALINGS

NIL

Caution - Charges do not necessarily appear in order of priority

** End of Current Title Search **

Attachment 2:

**Duly Completed Change Application Form – Planning
Act Form 5**

Change application form

Planning Act Form 5 (version 1.2 effective 7 February 2020) made under Section 282 of the Planning Act 2016.

This form is to be used for a change application made under section 78 of the *Planning Act 2016*. It is important when making a change application to be aware of whether the application is for a minor change that will be assessed under section 81 of the *Planning Act 2016* or for an other change that will be assessed under section 82 of the *Planning Act 2016*.

An applicant must complete all parts of this form, and provide any supporting information that the form identifies as being required to accompany the change application, unless stated otherwise. Additional pages may be attached if there is insufficient space on the form to complete any part.

Note: All terms used in this form have the meaning given under the *Planning Act 2016*, the *Planning Regulation 2017*, or the *Development Assessment Rules (DA Rules)*.

PART 1 – APPLICANT DETAILS

1) Applicant details	
Applicant name(s) (individual or company full name)	Marmax Pty Ltd A.C.N 050 217 555
Contact name (only applicable for companies)	c/- Daniel Favier (Aspire Town Planning and Project Services)
Postal address (P.O. Box or street address)	PO Box 1040
Suburb	Mossman
State	QLD
Postcode	4873
Country	Australia
Email address (non-mandatory)	admin@aspireqld.com
Mobile number (non-mandatory)	0418826560
Applicant's reference number(s) (if applicable)	2022-11-31 – Big 4 Glengarry – 70 Mowbray River Road, Mowbray

2) Owner's consent - Is written consent of the owner required for this change application?	
Note: Section 79(1A) of the <i>Planning Act 2016</i> states the requirements in relation to owner's consent.	
<input checked="" type="checkbox"/> Yes – the written consent of the owner(s) is attached to this change application	
<input type="checkbox"/> No	

PART 2 – LOCATION DETAILS

3) Location of the premises (complete 3.1) or 3.2), and 3.3) as applicable)				
3.1) Street address and lot on plan				
<input checked="" type="checkbox"/> Street address AND lot on plan (all lots must be listed), or				
<input type="checkbox"/> Street address AND lot on plan for an adjoining or adjacent property of the premises (appropriate for development in water but adjoining or adjacent to land e.g. jetty, pontoon. All lots must be listed).				
a)	Unit No.	Street No.	Street Name and Type	Suburb
		70	Mowbray River Road	Mowbray
	Postcode	Lot No.	Plan Type and Number (e.g. RP, SP)	Local Government Area(s)
	4877	16	SP192603	Douglas Shire
b)	Unit No.	Street No.	Street Name and Type	Suburb
	Postcode	Lot No.	Plan Type and Number (e.g. RP, SP)	Local Government Area(s)

3.2) Coordinates of premises <i>(appropriate for development in remote areas, over part of a lot or in water not adjoining or adjacent to land e.g. channel dredging in Moreton Bay)</i> Note: Place each set of coordinates in a separate row.				
<input type="checkbox"/> Coordinates of premises by longitude and latitude				
Longitude(s)	Latitude(s)	Datum	Local Government Area(s) <i>(if applicable)</i>	
		<input type="checkbox"/> WGS84 <input type="checkbox"/> GDA94 <input type="checkbox"/> Other:		
<input type="checkbox"/> Coordinates of premises by easting and northing				
Easting(s)	Northing(s)	Zone Ref.	Datum	Local Government Area(s) <i>(if applicable)</i>
		<input type="checkbox"/> 54 <input type="checkbox"/> 55 <input type="checkbox"/> 56	<input type="checkbox"/> WGS84 <input type="checkbox"/> GDA94 <input type="checkbox"/> Other:	
3.3) Additional premises				
<input type="checkbox"/> Additional premises are relevant to the original development approval and the details of these premises have been attached in a schedule to this application <input checked="" type="checkbox"/> Not required				

PART 3 – RESPONSIBLE ENTITY DETAILS

4) Identify the responsible entity that will be assessing this change application Note: see section 78(3) of the Planning Act 2016
Douglas Shire Council

PART 4 – CHANGE DETAILS

5) Provide details of the existing development approval subject to this change application			
Approval type	Reference number	Date issued	Assessment manager/approval entity
<input checked="" type="checkbox"/> Development permit <input type="checkbox"/> Preliminary approval	Town Planning Consent TPC 491	9 November 1988	Douglas Shire Council
<input checked="" type="checkbox"/> Development permit <input type="checkbox"/> Preliminary approval	Town Planning Consent TPC 909	16 April 1996	Douglas Shire Council
6) Type of change proposed			
6.1) Provide a brief description of the changes proposed to the development approval <i>(e.g. changing a development approval for a five unit apartment building to provide for a six unit apartment building)</i> :			
Ancillary Office and Games Room associated with the Approved Development.			
6.2) What type of change does this application propose?			
<input checked="" type="checkbox"/> Minor change application – proceed to Part 5 <input type="checkbox"/> Other change application – proceed to Part 6			

PART 5 – MINOR CHANGE APPLICATION REQUIREMENTS

7) Are there any affected entities for this change application		
<input checked="" type="checkbox"/> No – proceed to Part 7 <input type="checkbox"/> Yes – list all affected entities below and proceed to Part 7 Note: section 80(1) of the Planning Act 2016 states that the person making the change application must give notice of the proposal and the details of the change to each affected entity as identified in section 80(2) of the Planning Act 2016.		
Affected entity	Pre-request response provided? (where a pre-request response notice for the application has been given, a copy of the notice must accompany this change application)	Date notice given (where no pre-request response provided)
	<input type="checkbox"/> No <input type="checkbox"/> Yes – pre-request response is attached to this change application	
	<input type="checkbox"/> No <input type="checkbox"/> Yes – pre-request response is attached to this change application	
	<input type="checkbox"/> No <input type="checkbox"/> Yes – pre-request response is attached to this change application	

PART 6 – OTHER CHANGE APPLICATION REQUIREMENTS

Note: To complete this part it will be necessary for you to complete parts of DA Form 1 – Development application details and in some instances parts of DA Form 2 – Building work details, as mentioned below. These forms are available at <https://planning.dsdmip.qld.gov.au>.

8) Location details - Are there any additional premises included in this change application that were not part of the original development approval?
<input type="checkbox"/> No <input type="checkbox"/> Yes

9) Development details
9.1) Is there any change to the type of development, approval type, or level of assessment in this change application? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes – the completed Sections 1 and 2 of Part 3 (Development details) of DA Form 1 – Development application details as these sections relate to the new or changed aspects of development are provided with this application.
9.2) Does the change application involve building work? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes – the completed Part 5 (Building work details) of DA Form 2 – Building work details as it relates to the change application is provided with this application.

10) Referral details – Does the change application require referral for any referral requirements?
Note: The application must be referred to each referral agency triggered by the change application as if the change application was the original development application including the proposed change. <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes – the completed Part 5 (Referral details) of DA Form 1 – Development application details as it relates to the change application is provided with this application. Where referral is required for matters relating to building work the Referral checklist for building work is also completed.

11) Information request under Part 3 of the DA Rules
<input checked="" type="checkbox"/> I agree to receive an information request if determined necessary for this change application <input type="checkbox"/> I do not agree to accept an information request for this change application Note: By not agreeing to accept an information request I, the applicant, acknowledge:

- that this change application will be assessed and decided based on the information provided when making this change application and the assessment manager and any referral agencies relevant to the change application are not obligated under the DA Rules to accept any additional information provided by the applicant for the change application unless agreed to by the relevant parties
- Part 3 of the DA Rules will still apply if the application is an application listed under section 11.3 of the DA Rules.

Further advice about information requests is contained in the [DA Forms Guide: Forms 1 and 2](#).

12) Further details

- ☒ Part 7 of *DA Form 1 – Development application details* is completed as if the change application was a development application and is provided with this application.

PART 7 – CHECKLIST AND APPLICANT DECLARATION

13) Change application checklist

I have identified the:

- responsible entity in 4); and
- for a minor change, any affected entities; and ☒ Yes
- for an other change all relevant referral requirement(s) in 10)

Note: See the *Planning Regulation 2017* for referral requirements

For an other change application, the relevant sections of [DA Form 1 – Development application details](#) have been completed and is attached to this application ☐ Yes ☒ Not applicable

For an other change application, where building work is associated with the change application, the relevant sections of [DA Form 2 – Building work details](#) have been completed and is attached to this application ☐ Yes ☒ Not applicable

Supporting information addressing any applicable assessment benchmarks is attached to this application ☒ Yes

Note: This includes any templates provided under 23.6 and 23.7 of *DA Form 1 – Development application details* that are relevant as a result of the change application, a planning report and any technical reports required by the relevant categorising instrument(s) (e.g. the local government planning scheme, State Planning Policy, State Development Assessment Provisions). For further information, see [DA Forms Guide: Planning report template](#).

Relevant plans of the development are attached to this development application ☒ Yes

Note: Relevant plans are required to be submitted for all relevant aspects of this change application. For further information, see [DA Forms Guide: Relevant plans](#).

14) Applicant declaration

- ☒ By making this change application, I declare that all information in this change application is true and correct.
- ☒ Where an email address is provided in Part 1 of this form, I consent to receive future electronic communications from the responsible entity and any relevant affected entity or referral agency for the change application where written information is required or permitted pursuant to sections 11 and 12 of the *Electronic Transactions Act 2001*.

Note: It is unlawful to intentionally provide false or misleading information.

Privacy – Personal information collected in this form will be used by the responsible entity and/or chosen assessment manager, any relevant affected entity or referral agency and/or building certifier (including any professional advisers which may be engaged by those entities) while processing, assessing and deciding the change application.

All information relating to this change application may be available for inspection and purchase, and/or published on the assessment manager's and/or referral agency's website.

Personal information will not be disclosed for a purpose unrelated to the *Planning Act 2016*, *Planning Regulation 2017* and the DA Rules except where:

- such disclosure is in accordance with the provisions about public access to documents contained in the *Planning Act 2016* and the *Planning Regulation 2017*, and the access rules made under the *Planning Act 2016* and *Planning Regulation 2017*; or
- required by other legislation (including the *Right to Information Act 2009*); or
- otherwise required by law.

This information may be stored in relevant databases. The information collected will be retained as required by the *Public Records Act 2002*.

PART 8 – FOR COMPLETION OF THE ASSESSMENT MANAGER – FOR OFFICE USE ONLY

Date received: Reference number(s):

QLeave notification and payment

Note: For completion by assessment manager if applicable

Description of the work			
QLeave project number			
Amount paid (\$)		Date paid (dd/mm/yy)	
Date receipted form sighted by assessment manager			
Name of officer who sighted the form			

Attachment 3:

Owners Consent Form

**Company owner's consent to the making of a development application
under the *Planning Act 2016***

I, Max Bernard Brady

Director of the company mentioned below.

and I, Margaret Josephine Brady

Secretary of the company mentioned below

Of

Marmax Pty Ltd A.C.N. 050 217 555

the company being the owner of the premises identified as follows:

70 Mowbray River Road, Mowbray and more formally described as Lot 16 on SP192603

consent to the making of a development application under the *Planning Act 2016* by:

Daniel Favier of Aspire Town Planning and Project Services

On the premises described above for:

Change Application (Minor Change)

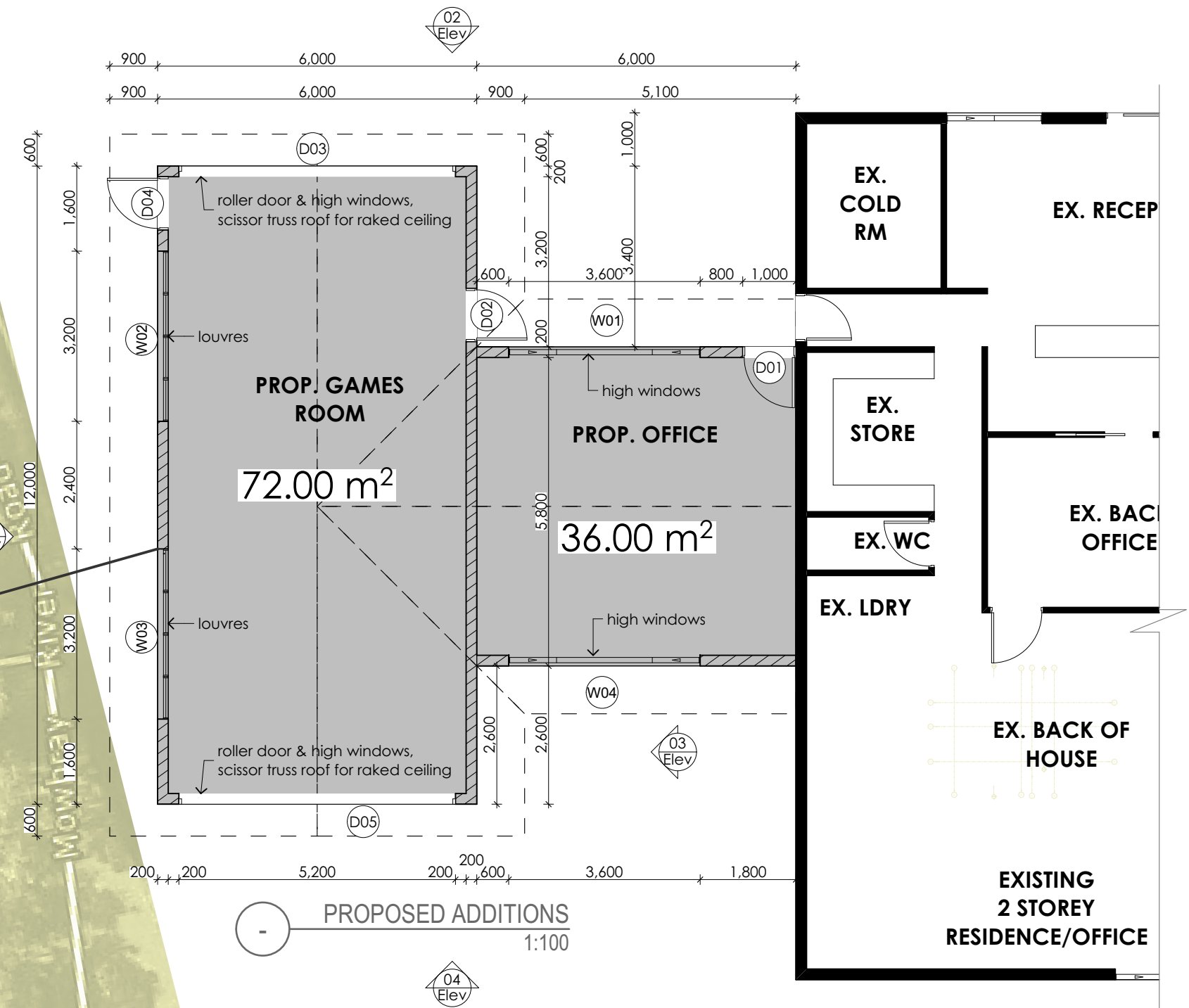
Company Name and ACN: **Marmax Pty Ltd A.C.N. 050 217 555**

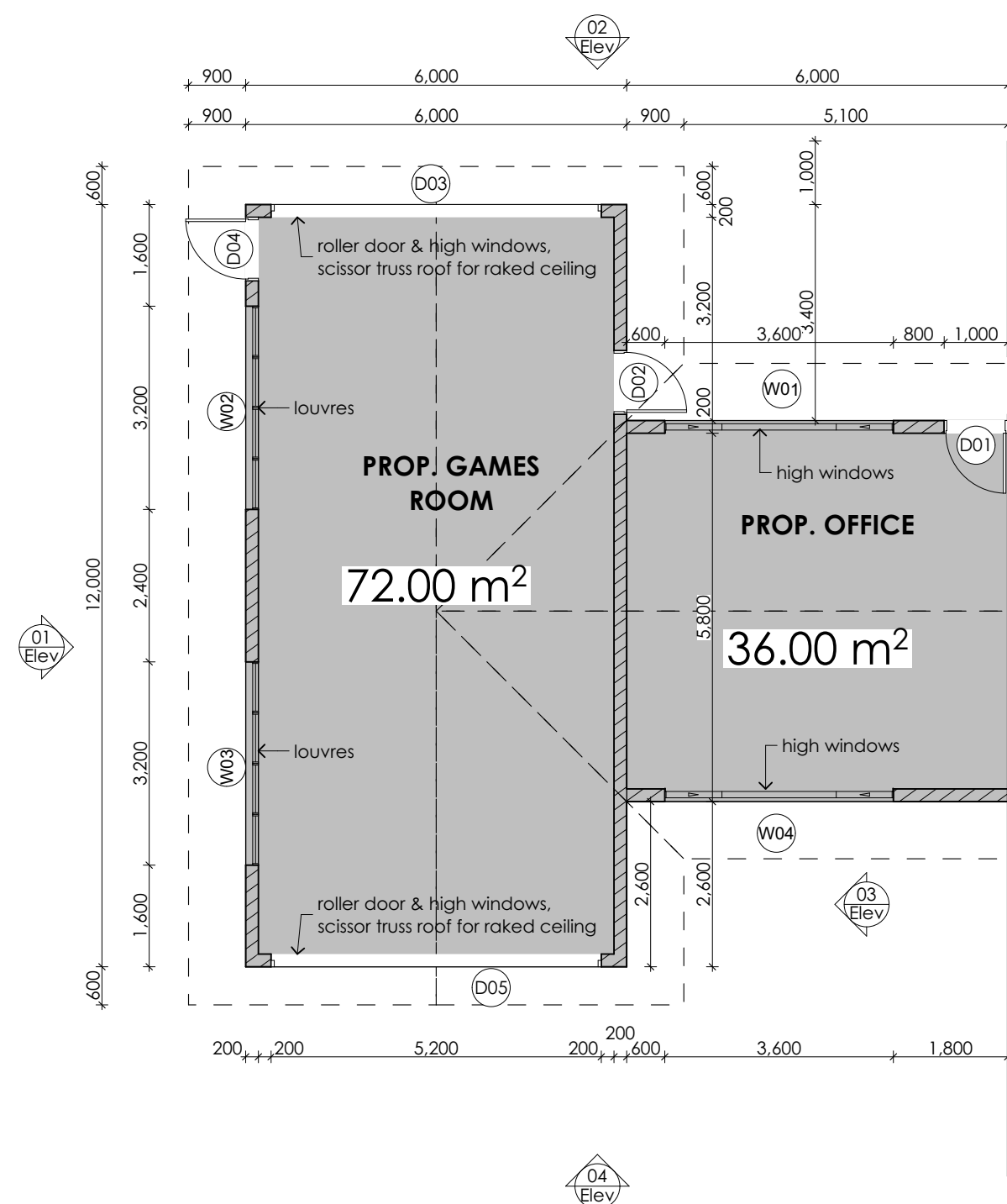
.....
Signature of Director
31/1/2023
.....
Date

.....
Signature of Director/Secretary
31/1/2023
.....
Date

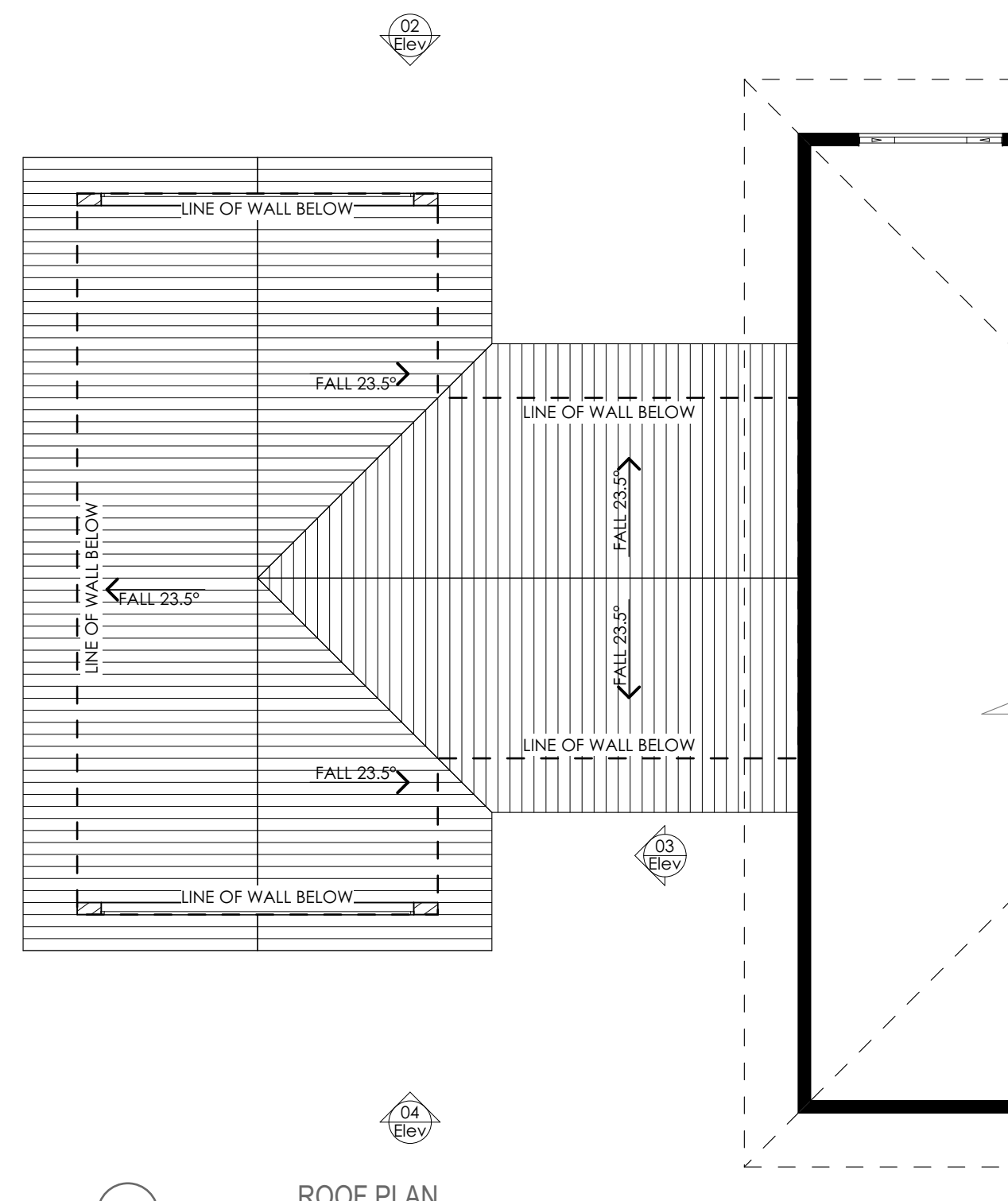
Attachment 4:

Proposed Site, Floor and Elevation Plans





GRD FLOOR PLAN
1:100



ROOF PLAN
1:100

