



Town Planning and Project Services

26 June 2023

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

Lodged via email: enquiries@douglas.qld.gov.au

RE: CHANGE APPLICATION (MINOR CHANGE) PURSUANT TO S78 OF THE PLANNING ACT 2016, OVER LAND AT 20 THERESA DRIVE, MOSSMAN, MORE FORMALLY DESCRIBED AS LOT 10 ON RP895020

Council ref: MCUC 2023_5300/1

Aspire Town Planning and Project Services act on behalf of GKL Custodian Pty Ltd 5 (the 'Landowner' and the 'Applicant').

On behalf of the Applicant, please accept the following Change Application (Minor Change), pursuant to Section 78 of the *Planning Act 2016* (the 'Act'), which seeks approval to essentially alternate the approved shed layout and Caretakers Accommodation locations.

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);
- Proposed Site, Floor and Elevation Plans (Attachment 4); and
- Original Decision Notice (Attachment 5).

It is calculated that the relevant Application Fee under the Fees and Charges Schedule 2022/23 is \$465.00. We respectfully request Council issue an Invoice to facilitate payment of the relevant fee directly by the Applicant.

Background

A Development Permit for a Material Change of Use (Low Impact Industry and Caretakers Accommodation) was issued by Douglas Shire Council on the 19 April 2023. Since the Decision Notice was issued the Applicant has

Aspire Town Planning and Project Services
PO Box 1040, Mossman QLD 4873
M. 0418826560
E. admin@aspireqld.com
W. www.aspireqld.com
ABN. 79 851 193 691

considered the proposed layout and has made some minor changes including mirroring the Sheds and changing the location of the Caretaker's Accommodation to above Shed 2.

Proposed Minor Change

The following table describes the main building and site elements and the difference between the Approved Design and the Proposed Changed Design:

| | Approved Design | Proposed Changed Design |
|-------------------------------------|--|--|
| Shed 1 | Area: 180sqm Caretakers Accommodation located above | Area: 174sqm |
| Shed 2 | Area: 165sqm | Area: 180sqm Caretakers Accommodation located above |
| Total Building Area | 345sqm | 354sqm |
| Onsite Parking | 5 Spaces | 6 Spaces |
| Front Boundary Setback | No change | |
| South Eastern Side Boundary Setback | 3.0m | 70mm |
| Rear Boundary Setback | No change | |
| North Western Side Boundary Setback | 0.67m | 3.0m |
| Landscaping | No change | |
| Waste Storage | Not shown | Storage area illustrated within the Loading Area / Parking |
| Caretakers Accommodation | No change in area or number of rooms | |
| Building Height | No change | |

Planning Context

The subject site remains within the Industry Zone under the Douglas Shire Planning Scheme 2018 v1.0 (the 'Planning Scheme'). The Planning Scheme has not been revised in the time since the original Decision Notice was granted.

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 position 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 not required, and would not 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 included 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 proposed change relates to the original approved use under the Douglas Shire Planning Scheme 2018 v1.0;
- The Change does not introduce a new parcel of land;
- The proposed change includes mirroring of the Shed positions and shifting the entire layout north-east so the Shed 1 and parking are located virtually on the side boundary. A new retaining is proposed along this boundary. Under the proposed changes the Caretaker's Accommodation is also moved to be located above Shed 2. Overall, the building bulk and appearance remains consistent with that originally approved;
- The Change does not affect the ability of the development to operate as intended;
- 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.”

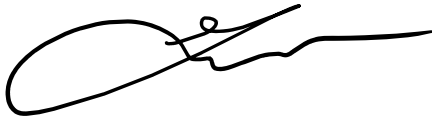
The proposed changed design has been assessed against the relevant code provisions of the Planning Scheme and it is submitted that the proposal does not give rise to any additional matters of non-compliance. A detailed assessment is not included within this submission. It is considered that the existing conditions of approval remain relevant to the changed design and that no new or changed conditions are necessary.

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.

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,



Daniel Favier
Senior Town Planner
ASPIRE Town Planning and Project Services



ASPIRE

Town Planning and Project Services

Attachment I:

Certificate of Title

Queensland Titles Registry Pty Ltd
ABN 23 648 568 101

| | | | |
|----------------------------|-----------------|---------------------|------------------|
| Title Reference: | 50108839 | Search Date: | 15/02/2023 12:42 |
| Date Title Created: | 15/01/1996 | Request No: | 43586539 |
| Previous Title: | 21464177 | | |

ESTATE AND LAND

Estate in Fee Simple

LOT 10 REGISTERED PLAN 895020
Local Government: DOUGLAS

REGISTERED OWNER

Dealing No: 721415727 18/01/2022
GKL CUSTODIANS PTY LTD A.C.N. 625 972 527

EASEMENTS, ENCUMBRANCES AND INTERESTS

1. Rights and interests reserved to the Crown by
Deed of Grant No. 20122206 (POR 135)
Deed of Grant No. 20122207 (POR 135)
2. EASEMENT IN GROSS No 701075045 20/12/1995 at 15:02
burdening the land to
DOUGLAS SHIRE COUNCIL
over
EASEMENT H ON RP 895020

ADMINISTRATIVE ADVICES

NIL

UNREGISTERED DEALINGS

NIL

Caution - Charges do not necessarily appear in order of priority

** End of Current Title Search **



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Town Planning and Project Services

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) | GKL Custodians Pty Ltd |
| 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) | 2022-12-33 – Lawrence – 20 Theresa Drive, Mossman |

| 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 |
| | | 20 | Theresa Drive | Mossman |
| | Postcode | Lot No. | Plan Type and Number (e.g. RP, SP) | Local Government Area(s) |
| | 4873 | 10 | RP895020 | 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) |
| | | | | |



**Queensland
Government**

3.2) Coordinates of premises (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)

Note: Place each set of coordinates in a separate row.

☐ Coordinates of premises by longitude and latitude

| Longitude(s) | Latitude(s) | Datum | Local Government Area(s) (if applicable) |
|--------------|-------------|---|--|
| | | <input type="checkbox"/> WGS84 <input type="checkbox"/> GDA94 <input type="checkbox"/> Other: | |

☐ Coordinates of premises by easting and northing

| Easting(s) | Northing(s) | Zone Ref. | Datum | Local Government Area(s) (if applicable) |
|------------|-------------|---|---|--|
| | | <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

☐ Additional premises are relevant to the original development approval and the details of these premises have been attached in a schedule to this application

☒ 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 | MCUC 2023_5300/1 (1152639) | 19 April 2023 | Douglas Shire Council |
| <input type="checkbox"/> Development permit <input type="checkbox"/> Preliminary approval | | | |

6) Type of change proposed

6.1) Provide a brief description of the changes proposed to the development approval (e.g. changing a development approval for a five unit apartment building to provide for a six unit apartment building):

Change to the Shed layout and location of the Caretakers Accommodation.

6.2) What type of change does this application propose?

☒ Minor change application – proceed to Part 5

☐ 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 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 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 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 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 | | | |



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Town Planning and Project Services

Attachment 3:

Owner Consent Form

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

I, **GRAEME LAWRENCE**

Director of the company mentioned below.

and I,

Secretary of the company mentioned below

Of

GKL Custodians Pty Ltd A.C.N. 625 972 527

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

20 Theresa Drive, Mossman and more formally described as Lot 10 on RP895020

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:

**Development Application for a Material Change of Use (Industry Activity and Caretaker's
Accommodation)**

Company Name and ACN: **GKL Custodians Pty Ltd A.C.N. 625 972 527**



Signature of Director

16.2.2023

Date

Signature of Director/Secretary

Date

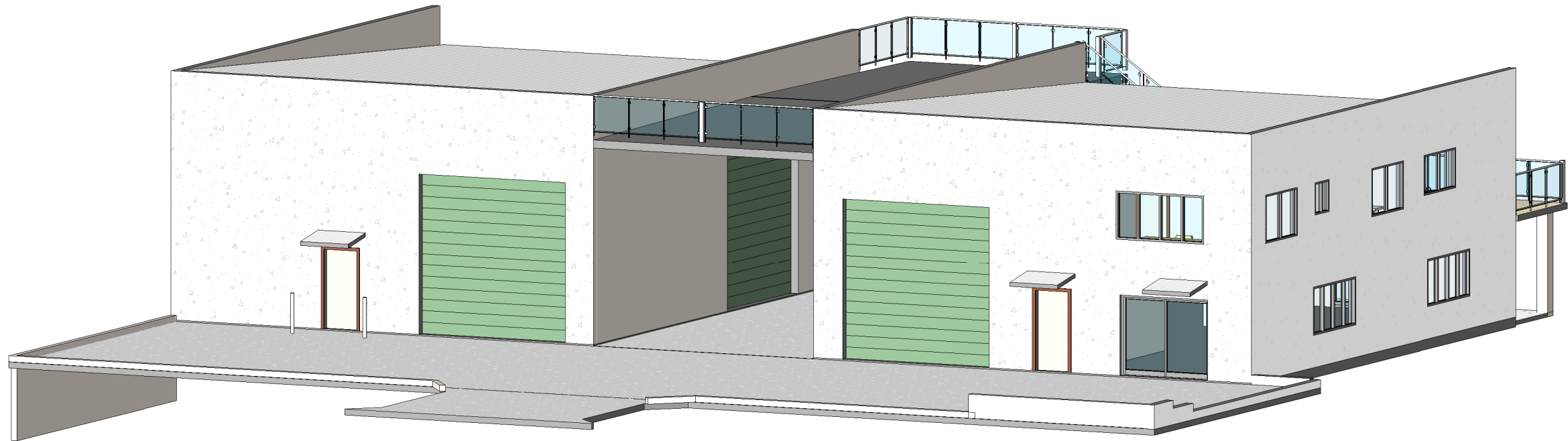


ASPIRE

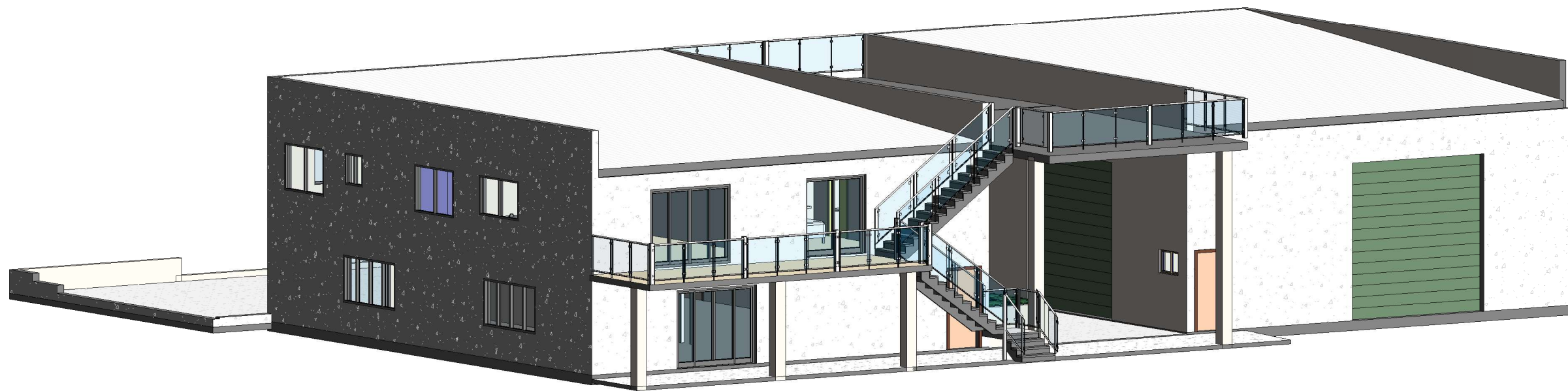
Town Planning and Project Services

Attachment 4:

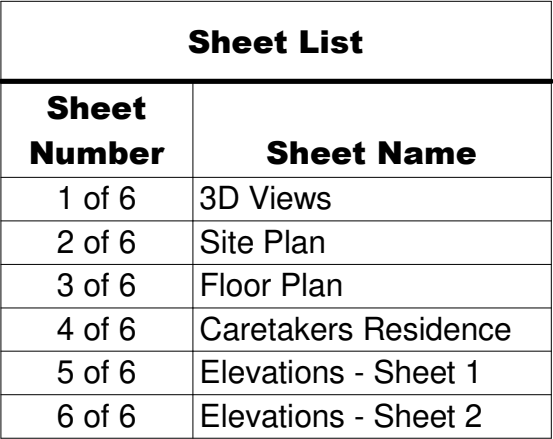
Proposed Site, Floor and Elevation Plans



1 Front Left



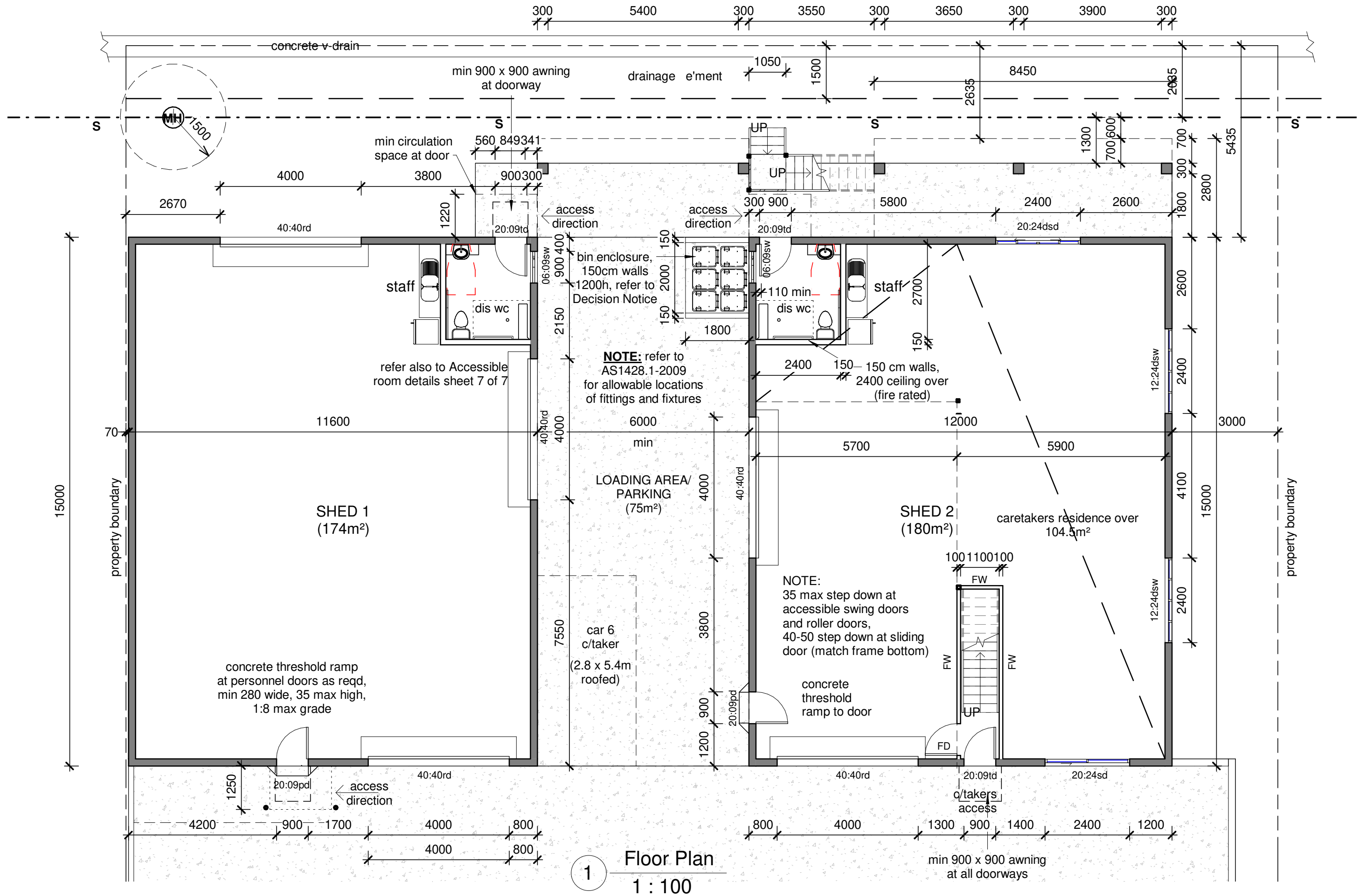
2 Rear Left

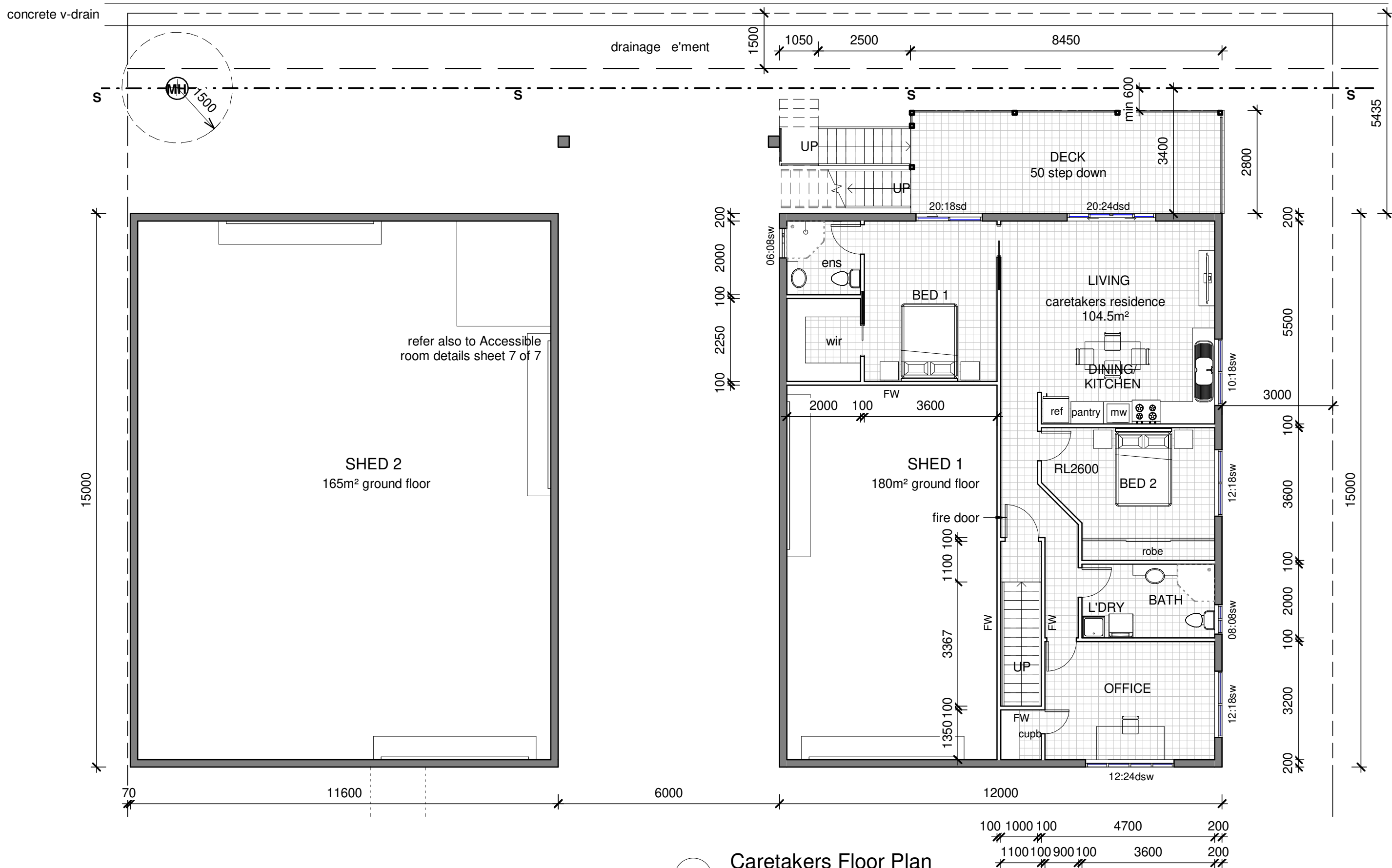


| Sheet List | |
|--------------|----------------------|
| Sheet Number | Sheet Name |
| 1 of 6 | 3D Views |
| 2 of 6 | Site Plan |
| 3 of 6 | Floor Plan |
| 4 of 6 | Caretakers Residence |
| 5 of 6 | Elevations - Sheet 1 |
| 6 of 6 | Elevations - Sheet 2 |

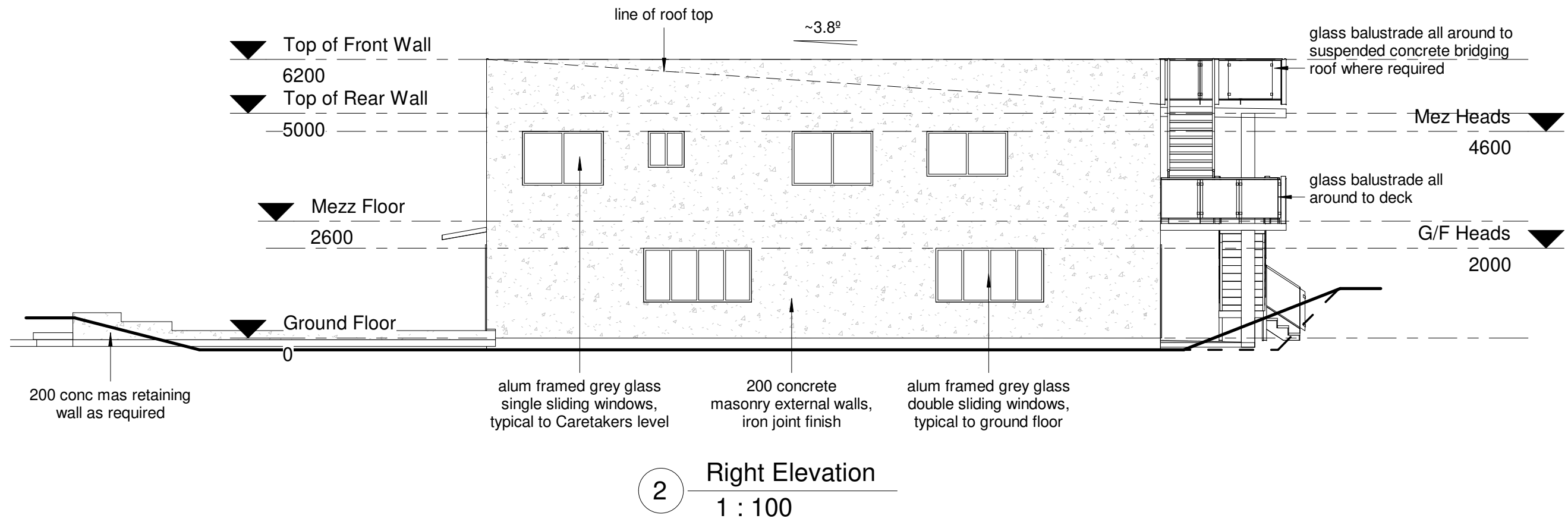
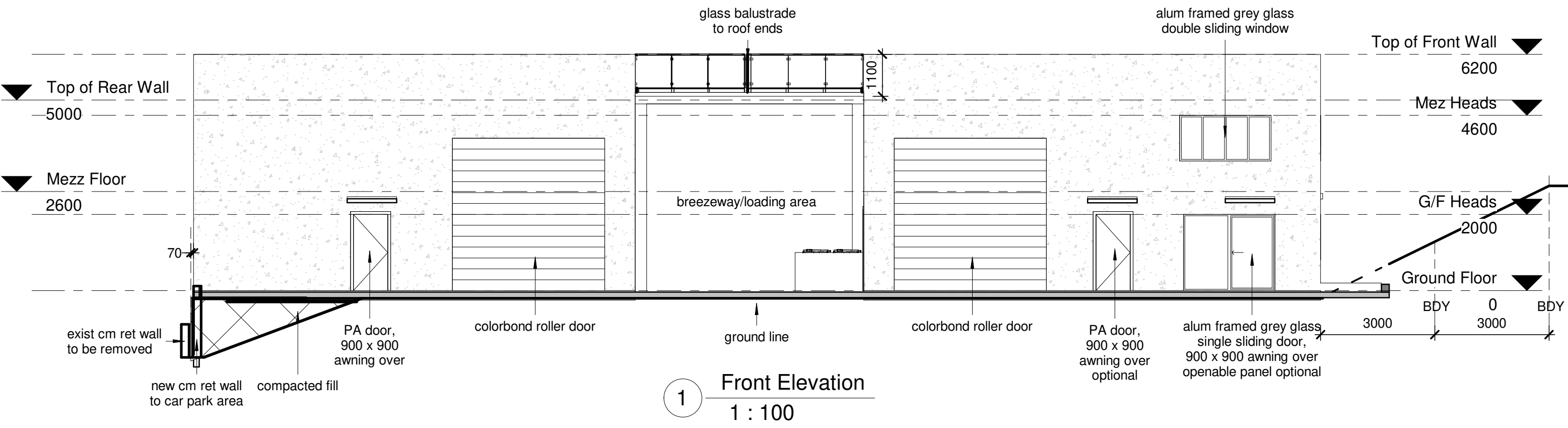
| <u>DEVELOPMENT STATS</u> | |
|---|--|
| allot area | 1000m ² |
| building area | 354m ² |
| landscaping (at 20% of allot area) | 200m ² required, 195m ² available |
| car parking at 1/90m ² of bldg area | 4 bays |
| caretakers residence | 1 covered bay |

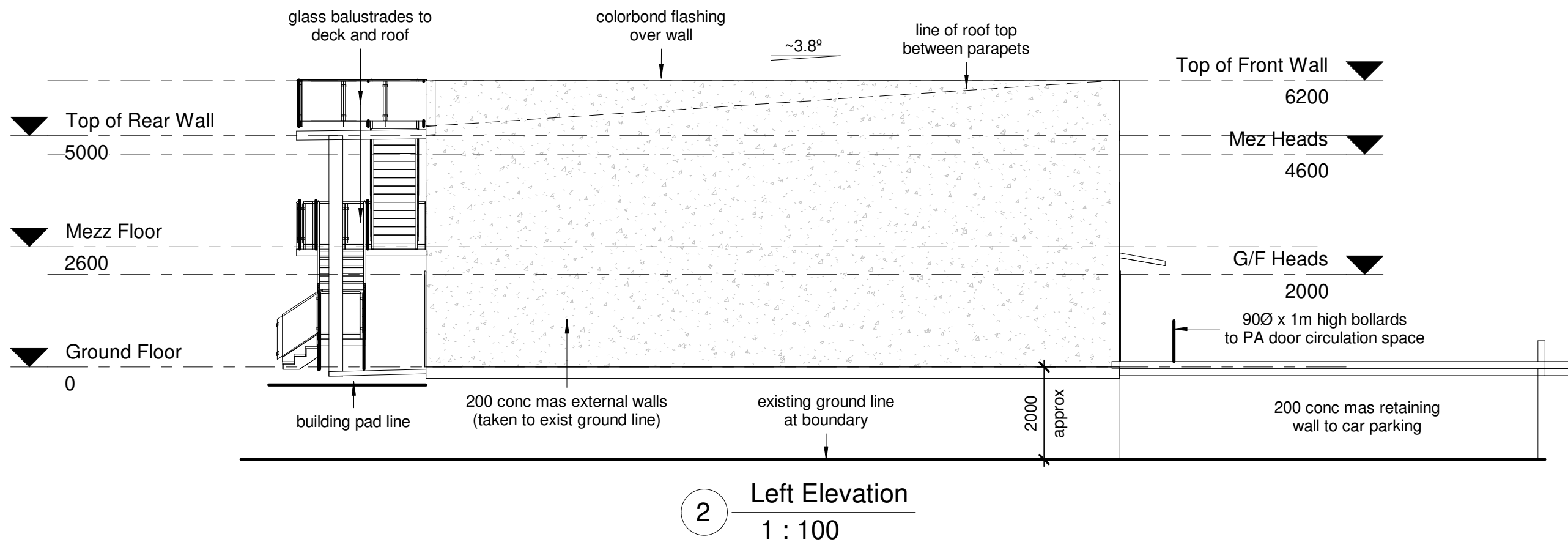
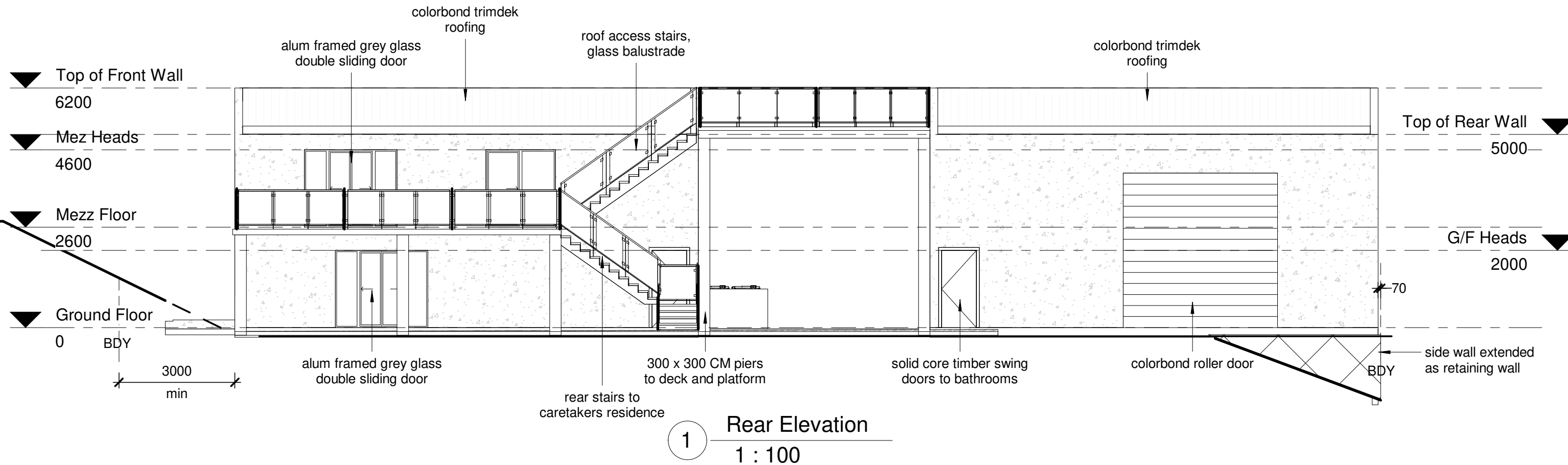
| <u>SMALL RIGID VEHICLES SPECS</u> | |
|--|--------|
| overall length | 6.4m |
| overall width | 2.33m |
| overall body height | 3.5m |
| min body ground clear | 0.398m |
| track width | 2.3m |
| lock to lock time | 4.0sec |
| kerb to kerb turn radius | 7.1m |





1 Caretakers Floor Plan
1 : 100







ASPIRE

Town Planning and Project Services

Attachment 5:

Original Decision Notice

19 April 2023

Enquiries: Daniel Lamond
Our Ref: MCUC 2023_5300/1 (1152639)
Your Ref:

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

GKL Custodian Pty Ltd
C/- Daniel Favier (Aspire Town Planning)
PO Box 1040
MOSSMAN QLD 4873

Dear Sir/Madam

**Development Application for Material Change of Use (Low impact industry and
Caretakers accommodation)
At 20 Theresa Drive MOSSMAN
On Land Described as LOT: 10 RP: 895020**

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

Please quote Council's application number: MCUC 2023_5300/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully



For

Paul Hoyer

Manager Environment & Planning

- 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: GKL Custodians Pty Ltd
Postal Address: C/- Daniel Favier (Aspire Town Planning)
PO Box 1040
MOSSMAN QLD 4873
Email: admin@aspireqld.com

Property Details

Street Address: 20 Theresa Drive MOSSMAN
Real Property Description: LOT: 10 RP: 895020
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit - Material Change of Use (Low impact industry and Caretakers accommodation)

Decision

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

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

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

| Drawing or Document | Reference | Date |
|---------------------|---|------------------|
| 3D Views | Greg Skyring Deign, Plan 311-22 sheet 1 of 6. | 28 February 2023 |
| Site Plan | Greg Skyring Deign, Plan 311-22 sheet 2 of 6. | 28 February 2023 |
| Floor Plan | Greg Skyring Deign, Plan 311-22 | 28 February 2023 |

| | | |
|---|---|------------------|
| | sheet 3 of 6. | |
| Caretakers Residence | Greg Skyring Deign, Plan 311-22 sheet 4 of 6. | 28 February 2023 |
| Elevations sheet 1 | Greg Skyring Deign, Plan 311-22 sheet 5 of 6. | 28 February 2023 |
| Elevations sheet 2 | Greg Skyring Deign, Plan 311-22 sheet 6 of 6. | 28 February 2023 |
| FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access | | |
| Access Crossovers | Standard Drawing S1015 Issue E | 27 August 2020 |

Note – The plans referenced above will require amending in order to comply with conditions of this Decision Notice.

Assessment Manager Conditions & Advices

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
 - a. The specifications, facts and circumstances as set out in the application submitted to Council; and
 - 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.

External Works

3. Undertake the following works external to the land at no cost to Council:
 - a. Provision of an industrial concrete crossover and apron in accordance with FNQROC Development Manual Standard Drawing S1015.

Council Infrastructure

4. In the event that any part of Council's existing sewer / water or road infrastructure is damaged as a result of construction activities occurring on the site, including but not limited to; mobilisation of heavy construction equipment, stripping and grubbing, the applicant/owner must notify Douglas Shire Council immediately of the affected infrastructure and have it repaired or replaced at the developer's/owners/builders cost, prior to the issue of a Certificate of Classification whichever occurs first.

Lawful Point of Discharge

5. All stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the

development.

6. An RPEQ certified drainage plan must be submitted for endorsement by the Chief Executive Officer Prior to the issue of a development permit for building work and must:
 - a. provide for concrete hardstand drainage to run along the full length of the 670mm setback area between the building and the south-western side boundary;
 - b. provide for concrete hardstand drainage to run the full length of the common boundary to Lot 9 on RP895020;
 - c. demonstrate the locations of all inlet pits, discharge points and pipe locations with capacities.

Landscaping Plan

7. The site must be landscaped in accordance with a landscaping plan prior to commencement of use. The plan must be prepared in accordance with Planning Scheme Policy SC6.7 and must be endorsed by the Chief Executive Officer prior to planting.

Vehicle Parking

8. The amount of vehicle parking must be as specified in Council's Planning Scheme being 5 parking spaces. One of which must be designated for the caretakers accommodation and must be covered.

The car parking layout must comply with the Australian Standard AS2890.1 2004 Parking Facilities – off-street car parking and Australian Standard AS2890.6 and be constructed in accordance with Austroads and good engineering design.

In addition, all parking, driveway and vehicular manoeuvring areas must be imperviously sealed, drained and line marked. The parking area must be provided prior to the issue of a Certificate of Classification.

Protection of Landscaped Areas from Parking and Loading / Unloading Areas

9. Landscaped areas adjoining the parking area or a loading / unloading area must be protected by a 150 mm high vertical concrete kerb or similar obstruction. The kerb must be set back from the garden edge sufficiently to prevent vehicular encroachment and damage to plants by vehicles.

Sediment and Erosion Control

10. Soil and water management measures must be installed / implemented prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the Environmental Protection Act 1994, and the FNQROC Development Manual).

Environmental Impact

11. Dust emissions or other air pollutants, including odours, must not extend beyond the boundary of the site and cause a nuisance to surrounding properties.

Refuse Storage

12. Refuse storage is required to service the site in accordance with Council requirements. The refuse storage facility must be bunded, connected to sewer and include a hose cock

for cleaning. The refuse storage area must accommodate 6 240L bins.

Liquid Waste Disposal

- 13a. Where an occupant of a shed becomes a trade waste generator, trade waste discharge to the sewer must meet the requirements of Douglas Shire Water and Waste's Trade Waste Environmental Management Plan (TWEMP). Detailed Hydraulic Plans must be submitted to Douglas Shire Council accompanied by a report which demonstrates that the facility complies with the TWEMP and must be approved by Council and installed, prior to the production and discharge of trade waste.
- 13b. Signage is to be installed in the bin enclosure / wash bay area notifying occupants of their obligations prior to the issue of a Certificate of Classification. Signage is to state that "No trade waste is to be discharged to the facility".

Amendment to Design

14. The proposed development must be amended to accommodate the following changes:
- A changed location for the caretakers roofed car parking space to outside the 6m frontage setback area.
 - Add a dedicated bin storage facility reflective of condition 12.

Details of the above amendments must be to the satisfaction of the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

Material Storage

15. Construction and trade material must not be stored on the rooftop floor area.

Further Development Permits

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

- All Building Work

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

Currency Period for the Approval

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

Rights to make Representations & Rights of Appeal

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

A copy of the relevant appeal provisions are attached.

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

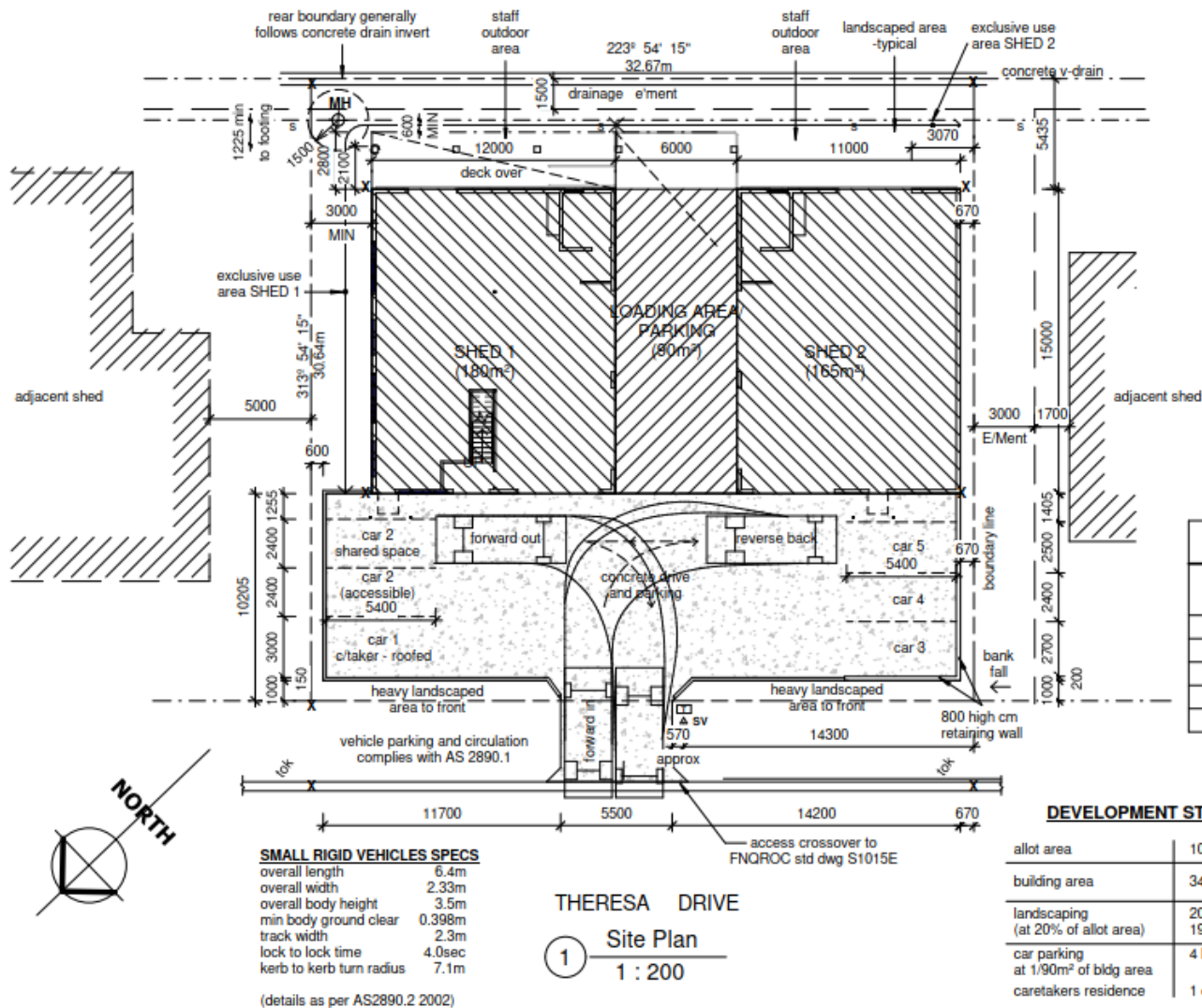


1 Front Left



2 Rear Left

| | | | | | | |
|--|--|------------------------------|-------------------------------|----------------------------------|------------------------------|------------------------|
| GREG SKYRING <i>Design</i> and DRAFTING Pty. Ltd. <small>Lic Under GBSA Act 1991 - No 1040371</small> 11 Noli Close, Mossman Q. 4873 <small>Phone/Fax: (07) 40982061 Mobile: 0419212652 Email: greg@skyringdesign.com.au</small> | PROJECT Proposed Shed, L10 RP 895020, 20 Theresa Drive, MOSSMAN | CLIENT G. Lawrence | | WIND CLASS C2 | PLAN NUMBER 311-22 | SHEET 1 of 6 |
| | | SCALES | PLAN TITLE 3D Views | DATE OF ISSUE 28.02.23 | REV A | |



GREG SKYRING
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Email: greg@skyringdesign.com.au

PROJECT
Proposed Shed,
L10 RP 895020,
20 Theresa Drive,
MOSSMAN

CLIENT
G. Lawrence

WIND CLASS
C2

PLAN NUMBER
311-22

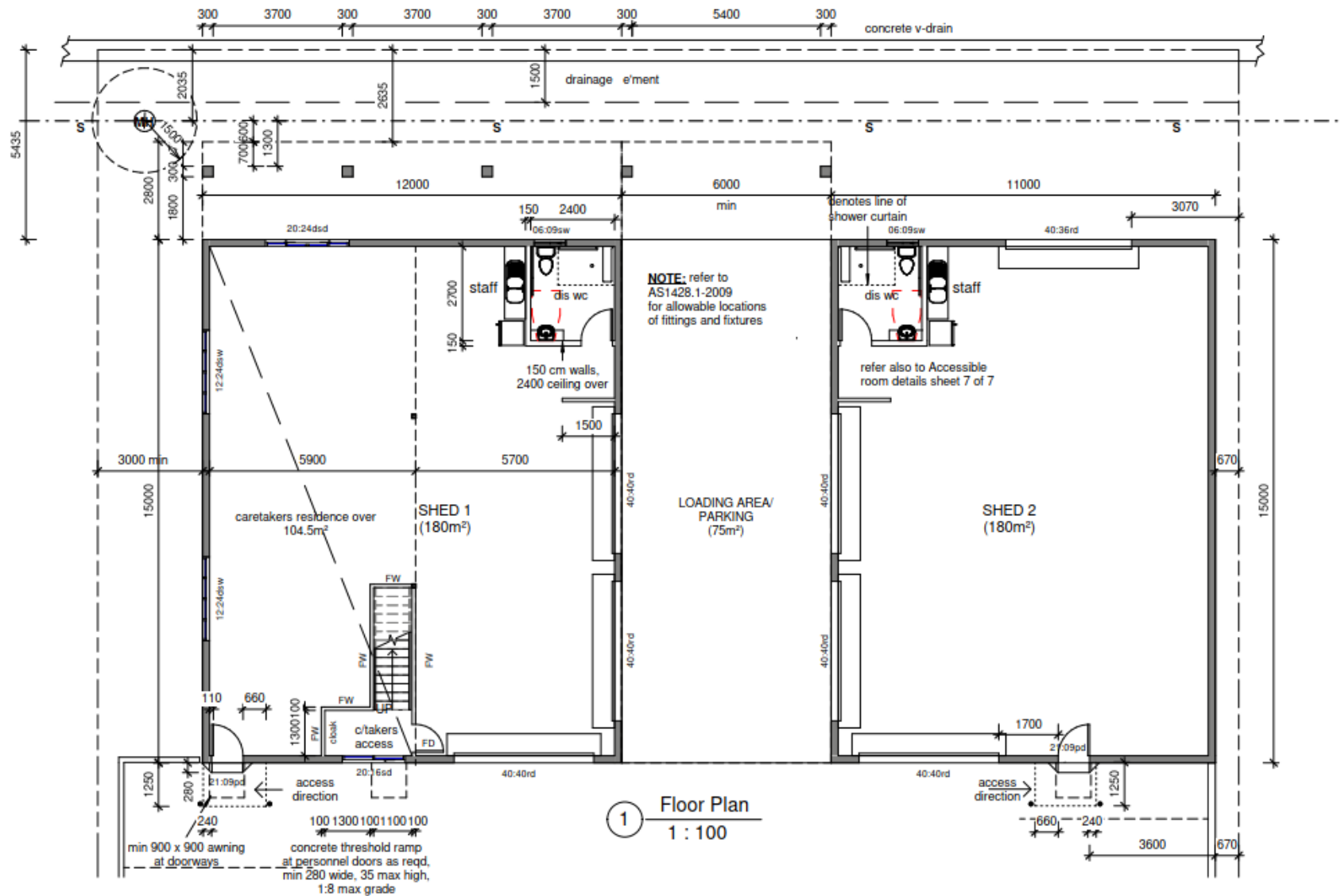
SHEET
2 of 6

SCALES
1 : 200

PLAN TITLE
Site Plan

DATE OF ISSUE
28.02.23

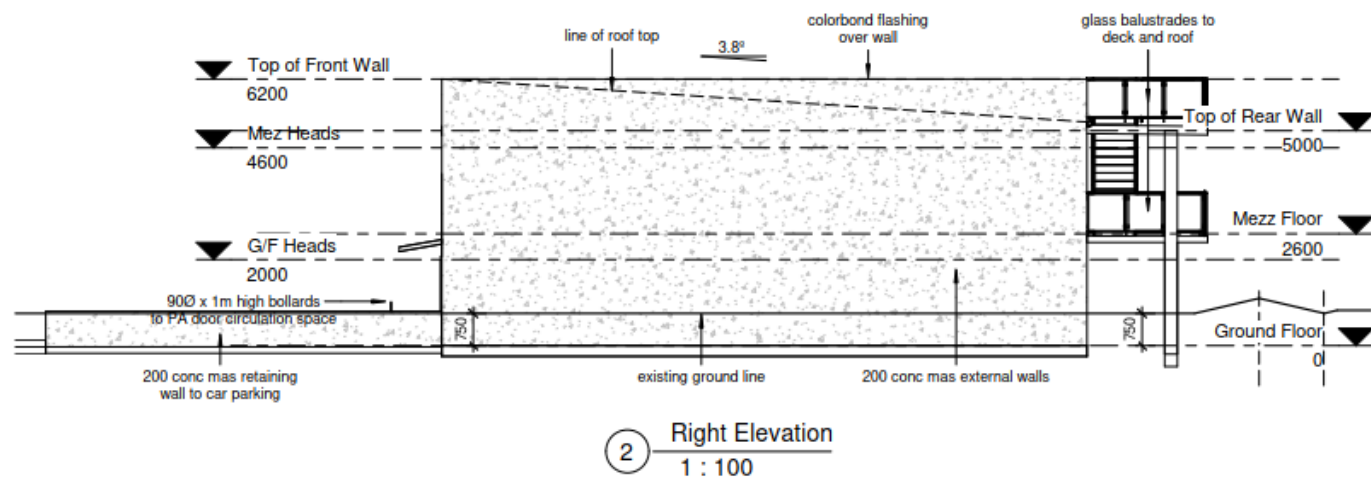
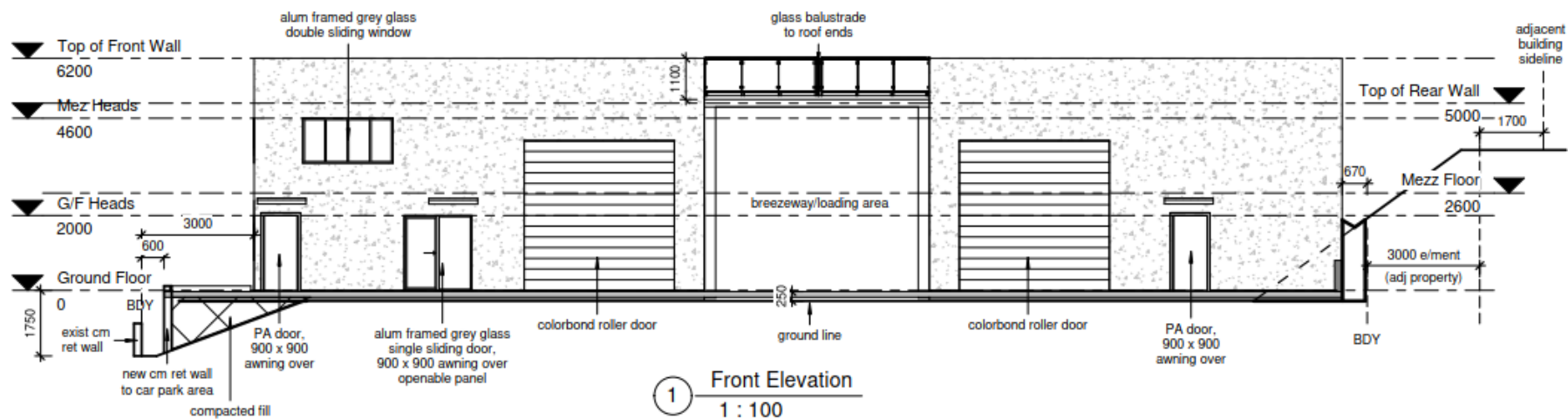
REV
A



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 Mossman Q. 4873
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 Email: greg@skyringdesign.com.au

PROJECT
 Proposed Shed,
 L10 RP 895020,
 20 Theresa Drive,
 MOSSMAN

| | | | | |
|-----------------------|--------------------------|------------------|---------------------------|-----------------|
| CLIENT G. Lawrence | | WIND CLASS C2 | PLAN NUMBER 311-22 | SHEET 3 of 6 |
| SCALES 1 : 100 | PLAN TITLE Floor Plan | | DATE OF ISSUE 28.02.23 | REV A |



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PROJECT

Proposed Shed,
L10 RP 895020,
20 Theresa Drive,
MOSSMAN

CLIENT

G. Lawrence

WIND CLASS

C2

PLAN NUMBER

311-22

SHEET
5 of 6

SCALES

1 : 100

PLAN TITLE

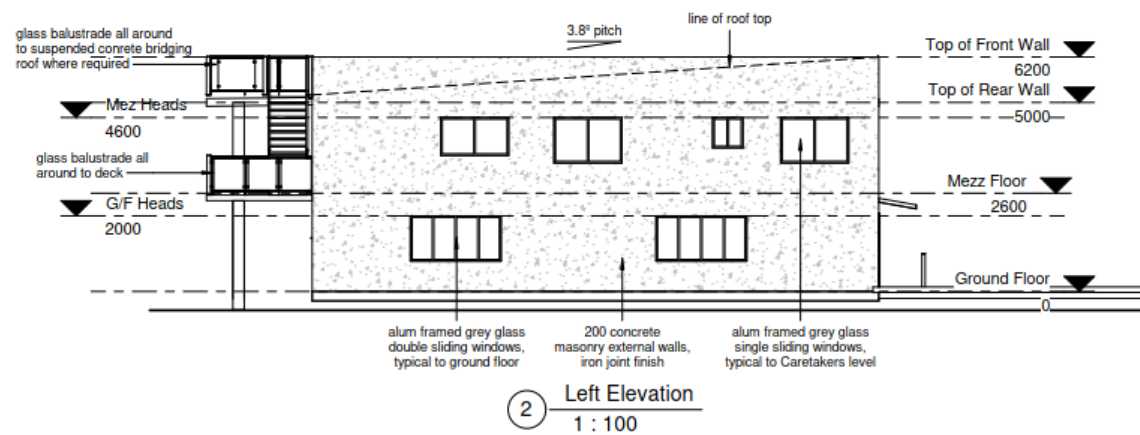
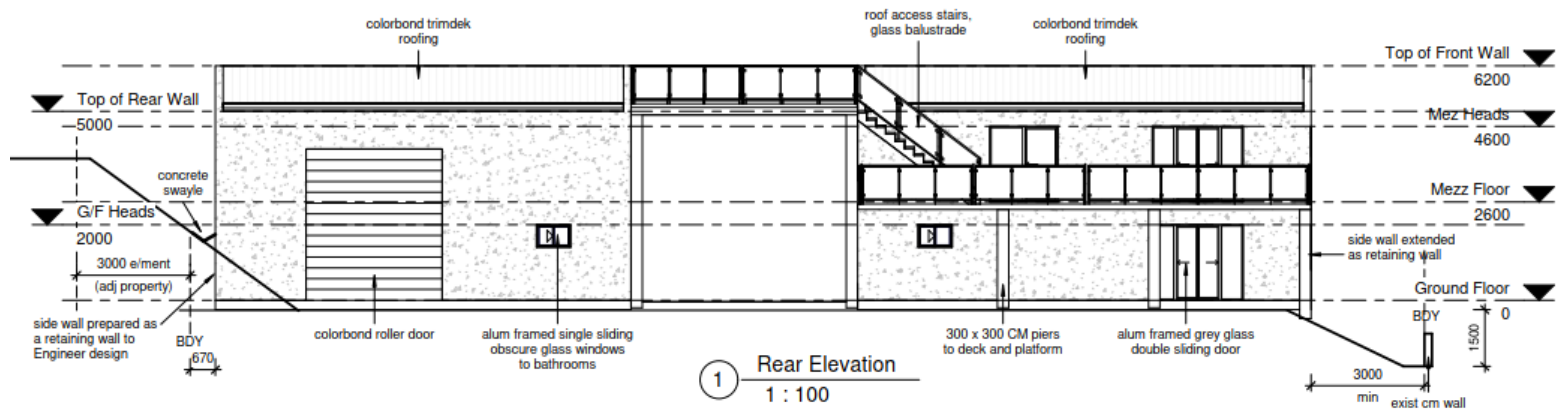
Elevations - Sheet 1

DATE OF ISSUE

28.02.23

REV

A



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

PROJECT
Proposed Shed,
L10 RP 895020,
20 Theresa Drive,
MOSSMAN

| | | | | |
|-----------------------|------------------------------------|------------------|---------------------------|-----------------|
| CLIENT G. Lawrence | | WIND CLASS C2 | PLAN NUMBER 311-22 | SHEET 6 of 6 |
| SCALES 1 : 100 | PLAN TITLE Elevations - Sheet 2 | | DATE OF ISSUE 28.02.23 | REV A |

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 on 6 March 2023 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 Industry Zone Code;
 - b. Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
 - c. the applicant's reasons have been considered and the following findings are made:
 - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

Planning Act 2016
Chapter 3 Development assessment

[s 74]

Division 2 Changing development approvals

Subdivision 1 Changes during appeal period

74 What this subdivision is about

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

75 Making change representations

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

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

76 Deciding change representations

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

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

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the *appellant*); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or

- (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
 - (iii) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
 - (iv) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.

- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
 - (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and

- (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
 - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
 - (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.

- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
decision includes—
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.**non-appealable**, for a decision or matter, means the decision or matter—
 - (a) is final and conclusive; and
 - (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

19 April 2023

Enquiries: Daniel Lamond
Our Ref: MCUC 2023_5300 (1152639)

GKL Custodian Pty Ltd
C/- Daniel Favier (Aspire Town Planning)
PO Box 1040
MOSSMAN QLD 4873

Dear Sir/Madam

**Adopted Infrastructure Charge Notice
For Development Application Material Change of Use (Low impact industry and caretakers
accommodation)
At 20 Theresa Drive MOSSMAN
On Land Described as LOT: 10 RP: 895020**

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 2023_5300 in all subsequent correspondence relating to this matter.

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

Yours faithfully



For

Paul Hoyer
Manager Environment & Planning

encl.

- 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 | | | |
| GKL Custodians Pty Ltd DEVELOPERS NAME | | 0 ESTATE NAME | 0 STAGE |
| 20 Theresa Drive STREET No. & NAME | Mossman SUBURB | Lot 10 on RP895020 LOT & RP No.s | 8487 PARCEL No. |
| Low Impact Industry and Caratekers Accommodation DEVELOPMENT TYPE | | MCUC2023_5300 COUNCIL FILE NO. | 6 VALIDITY PERIOD (year) |
| 1152350 DSC Reference Doc. No. | 1 VERSION No. | Payment before commencement of use for MCU | |

Infrastructure Charges as resolved by Council at the Ordinary Meeting held on 23 February 2021 (Came into effect on 1 March 2021)

| | | Charge per Use | \$ Rate | Floor area/No. | Amount | Amount Paid | Receipt Code & GL Code |
|----------------------------|-------------------|----------------------------|---------------------------|-----------------------------------|-----------|-------------|-------------------------------|
| Proposed Demand | Residential | Caretakers_accommodation | \$_per_2_bedroom_dwelling | 20,795.09 | 1 | \$20,795.09 | |
| | Industry | Low_impact_industry | \$_per_m²_GFA | 51.63 | 345 | \$17,812.35 | |
| | | Total Demand | | | | \$38,607.44 | |
| Credit | Existing land use | 3 or more bedroom dwelling | 1 lot | \$_per_3_or_more_bedroom_dwelling | 25,314.98 | 1 | \$25,314.98 |
| | Total Credit | | | | | \$25,314.98 | Code 895 GL GL7500.135.825 |
| Required Payment or Credit | | TOTAL | | | | \$13,292.46 | |

| | | | | |
|--------------|--|-----------|-------------|--|
| Prepared by | D Lamond | 19-Apr-23 | Amount Paid | |
| Checked by | N Beck | 19-Apr-23 | 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.
- (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.