



28 January 2026

Planning Officer: Carl Ewin
Direct Phone: 07 4086 4656
Our Reference: MCU/25/0019
Your Reference: 25016

C Eldred
C/- Scope Town Planning
183 Summerfields Drive
CABOOLTURE QLD 4510

Dear Applicants,

Decision Notice

Planning Act 2016

I refer to your application and advise that on 27 January 2026 under delegated authority, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No:	MCU/25/0019
Street Address:	27 Mason Street, Mareeba
Real Property Description:	Lot 26 on M35630
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision:	Approval
Type of Approval:	Development Permit for Material Change of Use – Multiple Dwelling (8 Units)
Date of Decision:	27 January 2026

CURRENCY PERIOD OF APPROVAL

The currency period for this development approval **six (6) years** starting the day that this development approval takes effect. (Refer to Section 85 “Lapsing of approval at end of currency period” of the *Planning Act 2016*.)

INFRASTRUCTURE

Where conditions relate to the provision of infrastructure, these are non-trunk infrastructure conditions unless specifically nominated as a “*necessary infrastructure condition*” for the provision of trunk infrastructure as defined under Chapter 4 of the *Planning Act 2016*.

ASSESSMENT MANAGER CONDITIONS (COUNCIL)

- (a) Development assessable against the Planning Scheme
1. Development must be carried out generally 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 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.
 - 3.2 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.

3.3 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.

3.4 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.

3.5 Letterbox

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

3.6 Clothes Drying Facilities

Individual clothes drying facilities must be provided to each unit in accordance with the approved plans.

3.7 Waste Management

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

4. Infrastructure Services and Standards

4.1 Access

An access crossover, with minimum width of 5 metres must be constructed (from the property boundary of the subject site to the edge of the existing sealed formation of Mason Street) in accordance with the FNQROC Development Manual.

4.2 Stormwater Drainage

(a) The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.

-
- (b) Prior to building works commencing the applicant must, as part of a subsequent application for operational works, submit a Stormwater Management Plan and Report prepared and certified by a suitably qualified design engineer (RPEQ) that meets or exceeds the standards of design and construction set out in the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual to the satisfaction of Council's delegated officer. At minimum, the stormwater management plan must address/include the following:
- (i) Where possible, stormwater collected from the site, particular from the shared driveway and crossover must be directed to the roadside drain.
 - (ii) Water currently discharged onto the site from upstream properties.

Where stormwater pits or underground/aboveground drains are required easements must be established in favour of upstream properties (Council is not to be listed as party on any drainage easements).
 - (iii) Strategies to ensure stormwater is discharged to the frontage of the site only and not into adjoining properties.
- (c) The applicant/developer must construct the stormwater drainage infrastructure in accordance with the approved Stormwater Management Plan and Report.
- (d) Temporary drainage is to be provided and maintained during the construction phase of the development, discharged to a lawful point and not onto the construction site.
- (e) All stormwater channels through private property must be registered, with the easement for drainage purposes in favour of upstream contributing properties. All documentation leading to the registration of the easement must be submitted to Council for review and approval.
- (f) All stormwater drainage collected from the site must be discharged to an approved legal point of discharge.
- (g) All aboveground drainage easements must be constructed to prevent erosion. Construction may be in the form of a concrete invert, with outlet protection.

4.3 Car Parking/Internal Driveways

The applicant/developer must ensure that the development is provided with 1 undercover parking space per unit and 1 visitor parking space (not required to

be covered). All car parking spaces, and internal driveways must be made from reinforced concrete.

Detailed designs of the shared driveway, including any retaining walls/bulk earthworks required onsite, particularly along the southern boundary of the site, and any stormwater drainage included in the driveway design must be submitted to Council as part of a subsequent application for operational works.

All car parking spaces and internal driveways must be constructed in compliance with the following standards, to the satisfaction of Council's delegated officer:

- Australian Standard AS2890:1 Off Street Parking – Car Parking Facilities;
- Australian Standard AS1428:2001 – Design for Access and Mobility.

4.4 Landscaping & Fencing

- (a) Prior to the commencement of the use, landscaping and fencing of the site must be carried out in accordance with the endorsed landscape plan, and mulched and irrigated to the satisfaction of Council's delegated officer.
- (b) All fencing is to be solid (no gaps), at least 1.8 metres in height, constructed of timber or colorbond and be of neutral colour.
- (c) All landscaping and fencing is to be maintained in good order for the life of the development, to the satisfaction of Council's delegated officer.

4.5 Lighting

Where outdoor lighting is required the applicant/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.

4.6 Water Supply

Where the existing reticulated water supply does not currently service the site or is not at an adequate capacity, the applicant/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/relocated 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 dwelling unit is required to be **separately metered**.

4.7 Sewerage Connection

The applicant/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 applicant/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).

Plans for the development works required under Conditions 4.1 – 4.3 and 4.6 and 4.7 must be submitted to Council for approval as part of a subsequent application for operational works.

REFERRAL AGENCIES

Not Applicable.

APPROVED PLANS

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
GGF-115 A000	Cover Sheet	Speedy Gomez Building Design	11/11/25
GGF-115 A001	Proposed 3D (9am)	Speedy Gomez Building Design	11/11/25
GGF-115 A002	Proposed 3D (1pm)	Speedy Gomez Building Design	11/11/25
GGF-115 A003	Proposed 3D (3pm)	Speedy Gomez Building Design	11/11/25
GGF-115 A004	Site Plan	Speedy Gomez Building Design	11/11/25

GGF-115 A005	Site Drainage	Speedy Gomez Building Design	11/11/25
GGF-115 A006	Pr. Grnd Flr.	Speedy Gomez Building Design	11/11/25
GGF-115 A007	Proposed Level 1	Speedy Gomez Building Design	11/11/25
GGF-115 A008	Elevations - 1	Speedy Gomez Building Design	11/11/25
GGF-115 A009	Elevations - 2	Speedy Gomez Building Design	11/11/25
GGF-115 A010	Internal Elevations	Speedy Gomez Building Design	11/11/25
GGF-115 A011	Swept Path - 1	Speedy Gomez Building Design	11/11/25
GGF-115 A012	Swept Path - 2	Speedy Gomez Building Design	11/11/25
GGF-115 A013	Landscaping Plan	Speedy Gomez Building Design	11/11/25

ASSESSMENT MANAGER'S ADVISORY NOTES

The following notes are included for guidance and information purposes only and do not form part of the assessment manager conditions:

- (a) An Adopted Infrastructure Charges Notice has been issued with respect to the approved development. The Adopted Infrastructure Charges Notice details the type of infrastructure charge/s, the amount of the charge/s and when the charge/s are payable.
- (b) The Adopted Infrastructure Charges Notice does not include all charges or payments that are payable with respect to the approved development. A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.
- (c) 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.

- (d) 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.

(e) 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.

(f) 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 www.dcceew.gov.au.

(g) 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.

(h) Electric Ants

Electric ants are designated as restricted biosecurity matter under the *Biosecurity Act 2014*.

Certain restrictions and obligations are placed on persons dealing with electric ant carriers within the electric ant restricted zone. Movement restrictions apply in accordance with Sections 74–77 of the *Biosecurity Regulation 2016*. Penalties may be imposed on movement of electric ant carriers and electric ants in contravention of the legislated restrictions. It is the responsibility of the applicant to check if the nominated property lies within a restricted zone.

All persons within and outside the electric ant biosecurity zone have an obligation (a *general biosecurity obligation*) to manage biosecurity risks and threats that are under their control, they know about, or they are expected to know about. Penalties may apply for failure to comply with a general biosecurity obligation.

For more information please visit the electric ant website at [Electric ants in Queensland | Business Queensland](#) or contact Biosecurity Queensland 13 25 23.

FURTHER DEVELOPMENT PERMITS REQUIRED

- Development Permit for Operational Work
- Development Permit for Building Work
- Development Compliance Permit for Plumbing and Drainage Work

RIGHTS OF APPEAL

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

During the appeal period, you as the applicant may suspend your appeal period and make written representations to council about the conditions contained within the development approval. If council agrees or agrees in part with the representations, a “negotiated decision notice” will be issued. Only one “negotiated decision notice” may be given. Taking this step will defer your appeal period, which will commence again from the start the day after you receive a “negotiated decision notice”.

OTHER DETAILS

If you wish to obtain more information about Council’s decision, electronic copies are available on line at www.msc.qld.gov.au, or at Council Offices.

Yours faithfully

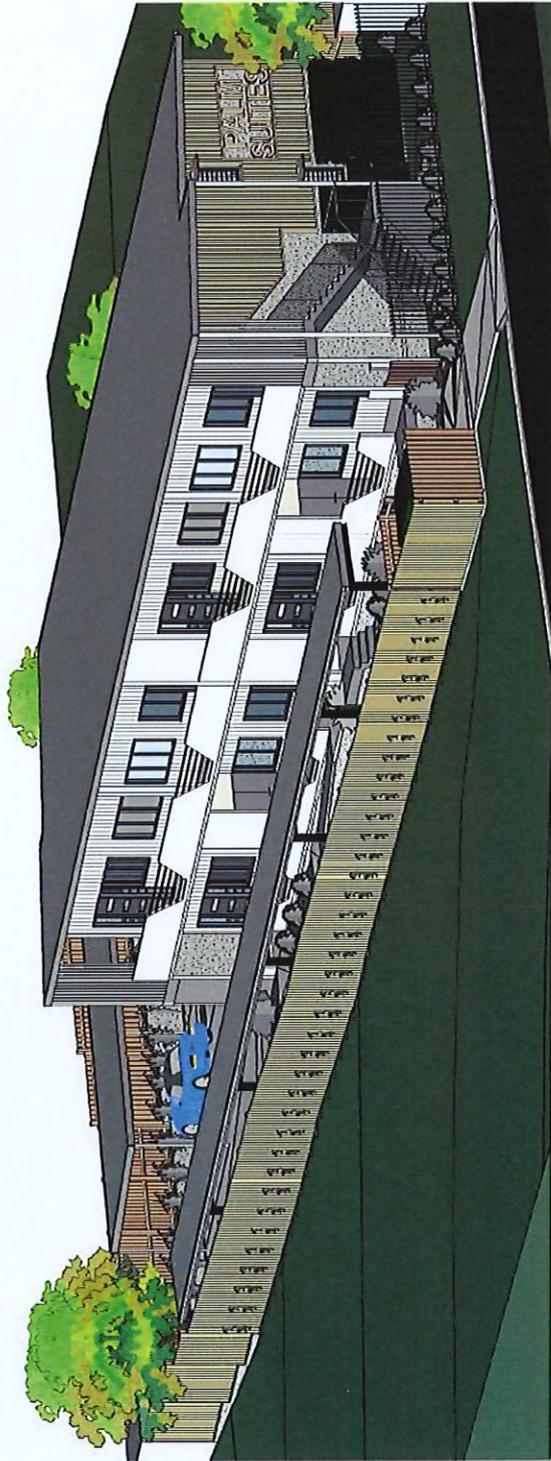


BRIAN MILLARD
COORDINATOR PLANNING & BUILDING

Enc: Approved Plans/Documents
Appeal Rights
Adopted Infrastructure Charge Notice

Approved Plans/Documents

Drawing List		Area Schedule			Area Schedule		
Sheet Number	Sheet Name	Name	Area	Sqms	Name	Area	Sqms
A000	Cover Sheet	Commons Open Space (Back)	107.7 m ²	7.3	Unit 4 Deck	10.8 m ²	1.2
A001	Proposed 3D (Plan)	Unit 1	107.4 m ²	4.6	Unit 4 Porch	9.5 m ²	1.0
A002	Proposed 3D (Plan)	Unit 1 Deck	107.4 m ²	6.5	Unit 4 S.P.O.S	19.0 m ²	2.0
A003	Proposed 3D (Plan)	Unit 2 Deck	107.4 m ²	1.2	Unit 5	80.4 m ²	8.5
A004	Site Plan	Unit 2 Deck	107.4 m ²	1.2	Unit 5 Porch	10.8 m ²	1.2
A005	Site Drainage	Unit 1 S.P.O.S	107.4 m ²	2.0	Unit 6	59.6 m ²	6.4
A006	Int. Grid Plan	Unit 2 Deck	107.4 m ²	6.4	Unit 6 Deck	10.7 m ²	1.2
A007	Proposed Level 1	Unit 2 Porch	107.4 m ²	1.0	Unit 6 Porch	10.5 m ²	1.1
A008	Elevations - 1	Unit 2 S.P.O.S	107.4 m ²	2.0	Unit 7	59.9 m ²	6.4
A009	Elevations - 2	Unit 3	107.4 m ²	6.4	Unit 7 Deck	10.7 m ²	1.2
A010	Site Elevation	Unit 3 Deck	107.4 m ²	1.2	Unit 7 Porch	10.5 m ²	1.1
A011	Site Elevation	Unit 3 Porch	107.4 m ²	1.2	Unit 8	80.4 m ²	8.5
A012	Sheet Path - 1	Unit 3 S.P.O.S	107.4 m ²	2.0	Unit 8 Deck	10.8 m ²	1.2
A013	Landscape Plan	Unit 4	107.4 m ²	6.5	Unit 8 Porch	10.6 m ²	1.1
A014	Gen. Details Sheet						
A015	General Notes - 1						893.5



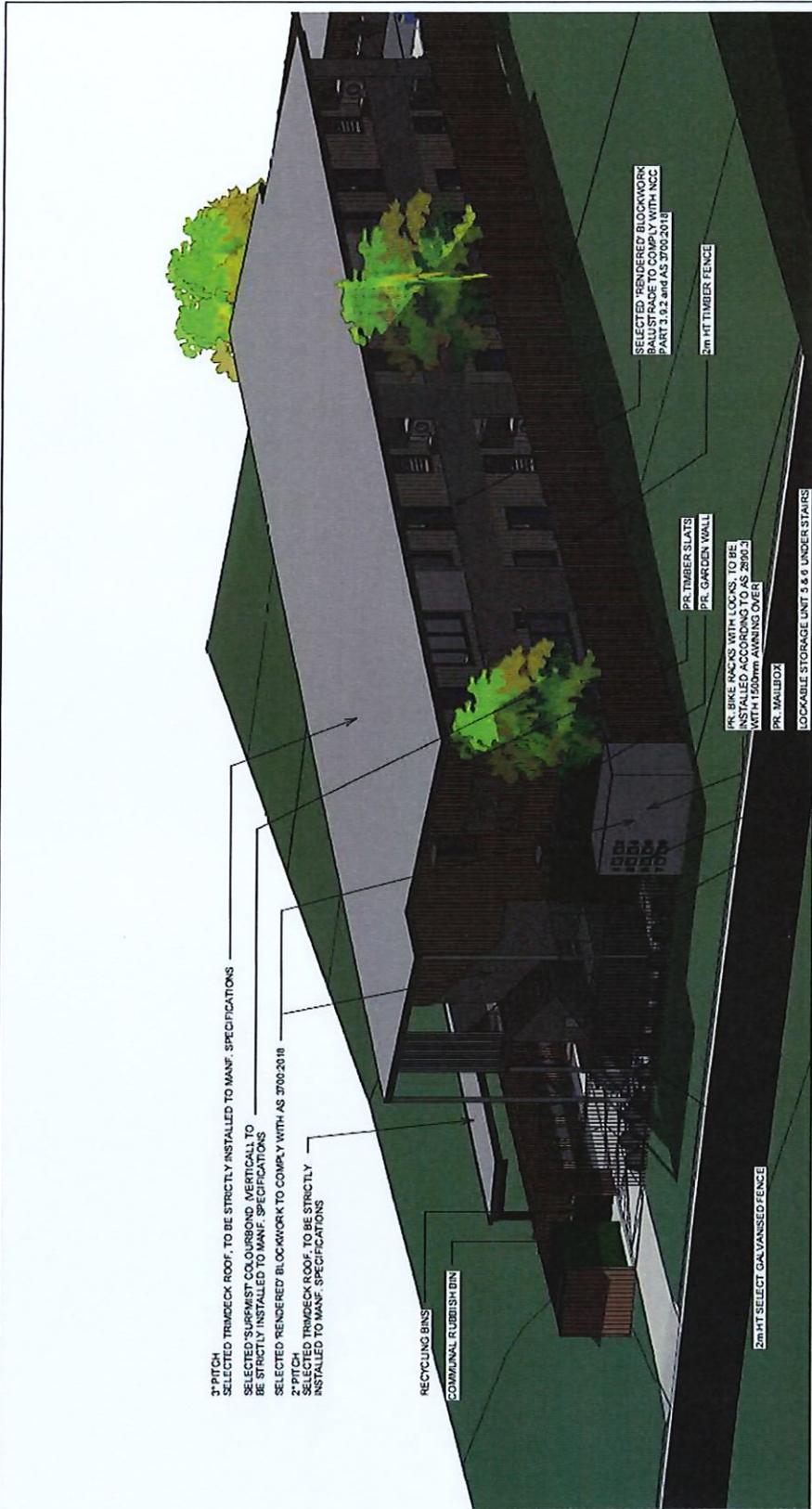
Notes: BUILDER TO CONFIRM ALL MEASUREMENTS ON SITE BEFORE COMMENCING WORKS OR ORDERING PRODUCTS
Copy Right - THESE DRAWINGS AND THE INFORMATION CONTAINED HEREIN REMAIN THE PROPERTY OF "SPEEDY GOMEZ DESIGN". ARE NOT TO BE COPIED OR REPRODUCED IN PART OR FULL WITHOUT WRITTEN CONSENT

Proposed 8-unit Apartment
27 Mason St, Mareeba, QLD

Document Set ID: 4152540
Version: 1, Version Date: 04/12/2025

Revision:	Cover Sheet	Sheet:
	Drawing No. A000	A000 of 15
	Author: Cindy Gomez/Smith	Status: Concept
	Client: GGF-115	Date: 11/11/25
	Scale: A3	Design: Building Design
		M: 0415 170 642
		E: cinda@speedygomez.com.au

28/11/2025
C. Gomez



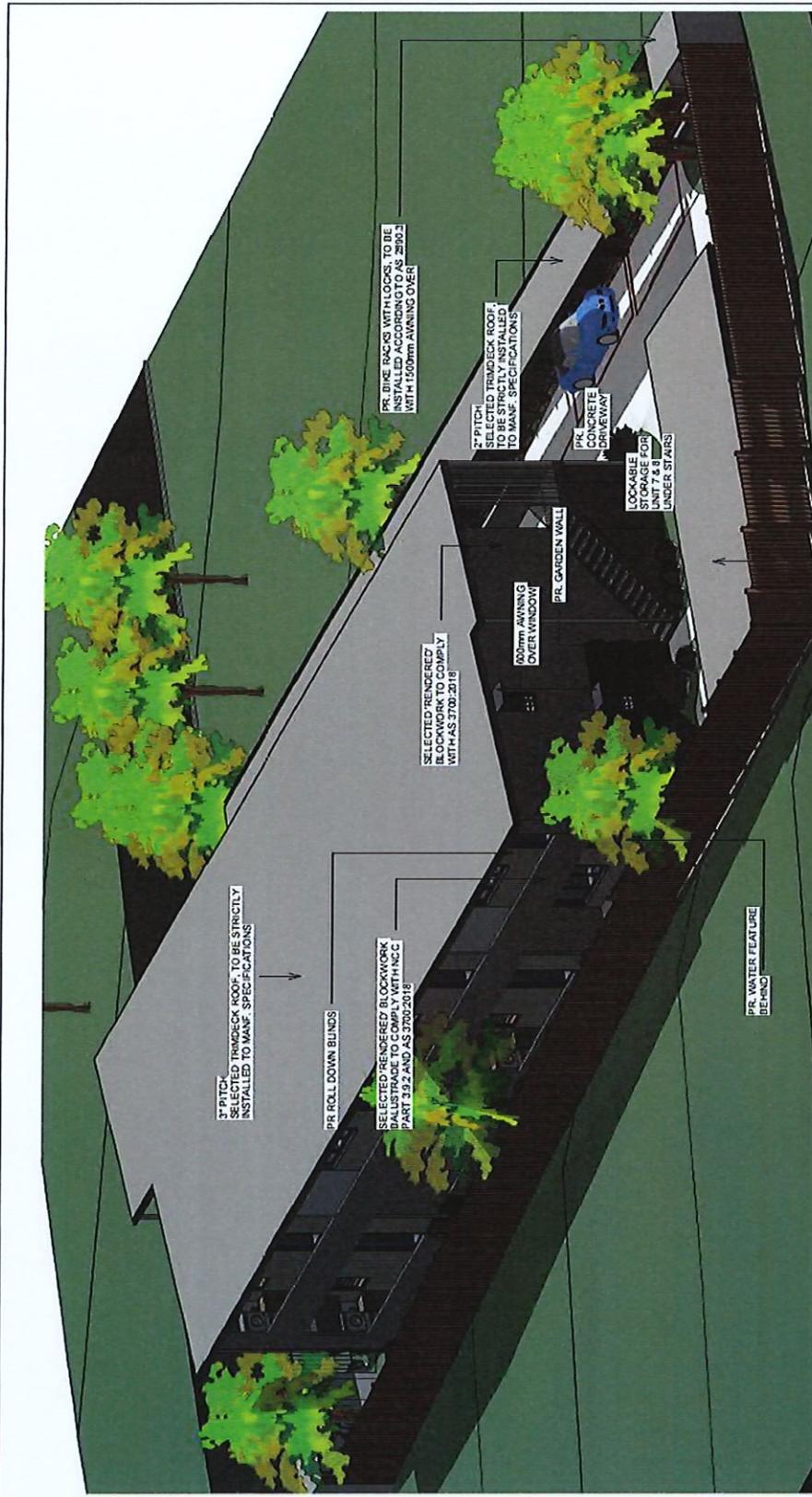
Proposed 3D (9am)

1

Notes: BUILDER TO CONFIRM ALL MEASUREMENTS ON SITE BEFORE COMMENCING WORKS OR ORDERING PRODUCTS
Copy Right - THESE DRAWINGS AND THE INFORMATION CONTAINED HEREIN REMAIN THE PROPERTY OF "SPEEDY GOMEZ DESIGN". ARE NOT TO BE COPIED OR REPRODUCED IN PART OR FULL WITHOUT WRITTEN CONSENT

Proposed 8-unit Apartment 27 Mason St., Mareeba, QLD		Proposed 3D (9am)	
Revision:		Sheet:	A001 of 15
		Status:	Concept
		Date:	11/1/25
		Ref:	GGF-115
		Size:	A3
Drawing No. A001		Speedy Gomez Building Design M:04 15 170 642 E:cindia@speedygomez.com.au	
Drawn: Erika Gomez-Ferriter Checked: LARA WOOD Date: 09-00-24/02			
Document Set ID: 4352643 Version: 1, Version Date: 04/12/2025			

20/1/2026
B. J. [Signature]



1 Proposed 3D (1pm)

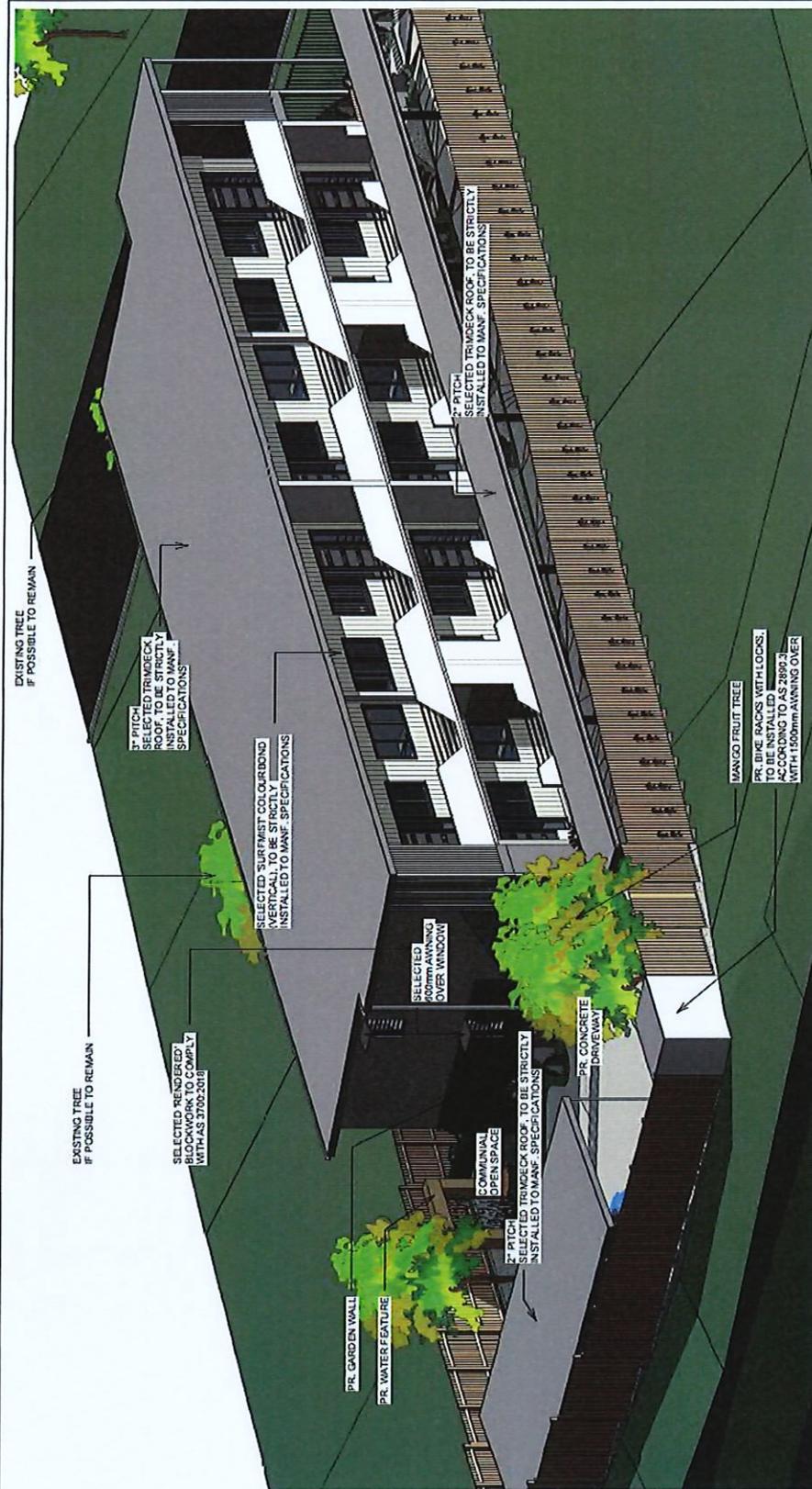
Notes: BUILDER TO CONFIRM ALL MEASUREMENTS ON SITE BEFORE COMMENCING WORKS OR ORDERING PRODUCTS
 Copy Right - THESE DRAWINGS AND THE INFORMATION CONTAINED HEREIN REMAIN THE PROPERTY OF "SPEEDY GOMEZ DESIGN". ARE NOT TO BE COPIED OR REPRODUCED IN PART OR FULL WITHOUT WRITTEN CONSENT

Proposed 8-unit Apartment
 27 Mason St., Mareeba, QLD

Document Sk: 4512643
 Version: 1, Version Date: 04/12/2025

Revision:	Sheet: A002 of 15	Speedy Gomez
	Status: Concept	Building Design
	Drawing No. A002	M:0415 170 642
	Date: 11/11/25	E:cinda@speedygomez.com.au
	Draw: Cinda Gomez/Frankie	
	Client: 1515300	
	DP-AD 3440	
	Ref: GGF-115	
	Scale: A3	

28/1/2026
 28.2 [Signature]



1 Proposed 3D (3pm)

Notes: BUILDER TO CONFIRM ALL MEASUREMENTS ON SITE BEFORE COMMENCING WORKS OR ORDERING PRODUCTS
 Copy Right - THESE DRAWINGS AND THE INFORMATION CONTAINED HEREIN REMAIN THE PROPERTY OF "SPEEDY GOMEZ DESIGN". ARE NOT TO BE COPIED OR REPRODUCED IN PART OR FULL WITHOUT WRITTEN CONSENT

Proposed 8-unit Apartment
 27 Mason St., Mareeba, QLD

Revision:

Sheet:	A003 of 15
Status:	Concept
Date:	11/1/25
Ref:	GGF-115
Scale:	A3

Proposed 3D (3pm)

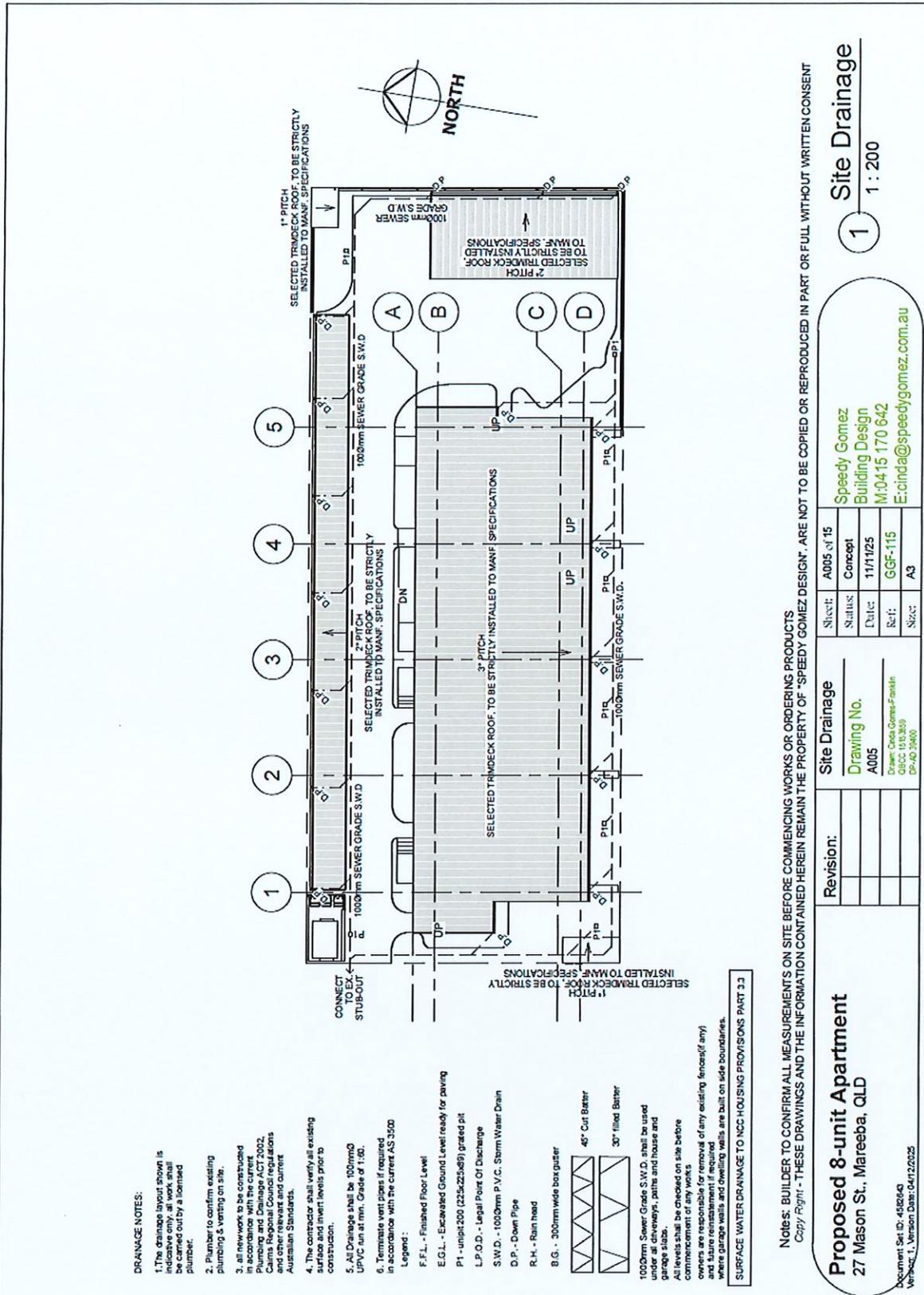
Drawing No. A003

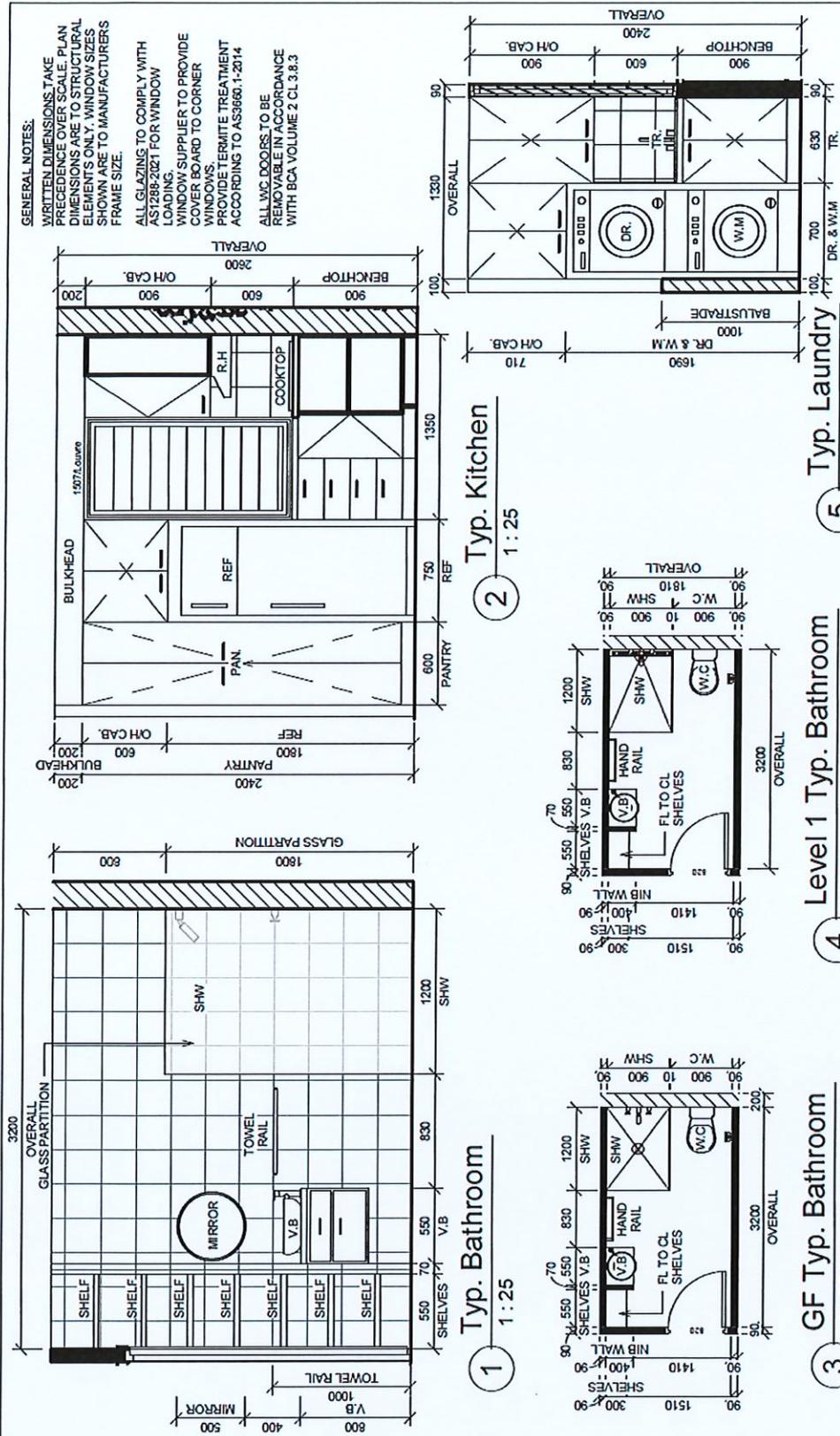
Draw: Cindy Gomez-Ferris
 QUDC 1193049
 DP-AD 3440

Speedy Gomez
 Building Design
 M:0415 170 642
 E:cinda@speedygomez.com.au

Document Skt ID: 452640
 Verbsat, L. Version Date: 04/12/2025

28/1/2026
 [Signature]





GENERAL NOTES:
 WRITTEN DIMENSIONS TAKE PRECEDENCE OVER SCALE. PLAN DIMENSIONS ARE TO STRUCTURAL ELEMENTS ONLY. WINDOW SIZES SHOWN ARE TO MANUFACTURERS FRAME SIZE.
 ALL GLAZINGS TO COMPLY WITH AS1288-2021 FOR WINDOW LOADING.
 WINDOW SUPPLIER TO PROVIDE COVER BOARD TO CORNER WINDOWS.
 PROVIDE TERMITE TREATMENT ACCORDING TO AS3660.1-2014
 ALL WC DOORS TO BE REMOVABLE IN ACCORDANCE WITH BCA VOLUME 2 CL 3.8.3

Copy Right - THESE DRAWINGS AND THE INFORMATION CONTAINED HEREIN REMAIN THE PROPERTY OF "SPEEDY GOMEZ DESIGN". ARE NOT TO BE COPIED OR REPRODUCED IN PART OR FULL WITHOUT WRITTEN CONSENT
 Notes: BUILDER TO CONFIRM ALL MEASUREMENTS ON SITE BEFORE COMMENCING WORKS OR ORDERING PRODUCTS

Proposed 8-unit Apartment 27 Mason St., Mareeba, QLD		Internal Elevations	
Revision:	Drawing No. A010	Status: Concept	Sheet: A010 of 15
	Draw: Cinda Gomez-Franklin	Date: 11/11/25	
	Client: 15153059	Ref: GGF-115	
	EP-AD 20400	Scale: A3	
		Speedy Gomez Building Design M:0415 170 642 E:cinda@speedygomez.com.au	

28/1/2026
B. [Signature]

PROPOSED

<p>1. PAVETTA AUSTRALIENSIS (PAVETTA) QTY: 13</p> 	<p>5. MACKINLAYA MACROSCIADEA (BLUE UMBRELLA) QTY: 6</p> 
<p>2. PROSTANTHERA PHYLLIFOLIA (SPIKED MINT BUSH) QTY: 11</p> 	<p>6. LEPTOSPERMUM SPECIES (TEA-TREES) QTY: 10</p> 
<p>3. VIOLA HEDERACEA (NATIVE VIOLET) QTY: 38</p> 	<p>7. SYZYGIUM SMITHII (Lillypilly) QTY: 5</p> 
<p>4. MICROMELUM MINUTUM (LIME BERRY) QTY: 26</p> 	<p>8. BRACHYCHITON ACERIFOLIUS (ULLAWARRA FLAME TREE) QTY: 4</p> 

9. WANGIERA INDICA
QTY: 1



NATIVE PLANT LEGEND

EXISTING

A. PLANTS TO REMAIN ARE TO BE PRUNED BACK MAINTAINED TO COUNCILS SATISFACTION

LEGEND

SOFT LANDSCAPING

TURF

MULCHED GARDEN BED

HARD LANDSCAPING

CONCRETE 100mm DEPTH

SITE COVERAGE:
PROPOSED 2 STOREY - 392.2 m²

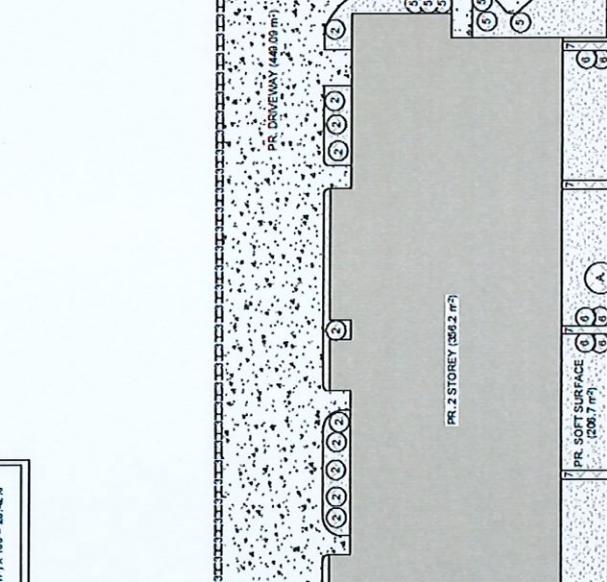
CALCULATION:
% COVER: (392.2 m² / 1,012 m²) x 100 = 38.75%

HARD SURFACE COVERAGE:
PR. DRIVEWAY - 449.09 m²

CALCULATION:
% COVER: (449.09 m² / 1,012 m²) x 100 = 44.38%

SOFT SURFACE COVERAGE:
PR. SOFT SURFACE - 206.7 m²

CALCULATION:
% COVER: (206.7 m² / 1,012 m²) x 100 = 20.42%



2000H TIMBER FENCE

2000H METAL FENCE

PROPERTY LINE

PR. 2 STOREY (392.2 m²)

PR. DRIVEWAY (449.09 m²)

PR. SOFT SURFACE (206.7 m²)

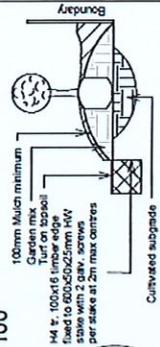
MASON ST.

Pr. Landscaping Plan

1 : 200

Planting Bed Preparation

1 : 100



100mm Mulch minimum
Garden max
Turf on topsoil
M4 to 100x16 timber edge
fixed to 600x60x25mm HW
per stake at 2m max centres
Curved subgrade

Sheet:	A013 of 15
Status:	Concept
Date:	11/11/25
Ref:	GGF-115
Size:	A3

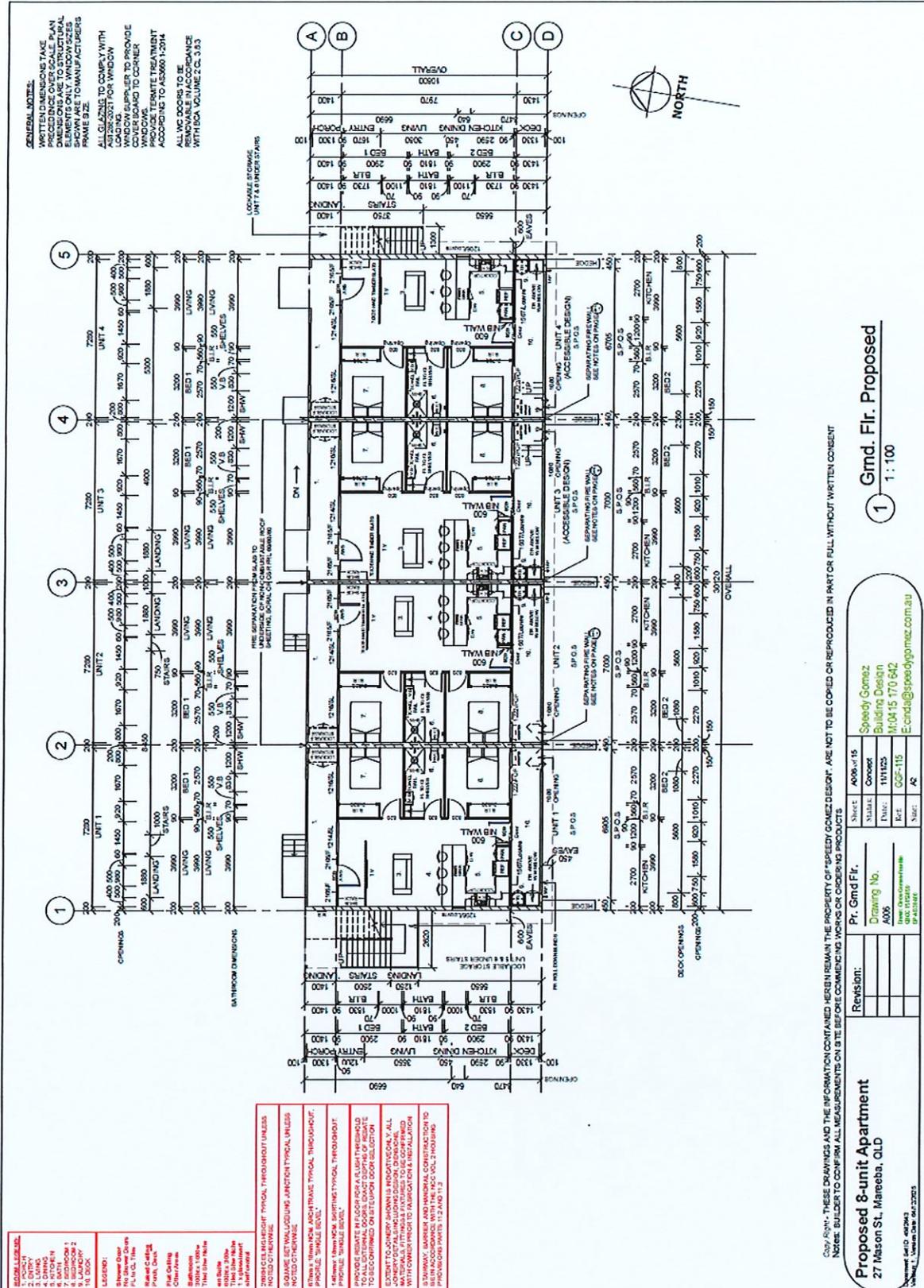
Speedy Gomez Building Design
M:04 15 170 642
E: cinda@speedygomez.com.au

Proposed 8-unit Apartment
27 Mason St., Mareeba, QLD

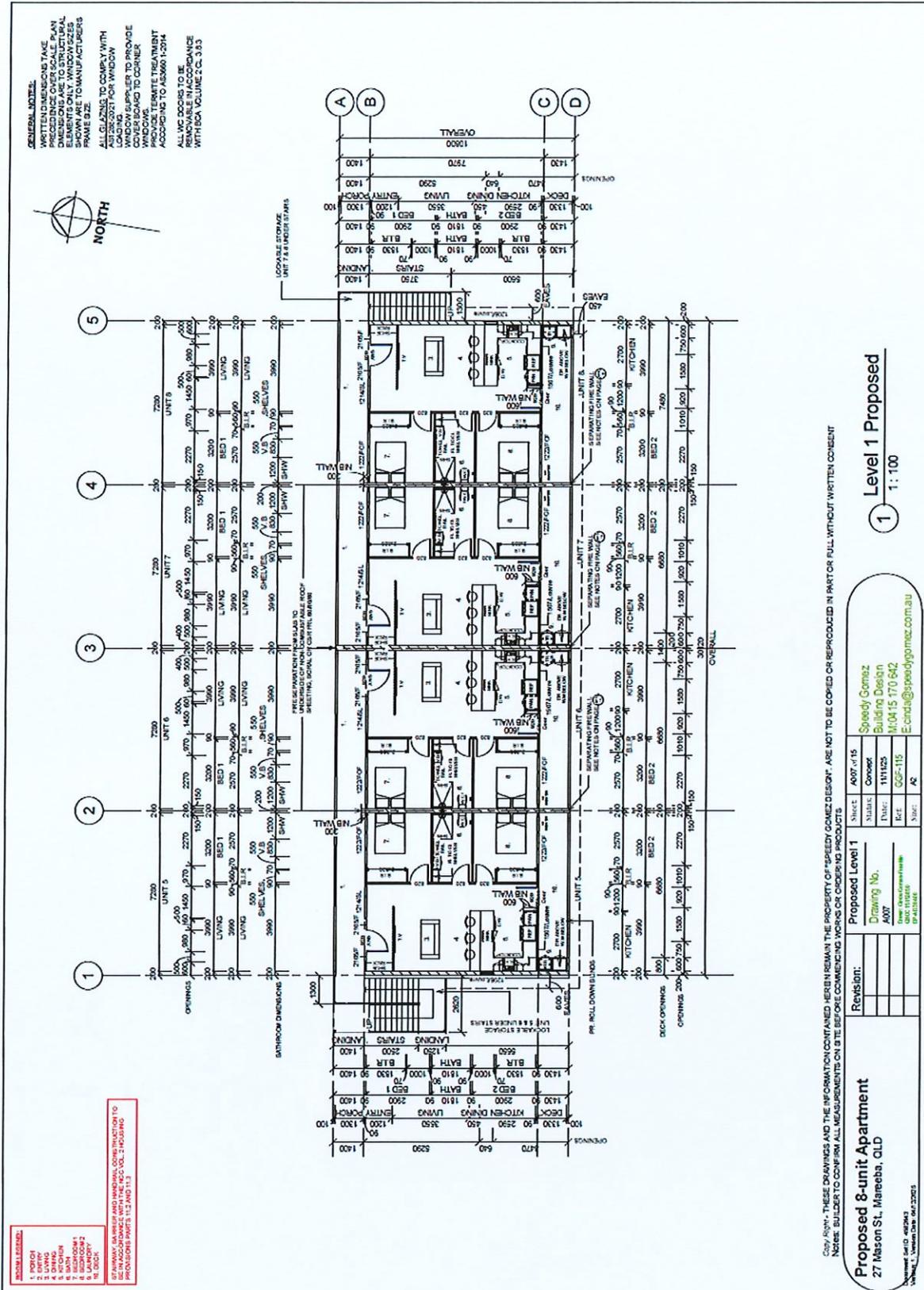
Document Set ID: 452640
Version: 1, Version Date: 04/12/2025

28/1/2026

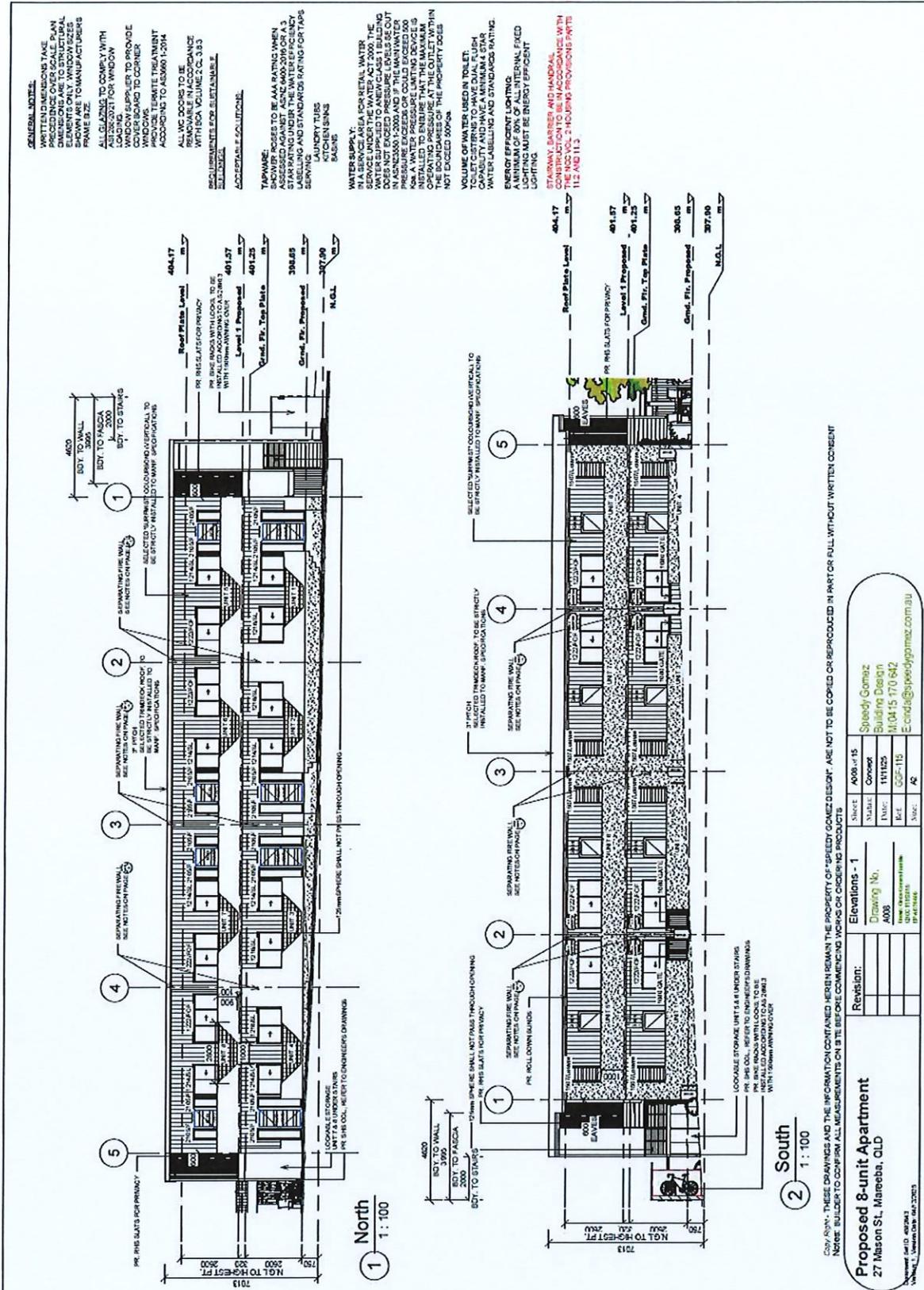




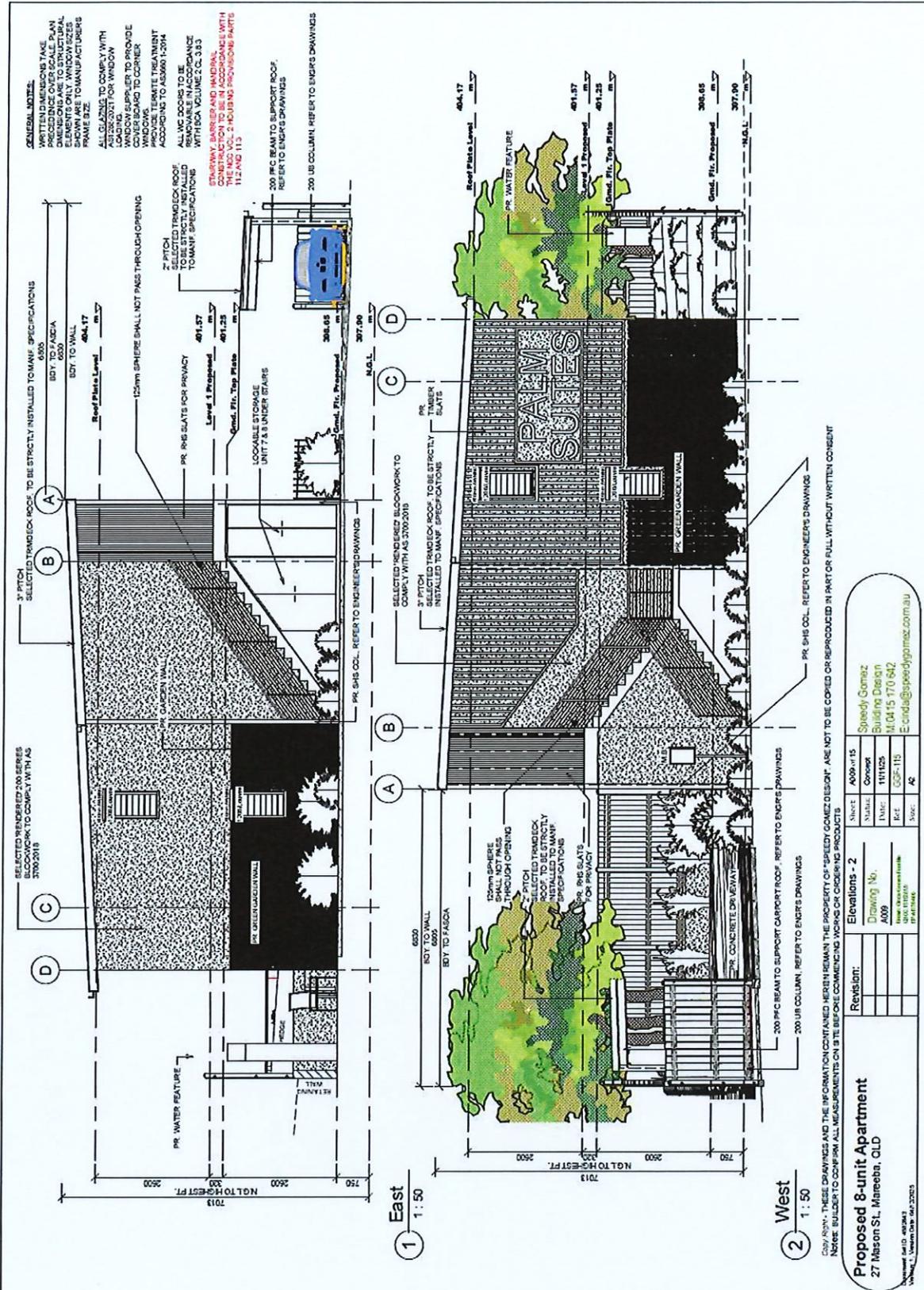
28/1/2026
B. n. Q.



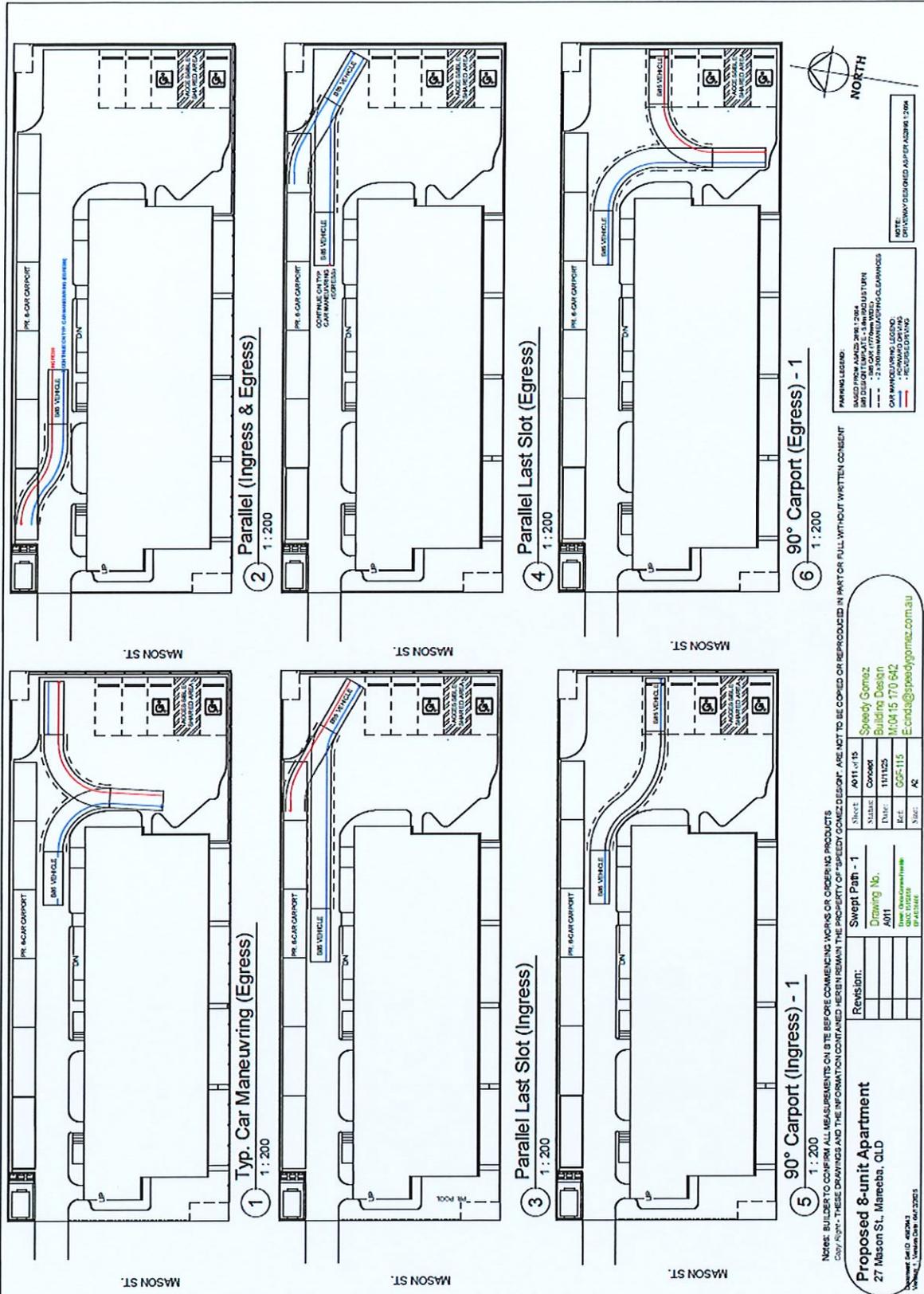
28/1/2026
 B. R. [Signature]



28/1/2026
B. n. Q.



28/1/2026
B. Will



28/1/2026
 B. [Signature]

Appeal Rights

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 of the Planning Act 2016 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.

(Refer to Schedule 1 of the Planning Act 2016)

- (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 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, table 1, item 1 – each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2 – each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); 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 has 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 by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

231 Other appeals

- (1) Subject to this chapter, 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 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, a tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a 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 the rules of the P&E Court.