

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)

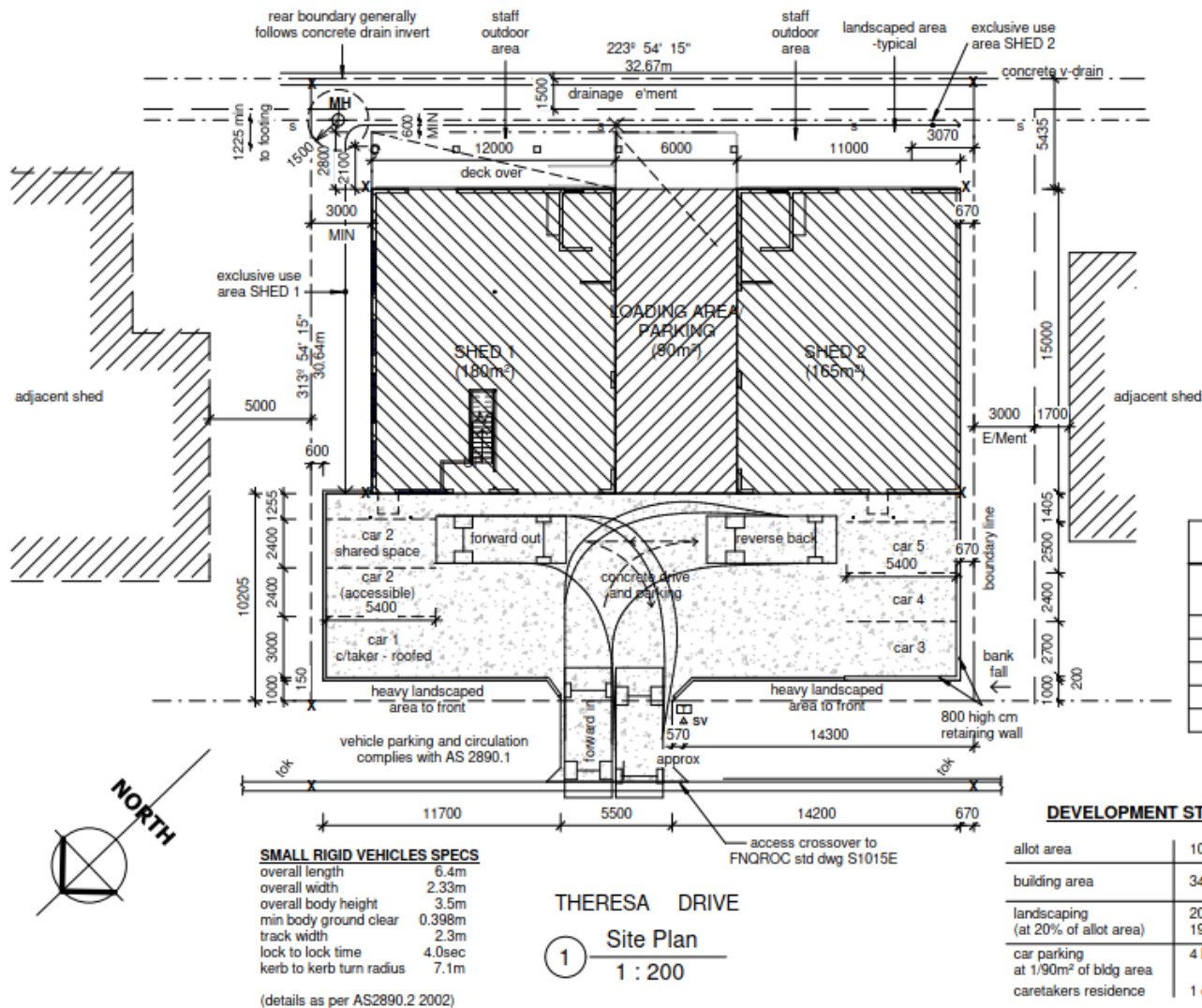


1 Front Left



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



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

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

CLIENT
 G. Lawrence

WIND CLASS
 C2

PLAN NUMBER
 311-22

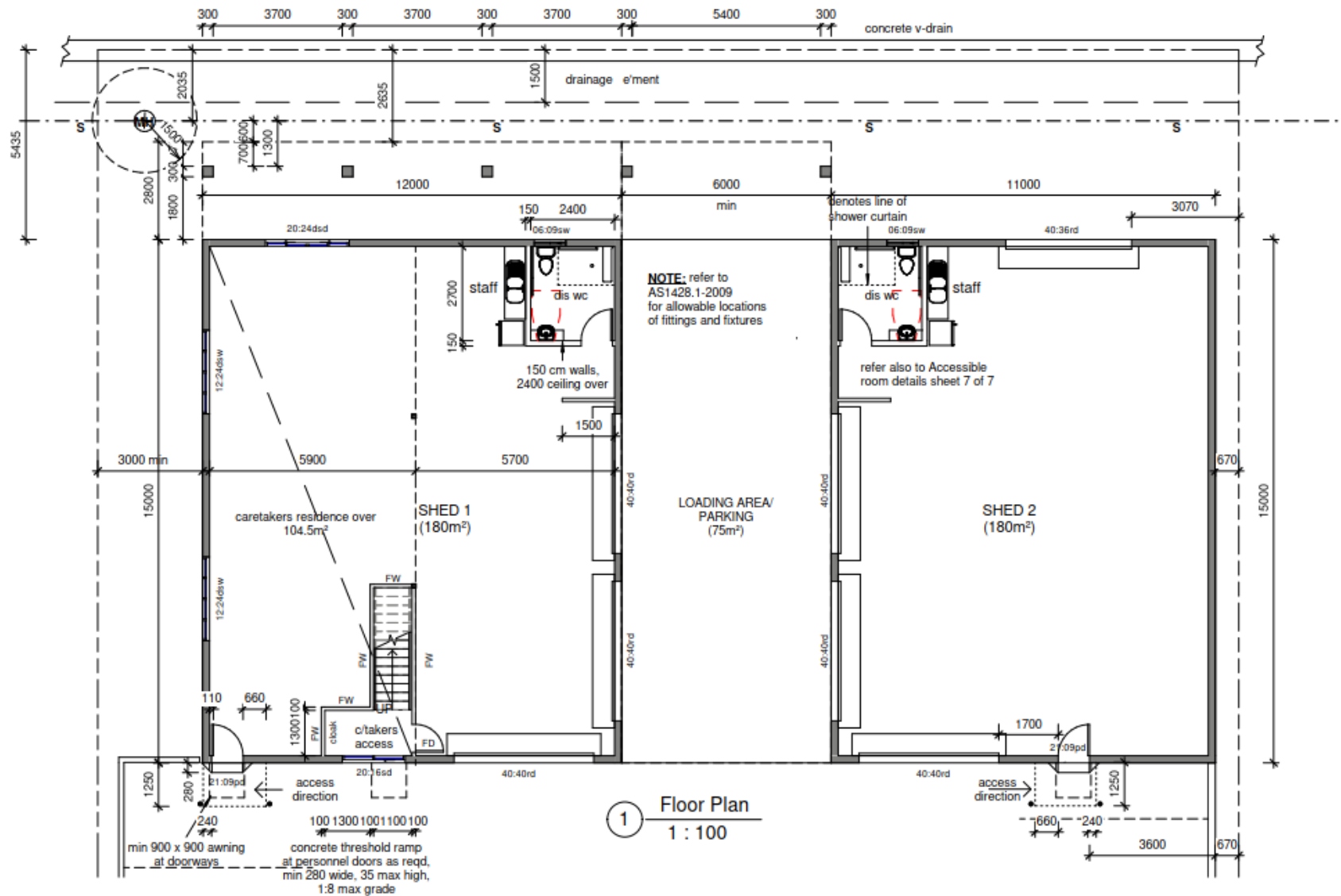
SHEET
 2 of 6

SCALES
 1 : 200

PLAN TITLE
 Site Plan

DATE OF ISSUE
 28.02.23

REV
 A



GREG SKYRING
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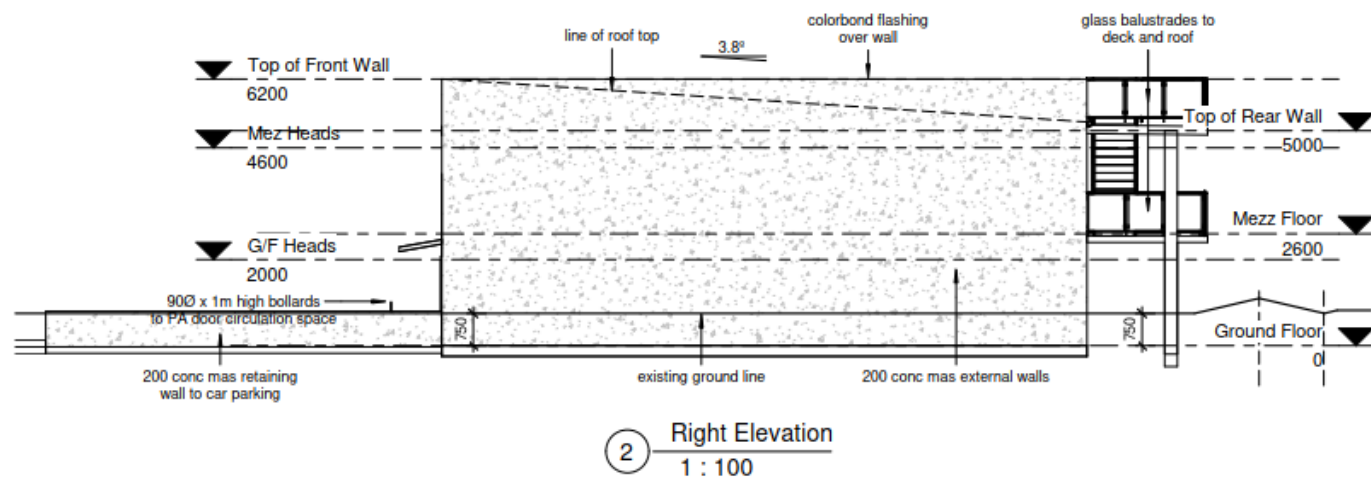
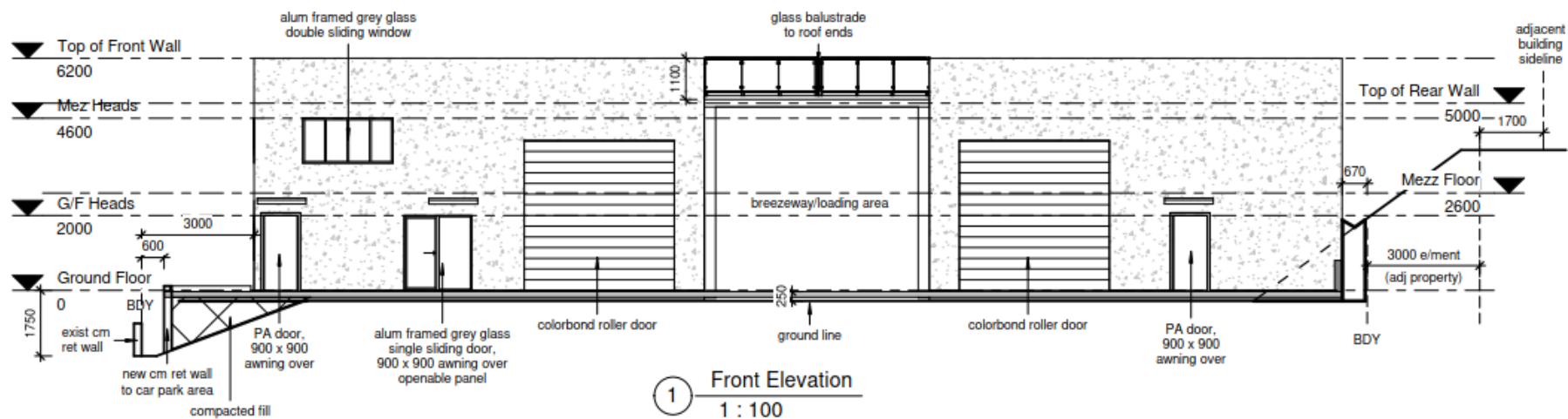
SHEET
3 of 6

SCALES
1 : 100

PLAN TITLE
Floor Plan

DATE OF ISSUE
28.02.23

REV
A



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

CLIENT

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WIND CLASS

C2

PLAN NUMBER

311-22

SHEET

5 of 6

SCALES

1 : 100

PLAN TITLE

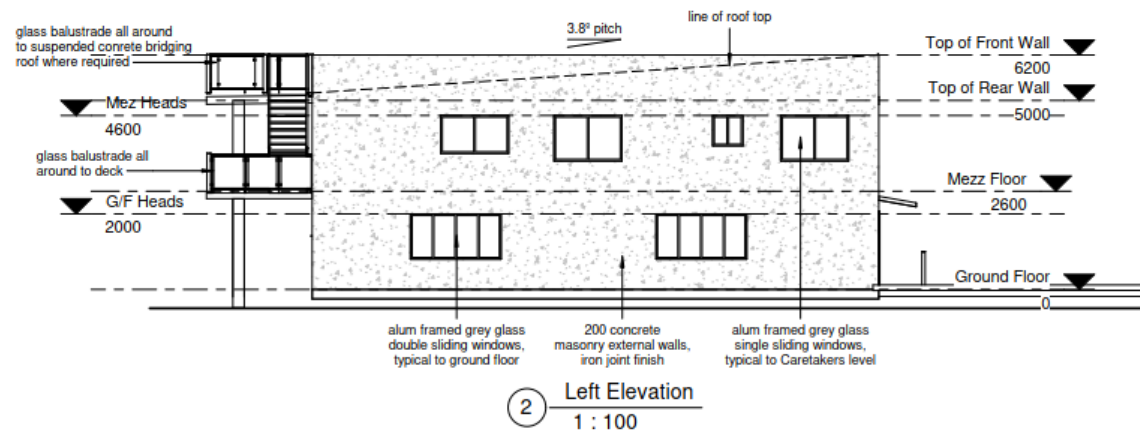
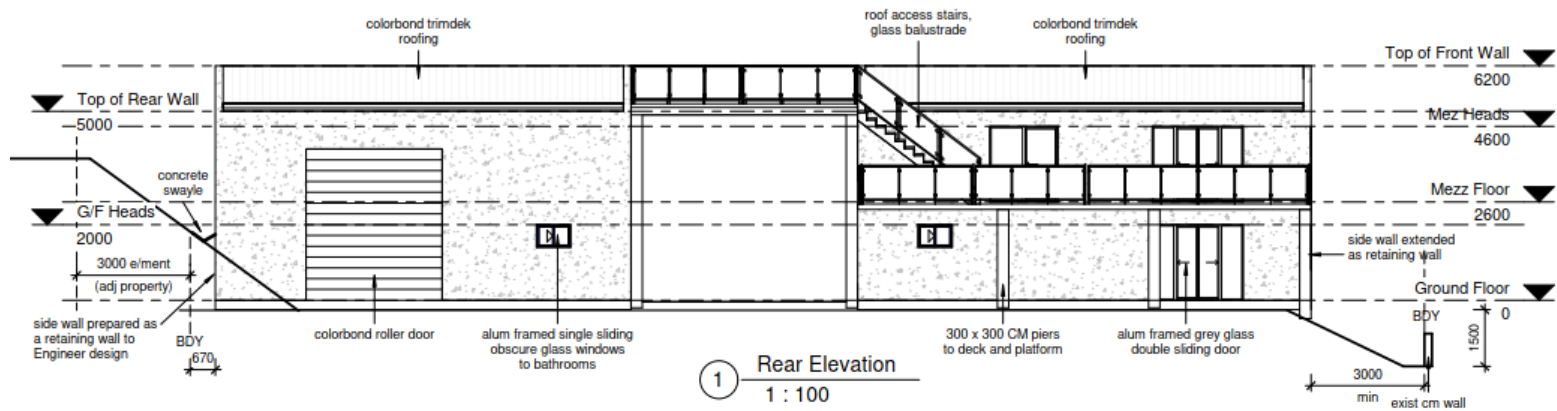
Elevations - Sheet 1

DATE OF ISSUE

28.02.23

REV

A



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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 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			
Low Impact Industry and Caratekers Accommodation DEVELOPMENT TYPE		MCUC2023_5300 COUNCIL FILE NO.		8487 PARCEL No.			
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		
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					Cashier		
<p>Note:</p> <p>The Infrastructure Charges in this Notice are payable in accordance with Sections 119 and 120 of the <i>Planning Act 2016</i> as from Council's resolution from the Ordinary Meeting held on 23 February 2021.</p> <p>Charge rates under the Policy are subject to indexing.</p> <p>Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.</p> <p>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</p> <p>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</p>							

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.