## DELEGATED REPORT

SUBJECT: J SMIT – MATERIAL CHANGE OF USE – DUAL OCCUPANCY – LOT 1 ON MPH4366 – 35 RANKIN STREET, MAREEBA – MCU/23/0006

**DATE:** 29 March 2023

<b>REPORT OFFICER'S</b>	
TITLE:	Planning Officer

**DEPARTMENT:** Corporate and Community Services

APPLICATI		ON		PREMISES	
APPLICANT	J Smi	t	ADDRESS 35 Rankin Street, Mareeba		
DATE LODGED	21 Ma	arch 2023 RPD Lot 1 on MPH3466			
TYPE OF APPROVAL	Devel	Development Permit			
PROPOSED DEVELOPMENT	Mater	Material Change of Use – Dual Occupancy			
FILE NO		MCU/23/0006	AREA	835m <sup>2</sup>	
LODGED BY		Emergent Building Approvals	OWNER	J Smit	
PLANNING SCHEME		Mareeba Shire Council Planning Scheme 2016			
ZONE		Medium density residential zone			
LEVEL OF		Code assessment			

#### **APPLICATION DETAILS**

ATTACHMENTS: 1. Proposal Plan/s

### **EXECUTIVE SUMMARY**

ASSESSMENT SUBMISSIONS

Council is in receipt of a code assessable development application described in the above application details. Being code assessable, the application was not required to undergo public notification.

The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 and does not conflict with any relevant aspect of the Planning Scheme.

It is recommended that the application be approved in full, subject to conditions.

n/a

## **OFFICER'S RECOMMENDATION**

1. That in relation to the following development application:

APPLICATION	PREMISES					
APPLICANT	J Smit	ADDRESS	35	Rankin	Street,	
			Mare	Mareeba		
DATE LODGED	21 March 2023	RPD	Lot 1	Lot 1 on MPH3466		
TYPE OF	Development Permit					
APPROVAL						
PROPOSED	Material Change of Use – Dual Occupancy					
DEVELOPMENT						

and in accordance with the Planning Act 2016, the applicant be notified that the application for a development permit for the development specified in (A) is:

Approved by Council in accordance with the approved plans/documents listed in (B), subject to assessment manager conditions in (C), assessment manager's advice in (D), relevant period in (E), further permits in (F), and further approvals from Council listed in (G);

#### And

The assessment manager does not consider that the assessment manager's decision conflicts with a relevant instrument.

(A) APPROVED DEVELOPMENT: Development Permit for Material Change of Use – Dual Occupancy

Plan/Document Number	Plan/Document Title	Prepared by	Dated
Sheet No. 5	Site/Landscape Plan	Comaray Pty Ltd	3/03/2023
Sheet No. 6	Dimensional Plan	Comaray Pty Ltd	3/03/2023
Sheet No. 13	Elevations Set	Comaray Pty Ltd	13/09/2022
Sheet No. 14	Elevations Set	Comaray Pty Ltd	13/09/2022

### (B) APPROVED PLANS:

### (C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

- (a) <u>Development assessable against the Planning Scheme</u>
- 1. Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
  - found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
  - to ensure compliance with the following conditions of approval.

- 2. Timing of Effect
  - 2.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the commencement of the use except where specified otherwise in these conditions of approval.
  - 2.2 Prior to the commencement of use, the applicant must notify Council that all the conditions of the development permit have been complied with, except where specified otherwise in these conditions of approval.
- 3. General
  - 3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure.
  - 3.2 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
  - 3.3 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to commencement of the use and at the rate applicable at the time of payment.
  - 3.4 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.
  - 3.5 Noise Nuisance

Refrigeration equipment, pumps, compressors and mechanical ventilation systems must be located, designed, installed and maintained to achieve a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations.

The applicant is required to install and maintain suitable screening to all air conditioning, lift motor rooms, plant and service facilities located at the top of or on the external face of the building. The screening structures must be constructed from materials that are consistent with materials used elsewhere on the facade of the building. There are to be no individual external unscreened air conditioning units attached to the exterior building facade.

3.6 Waste Management

On site refuse storage areas must be provided and be screened from view from adjoining properties, road reserve and the shared access driveway by 1 metre wide landscaped screening buffer, 1.8m high solid fence or building.

3.7 Letterbox

Each unit is to be provided with an individual letter box.

#### 3.8 Clothes Drying area

Sufficient area for clothes drying is to be provided in addition to the open space requirements of the units and is to be appropriately screened from view of adjoining properties and road reserve.

- 4. Infrastructure Services and Standards
  - 4.1 Access

An access crossover must be constructed (from the edge of the Baxter Street pavement to the property boundary of the subject lot) to service the two units in accordance with FNQROC Development Manual Standards, to the satisfaction of Council's delegated officer.

The applicant/developer is to make a single application for driveway access onto a Council road. The application is to be accompanied by the relevant fee and will be required to certify or be assessed for compliance by Council's delegated officer.

- 4.2 Stormwater Drainage/Water Quality
  - 4.2.1 The applicant/developer must take all necessary steps to ensure a nonworsening effect on surrounding land as a consequence of the development.
  - 4.2.2 All stormwater drainage must be collected from site and discharged to an approved legal point of discharge.
  - 4.2.3 A stormwater pit/s must be installed in the north-east corner of the allotment adjacent the retaining walls to capture building/roof stormwater and overland flow. Stormwater captured in the pit must be discharged to an approved legal point of discharge.
- 4.3 Car Parking/Internal Driveways

The applicant/developer must ensure the development is provided with 2 undercover car parking spaces (1 per unit) and 1 visitor parking space (covered or uncovered), which are available solely for the parking of vehicles associated with the use of the premises.

All car parking spaces and internal driveways must be concrete sealed and appropriately drained prior to the commencement of the use and to the satisfaction of Council's delegated officer.

- 4.4 Retaining Walls
  - 4.4.1 Retaining walls must be installed along the eastern and northern property boundaries at a height necessary to ensure that the areas of private open space on the northern and eastern sides of the units remain usable and maintainable. The areas of private open space between the edge of the building and the retaining wall/boundary <u>must not exceed a slope greater than 5%.</u>

Advice should be sought from the consulting engineer or building certifier as to whether a separate building approval is required for the retaining walls.

4.4.2 A retaining wall must be installed along the northern boundary at the western end of the property where the land has been cut away to ensure no subsidence impact to the northern adjoining allotment, to the satisfaction of Council's delegated officer.

Alternatively, the cut-out should be backfilled and properly compacted with the finished batter not exceeding a slope of 1 in 4, and the batter grassed or landscaped to mitigate any erosion concern, to the satisfaction of Council's delegated officer.

- 4.5 Landscaping & Fencing
  - 4.5.1 Landscaping on must be carried out on-site generally in accordance with that shown on the submitted landscape plan, to the satisfaction of Council's delegated officer. Landscaping must be mulched, irrigated and maintained for the life of the development.
  - 4.5.2 Prior to the commencement of the use, solid 1.8 metre high timber paling (no gaps) or 1.8 metre high colorbond fencing (of neutral colour) is to be erected along the entire length of the site's northern and eastern boundaries, and between the party wall and northern boundary of the site to separate each unit's area of private open space. Where the retaining wall exists, the fencing must be installed on top of the retaining wall.

The abovementioned fencing is to be maintained in good order and safe repair for the life of the development, to the satisfaction of Council's delegated officer.

4.6 Lighting

Where outdoor lighting is required the developer shall locate, design and install lighting to operate from dusk to dawn within all areas where the public will be given access, which prevents the potential for light spillage to cause nuisance to neighbours and must be provided in accordance with Australian Standard 1158.1 – Lighting for Roads and Public Spaces.

Illumination resulting from direct, reflected or other incidental light emanating from the subject land does not exceed 8 lux when measured at any point 1.5m outside the property boundary of the subject site. The lighting fixtures installed on site must meet appropriate lux levels as documented within Australian Standard 4282 – Control of the Obtrusive Effects of Outdoor Lighting.

4.7 Water Supply

Where the existing reticulated water supply does not currently service the site or is not at an adequate capacity, the developer is required to extend or upgrade the reticulated water supply infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

If a new or upgraded water service connection is required to service the development, it must be provided in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Each unit is required to be **separately metered**.

4.8 Sewerage Connection

The developer must connect the proposed development to Council's reticulated sewerage system in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Where sewerage connections are not available to the site, or where existing connections are not satisfactory for the proposed development, the developer is required to extend or upgrade the reticulated sewerage infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

- (D) ASSESSMENT MANAGER'S ADVICE
  - (a) Water Meters/Water Service Connection

Prior to the water service connection works commencing and the installation of the meters by Council, an application for a Plumbing Compliance Permit is required to be submitted with detailed hydraulic drawings. The cost of the required water connection and meter (capping of any existing meter may be required) will be determined based upon the approved hydraulic drawings at the time of lodgement of a Water Quotation Request.

(b) Property Connection to existing sewer main (house connection branch installation)

Prior to the property connection to the existing sewer main commencing, a request for a Property Connection Quotation must be lodged with Council. The cost of the required property connection will be determined based upon the assessment of the Property Connection Quotation Request.

(c) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

(d) Compliance with Acts and Regulations

The erection and use of the building must comply with the Building Act and all other relevant Acts, Regulations and Laws, and these approval conditions.

(e) Environmental Protection and Biodiversity Conservation Act 1999

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act* 1999 if the proposed activities are likely to have a significant impact on a matter of national environmental significance. Further information on these matters can be obtained from <u>www.dcceew.gov.au</u>.

(f) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the "cultural heritage duty of care"). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from www.dsdsatsip.qld.gov.au.

(F) RELEVANT PERIOD

When approval lapses if development not started (s.85)

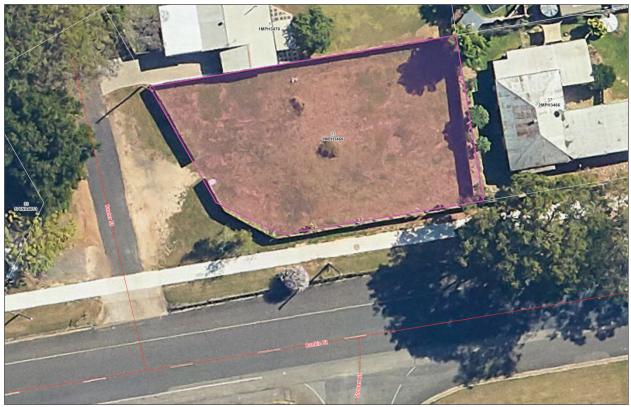
- Material Change of Use six (6) years (starting the day the approval takes effect);
- (G) OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS
  - Development Permit for Building Work
- (H) OTHER APPROVALS REQUIRED FROM COUNCIL
  - Compliance Permit for Plumbing and Drainage Work
  - Access approval arising from condition number 4.1 (Please contact Planning Section to obtain application form and applicable fee)

### THE SITE

The subject site is situated at 35 Rankin Street, Mareeba and is described as Lot 1 on MPH3466. The site is irregular in shape with an area of 835m<sup>2</sup> and is zoned Medium density residential under the Mareeba Shire Council Planning Scheme 2016.

The site contains 37 metres of frontage to Rankin Street and a further 18 metres of frontage to Baxter Street. Both roads are bitumen sealed with Rankin Street including kerbing either side and a verge pedestrian footpath.

The site remains unimproved. All surrounding lots are zoned Medium density residential and contains single dwellings.



Map Disclaimer:

Based on or contains data provided by the State of Queensland (Department of Environment and Resource Management) (2009). In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.



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# **BACKGROUND AND CONTEXT**

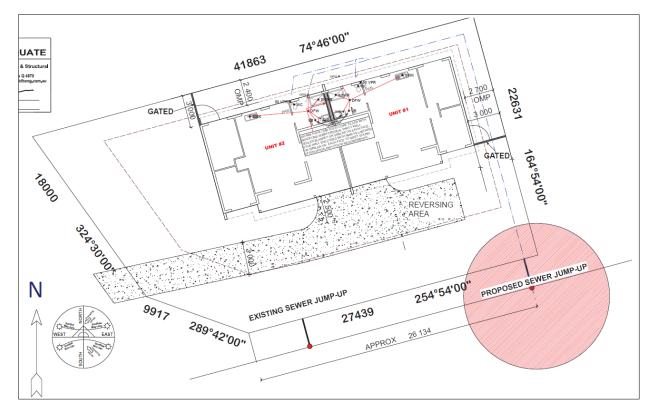
Nil

### **PREVIOUS APPLICATIONS & APPROVALS**

Nil

### DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Material Change of Use – Dual Occupancy in accordance with the plans shown in **Attachment 1**. For ease of reference the site plan is included below:



# **REGIONAL PLAN DESIGNATION**

The subject site is included within the Urban Footprint land use category in the Far North Queensland Regional Plan 2009-2031. Mareeba is identified as a Major Regional Activity Centre in the Regional Plan. The site contains no areas of ecological significance.

### PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories • Residential Area Transport Elements • Local Collector Road • Principal Cycle Route
Zone:	Medium Density Residential Zone
Overlays:	Environmental Significance Overlay Transport Infrastructure Overlay

### **Planning Scheme Definitions**

The proposed use is defined as:-

Column 1 Use	Column 2 Definition	Column 3 Examples include	Column 4 Does not include the following examples
Dual occupancy	<ul> <li>Premises containing two dwellings, each for a separate household, and consisting of:</li> <li>a single lot, where neither dwelling is a secondary dwelling or</li> <li>two lots sharing common property where one dwelling is located on each lot.</li> </ul>	Duplex, two dwellings on a single lot (whether or not attached), two dwellings within one single community title scheme under the Body Corporate and Community Management Act 1997, two dwellings within the one body corporate to which the Building Units and Group Title Act 1980 continues to apply	Dwelling house, multiple dwelling

### **RELEVANT PLANNING INSTRUMENTS**

Assessment of the proposed development against the relevant planning instruments is summarised as follows:

### (a) Far North Queensland Regional Plan 2009-2031

Separate assessment against the Regional Plan is not required because the Mareeba Shire Council Planning Scheme appropriately advances the Far North Queensland Regional Plan 2009-2031, as it applies to the planning scheme area.

### (b) State Planning Policy

Separate assessment against the State Planning Policy (SPP) is not required because the Mareeba Shire Council Planning Scheme appropriately integrates all relevant aspects of the SPP.

### (c) Mareeba Shire Council Planning Scheme 2016

### **Relevant Development Codes**

The following Development Codes are considered to be applicable to the assessment of the application:

- 6.2.7 Medium density residential zone code
- 8.2.4 Environmental significance overlay code
- 9.3.1 Accommodation activities code
- 9.4.2 Landscaping code
- 9.4.3 Parking and access code
- 9.4.5 Works, services and infrastructure code

An officer assessment has found that the application satisfies the relevant acceptable outcomes contained within the codes (or performance outcomes where no acceptable outcome has been provided). Where the proposal does not satisfy an acceptable outcome, it has been demonstrated that compliance can be achieved with the higher order performance outcome/s. It is considered

**Relevant Codes Comments** Medium density residential The application will satisfy the requirements for accepted zone code development. Environmental The application will satisfy the requirements for accepted significance overlay code development. Accommodation activities The application will satisfy the requirements for accepted code development, apart from the following: • AO7.1 – Where on a corner allotment, each dwelling is accessed from a different road frontage. Comment The proposed dual occupancy unit will be accessed via a single shared driveway from the lower order Baxter Street and is therefore non-compliant with AO7.1. In this instance, accessing from Rankin Street is impractical given the height differentiation and retaining walls between the build site and Rankin Street pavement. Rankin Street is also a major collector road which experiences high traffic volumes. Utilising a shared access from Baxter Street will not compromise the intent of PO7 and will provide a more practical and safer access point for the unit occupants, ensuring traffic enters and exits Rankin Street in a forward gear from Baxter Street. Landscaping code The application will satisfy the requirements for accepted development. Parking and access code The application will satisfy the requirements for accepted development. Works, and services The application will satisfy the requirements for accepted infrastructure code development, apart from the following: • AO7.1 - Excavation or filling does not occur within 1.5 metres of any site boundary; AO7.2 – Excavation or filling at any point on a lot is to be no greater than 1.5 metres above or below natural ground level; <u>Comment</u> Excavation and filling has occurred within 1.5 metres of the northern and eastern property boundaries. Filling has also exceeded 1.5 metres on-site so the development is noncompliant with AO7.1 and AO7.2. Appropriate conditions requiring the construction of new retaining walls, as well as the inclusion of boundary privacy fencing will ensure the development complies with the higher order PO7.

the proposed development can comply with the relevant development codes provided reasonable and relevant conditions are attached to any approval.

### (e) Planning Scheme Policies/Infrastructure Charges Plan

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

A condition will be attached to any approval requiring all development works be designed and constructed in accordance with FNQROC Development Manual standards.

### **REFERRAL AGENCY**

This application did not trigger referral to any Referral Agencies.

### **Internal Consultation**

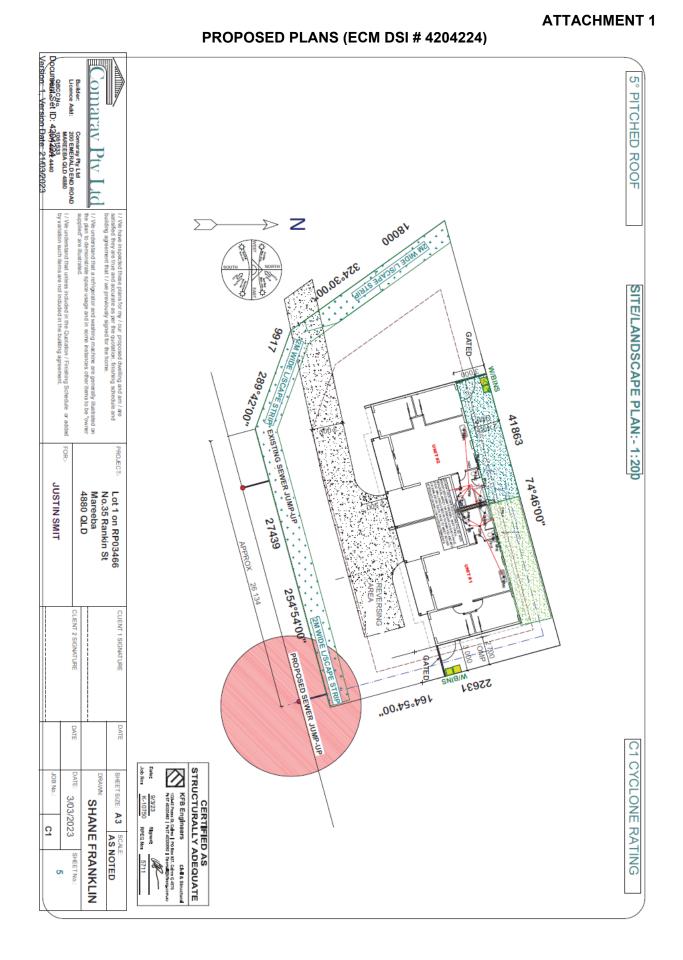
Nil

### **PLANNING DISCUSSION**

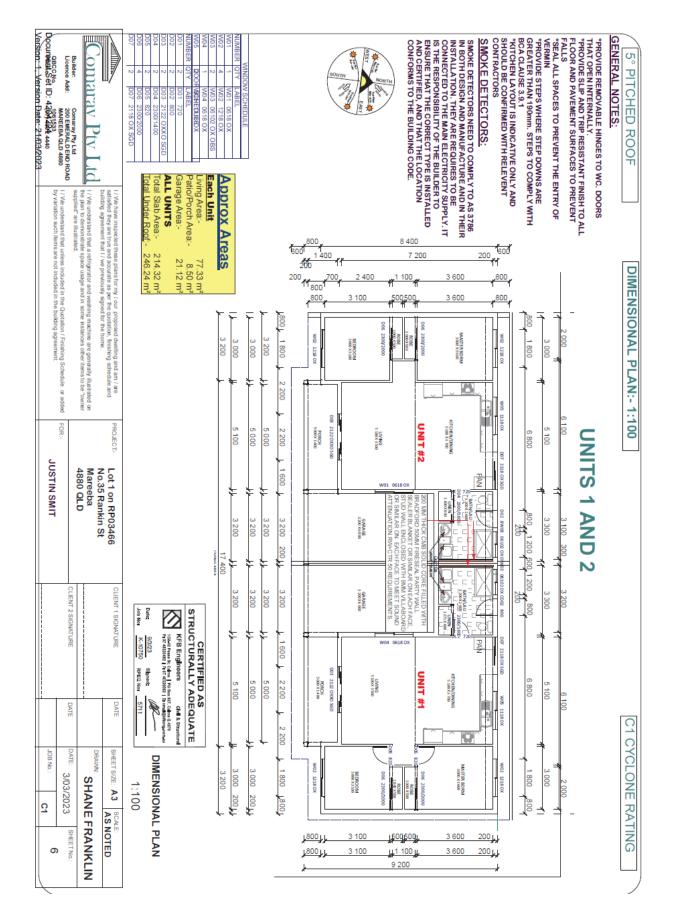
Nil

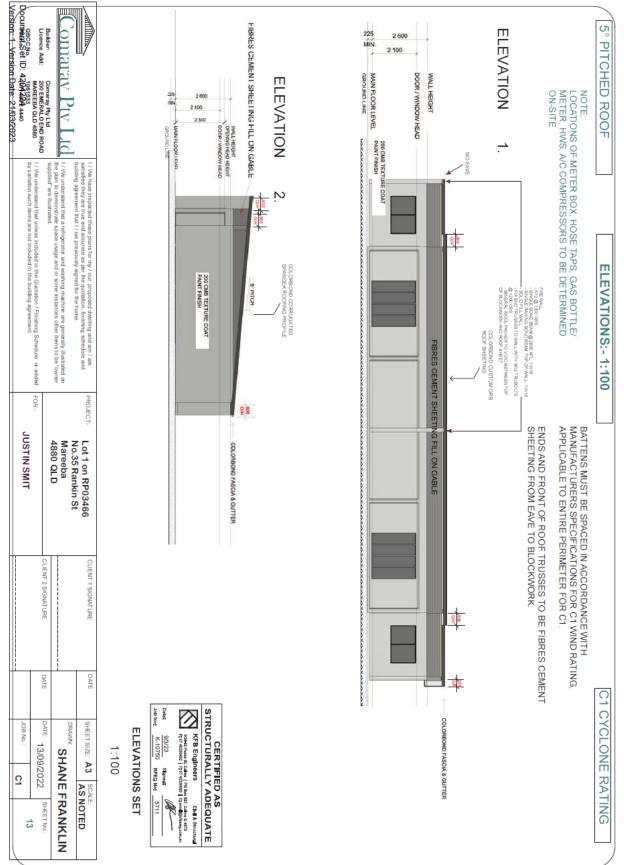
Date Prepared: 28 March 2023

DECISION BY DELEGATE
DECISION
DECISION
Having considered the Planning Officer's report detailed above, I approve, as a delegate of Council, the application subject to the conditions listed in the report.
Dated the 2974 day of MARCH 2023
B. HANNER
MAREEBA SHIRE AS A DELEGATE OF THE COUNCIL



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