



8 February 2023

ENQUIRIES: Ali Davey
PHONE: (07) 4044 3014
YOUR REF: WP22 005 LEE DA01 001
FILE REF: **8/7/5348** (7124949)
REFERENCE: **11875/ 2022**

Lee Group Australia Pty Ltd
C/- wildPLAN Pty Ltd
PO Box 8028
CAIRNS QLD 4870

By Email: dominic@wildplan.com.au

Dear Dominic,

DECISION NOTICE UNDER S63 PLANNING ACT 2016

Development Application: 8/7/5348
Property Address: 239-241 Esplanade and 252 & 254 Lake Street,
Cairns North
Property Description: Lot 200 on SP338361 and Lots 12 & 13 on
RP701251
Application Proposal: Material Change of Use (Multiple Dwelling)

With reference to the abovementioned Development Application, please find attached the relevant Decision Notice, which was determined under Instrument of Delegation on 7 February 2023.

The notice includes extracts from the Act with respect to making representations about conditions, negotiated decisions, suspension of the appeal period, and lodging an Appeal.

An Infrastructure Charges Notice in accordance with s119 of the *Planning Act 2016* will be issued under separate cover.

Should you have any enquires in relation to this Decision Notice, please contact Ali Davey of Council's Development Assessment Team on telephone number (07) 4044 3014.

Yours faithfully

Ali Davey
Planning Officer – Development Assessment
Att.



www.cairns.qld.gov.au
council@cairns.qld.gov.au



PO Box 359, Cairns Q 4870
119-145 Spence St, Cairns Q 4870



Ph: 1300 69 22 47
24 hours / 7 days



Decision Notice

APPLICANT DETAILS

Lee Group Australia Pty Ltd
C/- wildPLAN Pty Ltd
PO Box 8028
CAIRNS QLD 4870

ADDRESS

239-241 Esplanade and 252 & 254 Lake Street
CAIRNS NORTH QLD 4870

REAL PROPERTY DESCRIPTION

Lot 200 on SP338361
Lots 12 & 13 on RP701251

PROPOSAL

Material Change of Use (Multiple Dwelling)

DECISION

Approved in full subject to conditions (refer to approval package below).

DECISION DATE

7 February 2023

TYPE

Material Change of Use (Development Permit)

PLANNING INSTRUMENT

CairnsPlan 2016 v3.1

REFERRAL AGENCIES

None Applicable

SUBMISSIONS

There was one (1) not properly made submission for this application.

FURTHER DEVELOPMENT PERMITS REQUIRED

Development Permit for Building Work
Development Permit for Plumbing Work



PART A – MATERIAL CHANGE OF USE

APPROVED PLAN(S) & DOCUMENT(S)

The term 'approved plan(s) and document(s)' or other similar expressions means:

Drawing or Document	Reference	Date
Site Plan	Drawing No. A02 Rev DA1	7 November 2022
Rendering & Area Plans	Drawing No. A03 Rev DA1	7 November 2022
Site Plan – Proposed	Drawing No. A05 Rev DA1	7 November 2022
Ground/First Floor	Drawing No. A06 Rev DA1	7 November 2022
Level 2 and 3-7	Drawing No. A07 Rev DA1	7 November 2022
Level 8 & Roof	Drawing No. A08 Rev DA1	7 November 2022
Elevations	Drawing No. A09 Rev DA1	7 November 2022
Elevations	Drawing No. A10 Rev DA1	7 November 2022
Elevations	Drawing No. A11 Rev DA1	7 November 2022
Landscape Areas	Drawing No. A13 Rev DA1	7 November 2022
Landscape Elevations	Drawing No. A14 Rev DA1	7 November 2022
Landscape Elevations	Drawing No. A15 Rev DA1	7 November 2022
Landscape Planter Depths	Drawing No. A16 Rev DA1	7 November 2022
Ground Floor	Drawing No. 8LA_220501- LI05 Issue B	12 July 2022
Levels 2-8	Drawing No. 8LA_220501- LI06 Issue B	12 July 2022
Roof Level	Drawing No. 8LA_220501- LI07 Issue B	12 July 2022
Elevations	Drawing No. 8LA_220501- LI08 Issue B	12 July 2022
Elevations	Drawing No. 8LA_220501- LI09 Issue B	12 July 2022

ASSESSMENT MANAGER CONDITIONS

Currency Period

1. 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*.

Carry Out the Approved Development

2. 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, including recommendations and findings confirmed within technical reports; 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

3. The conditions of the Development Permit must be satisfied prior to Commencement of Use, except where specified otherwise in these conditions of approval.

Notice of Intention to Commence Use

4. Prior to the Commencement of Use on the site, written notice must be given to Council that the development fully complies with this Development Permit.

Please return the attached "*Notice of Intention to Commence Use*" form when the use has commenced (attached at Appendix 2).

Amalgamation of Lots

5. Amalgamate Lots 12 and 13 on RP701251 into one (1) lot and register the Plan of Survey prior to the Commencement of Use.

Access Easement

6. Register an easement for access purposes over Lot 200 on SP338361 in the access location shown on the approved plans and in favour of Lots 12 and 13 on RP701251.

Minimum Floor Levels

7. The finished floor levels of the building must be located equal to or greater than 300mm above the 1% AEP defined inundation event level (including storm surge).

8. The finished level of all car parking areas must be located equal to or greater than the 5% AEP defined inundation event level for flood (i.e. excluding storm surge).
9. Where the finished floor level for the ground level of the development is above the height of the existing footpath level, any ramp, stairs or other features utilised to bridge the variation in floor level must be contained wholly within the curtilage of the building. Ramping within the road reserve to achieve accessibility to the site must not occur.

Certification of Building Height

10. Provide certification from a suitably qualified person to demonstrate that:
 - a. The overall as constructed height of all buildings, structures, plant equipment, lift shafts, aerials, lightning rods, antennae, poles, posts or other obstacles do not penetrate the Cairns International Airport Obstacle Limitation Surface (OLS) of 45.0m AHD over the land;
 - b. All lighting, cladding and building materials are of an acceptable standard so as not to impact on the operational aspects of the airport with regard to light emissions, reflectivity or other emissions;
 - c. Any encroachments into the airport's operational airspace as a result of construction activities, including the use of cranes or other equipment, have received regulatory approval by the responsible entity prior to the issue of a Development Permit for Building Works.

Acoustic Attenuation

11. The development must be designed to be acoustically insulated to achieve the minimum standards required by *AS2021 – Acoustics – Aircraft Noise Intrusion – Building Siting and Construction*, having regard to the provisions of the *Environmental Protection Act 1994* and *Environmental Protection (Noise) Policy 2019*. The development must achieve the required indoor design sound levels for sensitive land uses prior to the Commencement of Use, being:
 - a. Sleeping areas – 50dB(A);
 - b. Other habitable areas – 55dB(A).
- 11A. Submit certification from a suitably qualified person with expertise in acoustic engineering (RPEQ) confirming that the building has been designed and constructed to achieve the required indoor design sound levels as required by *AS2021 – Acoustics – Aircraft Noise Intrusion – Building Siting and Construction*. Such certification must be submitted to Council prior to the Commencement of Use.

Water Supply and Sewerage Works External (Non-Trunk Infrastructure)

12. Undertake the following water supply and sewerage works external to the site to connect the site to existing water supply and sewerage infrastructure:
 - a. Augment existing water supply infrastructure to the extent necessary such that the development does not adversely affect the water supply to adjacent properties and such that a water service connection can be provided at the lot frontage; and
 - b. Augment existing sewers and pump station downstream of the site, to the extent required to accommodate the increased flows generated by the development.

The external works outlined above require approval from Council in accordance with an application for Operational Works. A plan of the works must be endorsed by the Chief Executive Officer prior to commencement of such works. Such work must be constructed in accordance with the endorsed plan to the satisfaction of the Chief Executive Officer prior to Commencement of Use or Council's approval for the Plan of Survey, whichever occurs first.

Note: This condition is imposed under section 145 of the Planning Act 2016 (Qld).

Water Supply and Sewerage Works Internal

13. Undertake the following water supply and sewerage works internal to the subject land:
 - a. The development must be serviced by a single internal water and sewerage connection made clear of any buildings or structures;
 - b. Water supply sub-metering must be designed and installed in accordance with the *Plumbing and Drainage Act 2018* and the *Water Supply (Safety and Reliability) Act 2008*. Smart meters are to align with Council's Smart Meter Program;
 - c. Replace the existing sewer main under or within 1.2 metres of the building and within the zone of influence of the footings and foundations with a uPVC sewer pipe class SN8;
 - d. The design of the building is to be such that the sewer main is located in the carpark area and clear of walls and footings. Saw cut joints are to be provide in the carpark slab for ease of future removal for access to the sewer;
 - e. Provide a manhole at the downstream end at the eastern boundary;
 - f. All structures and footings located adjacent to the existing 150DN sewer are to be 1.2m horizontally clear of the sewer and footings extended to a depth clear of the sewer's zone of influence and be certified by an RPEQ. A Form 15 and Form 16 are to be submitted with an application for Building Over Sewer;

- g. Any redundant sewer property connection and water connection shall be decommissioned and removed;
- h. Fire fighting pumped connections must be provided with a break tank where required;
- i. Council does not guarantee a minimum service standard for fire fighting from Council's water network. It is the responsibility of the property owner to design the private fire system to ensure compliance with the relevant building codes and standards and install all necessary on-site pressure boosting and storage that may be required; and
- j. Any fire booster assembly, cabinet and water meters are to be located within the property.

All the above works must be designed and constructed in accordance with the *FNQROC Development Manual*. A plan of works must be approved by the Chief Executive Officer prior to the issue of a Development Permit for Building Works or Development Permit for Operational Works, whichever occurs first.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer prior to Commencement of Use or Council's approval for the Plan of Survey, whichever occurs first.

Sewer Easement

14. Create an easement in favour of Council subject to Council's relevant standard terms document having a nominal width of 3 metres over the new manhole within the site to the requirements and satisfaction of the Chief Executive Officer. A copy of the easement document must be submitted to Council for the approval by Council's solicitors at no cost to Council.

The approved easement document must be submitted at the same time as seeking approval and dating of the Building Format Plan and must be lodged and registered with the Department of Natural Resources and Mines in conjunction with the Plan of Survey.

Inspection of Sewers

15. CCTV inspections of existing sewers must be undertaken at works completion where works inclusive of building works and construction activities have been undertaken over, adjacent to or to sewers. Defects must be rectified to the satisfaction of the Chief Executive Officer at no cost to Council prior to Commencement of Use.

Refuse Storage

16. The development must be designed to be serviced by bulk bin collection for both waste and recycling.

A roofed bin enclosure must be provided in accordance with Council's requirements and waste contractors requirements.

Access to the refuse bin enclosure must have appropriate overhead clearances, taking into account any overhead powerlines.

Details must be shown on the plan of works and must be approved by the Chief Executive Officer prior to issue of a Development Permit for Building Works.

The bin enclosure must be constructed in accordance with the approved plans prior to the Commencement of Use.

Note: Brochures on Council's requirements – 'Requirements for Refuse Storage' are available from Cairns Infrastructure and Assets.

Car Parking

17. Provide a minimum of thirty (30) vehicle parking spaces.

The car parking layout must comply with *AS2890.1:2004 – Parking facilities – Off-street car parking* and be constructed in accordance with Austroads and good engineering design. All parking, driveway and vehicular manoeuvring areas must be imperviously sealed, drained and line marked.

Provision of space must be provided on site for vehicles to turn around so that all vehicles, including service vehicles, can enter and exit in a forward direction.

The parking design must be approved by a suitably qualified RPEQ Engineer prior to the issue of a Development Permit for Building Works.

18. The ten (10) tandem car parking spaces must be clearly signed/marked for use by a single unit only (i.e. two (2) tandem spaces allocated to a single unit).

Bicycle Parking

19. Provide a minimum of twenty-six (26) on-site bicycle parking spaces for the Multiple Dwellings.

The bicycle parking areas must be constructed prior to Commencement of Use.

External Works (Non-Trunk Infrastructure)

20. Undertake the following works external to the site at no cost to Council:

- a. Provide an access crossover and driveway to the development on the Esplanade and Lake Street frontages in the locations shown on the approved drawings. The access crossovers and driveways must be constructed to a commercial/industrial standard in accordance with the current version of *FNQROC Development Manual Standard Drawings S1015* and *S1110*, prior to Commencement of Use.

Any ramping to meet with floor/garage levels must occur within the property. No grade change/ramping etc. for access is permitted within the road reserve.

All land adjacent to the driveway in the road verge which is disturbed as a consequence of creating the driveway, including the existing kerb and channel, footpath or roadway, must be reinstated to its pre-works condition.

- b. Remove any redundant crossovers and reinstate the kerb and channel along the frontages of the site. Any sections showing ponding, significant cracking or the like shall be deemed not fit for purpose and are to be replaced;
- c. Amend and/or remove any existing line marking along the Esplanade and Lake Street frontages of the site which is required to be altered or removed in response to the construction of the access crossover and/or removal of redundant crossovers. Painting over existing line marking in black is not permitted as it may be mistaken at night as line marking.

All on-street works must be submitted to Council for assessment as part of the Operational Works application. Such works must be constructed to the satisfaction of the Chief Executive Officer, prior to the Commencement of Use.

Note: These conditions are imposed under section 145 of the Planning Act 2016 (Qld).

Electrical & Telecommunications

21. An underground electricity reticulation and telecommunications service must be provided to the development in accordance with requirements of the *FNQROC Development Manual*.
22. Where the electrical load of the development requires a network supply upgrade by Ergon Energy, provision must be made for a padmount transformer on site and positioned so that it does not detract from the appearance of the streetscape. Alternatively, where acceptable to Ergon Energy, the development can be supplied from the Phase 2 development padmount substation. A supply upgrade utilising a pole mount transformer is not an acceptable option to Council. Details of the electrical substation positioning must be endorsed by the Chief Executive Officer.

23. The existing overhead electricity lines along the Lake Street frontage of the development must be placed underground for the full extent of the frontage. Such works are to be undertaken by Ergon Energy or its approved contractor, at no cost to Council.
24. The Development Approval condition(s) relating to the supply of electricity must be provided to Ergon Energy with the application for power supply.

Street Lighting

25. Prior to Commencement of Use and at no cost to Council, the street lighting must be upgraded to Lighting Category V3 along the Lake Street frontage of the site. The new Rate 2 street lighting is to be designed in accordance with Section D8 of the *FNQROC Development Manual* and the relevant Road Lighting Standard *AS/NZS 1158*. New lighting columns are to be of steel construction with LED Aeroscreen luminaires and underground services. The LED aeroscreen luminaires are to be installed at a zero-degree upcast.

Detailed Landscaping Plan

26. Submit a Detailed Landscaping Plan prepared by a suitably qualified Landscape Architect or Landscape Designer to Council, to provide:
 - a. A landscaping design that is generally in accordance with the Landscape Intent Drawings (Drawing Ref: 8LA_220501, LI01-LI010, Issue B, dated 12 August 2022) and Landscape Areas & Landscape Elevations (Drawing Nos.: A13-16, Rev DA1, dated 7 November 2022);
 - b. Design and specifications for all proposed inground landscaped areas (internal and external to the property) including specifications for planting, irrigation, edging and maintenance;
 - c. Details and specifications for planter boxes and trellising including:
 - i. Potting medium;
 - ii. Irrigation;
 - iii. Mulching; and
 - iv. Drainage.
 - d. A planting schedule that includes:
 - i. Deep planting of tropical hardy tree and palm species that will mature to a minimum height of ten (10) metres in height and provide a buffer;
 - ii. Deep planting with shrub species that will mature to a minimum height of five (5) metres and provide a buffer;
 - iii. Climbing species that are suitable for the Cairns region and not environmental weeds;
 - iv. Drought tolerant species suitable for container culture that can achieve the demonstrated heights within the elevations at maturity; and

- v. Street tree species in accordance with the *FNQROC Development Manual Cairns Specific Requirements Appendix D: Tree List*; and
- vi. Vegetation species that will not encroach into the OLS at maturity.
- e. Container supply size must be in accordance with the minimum container size specified in the *FNQROC Development Manual Landscaping Design Guidelines* for trees, palms, shrubs and groundcovers;
- f. Inclusion of any other relevant conditions included in this Development Permit. A copy of this Development Permit must be given to the Landscape Architect/Designer responsible for the preparation of the Detailed Landscaping Plan.

One (1) electronic (pdf format) copy of the Detailed Landscaping Plan must be endorsed by the Chief Executive Officer prior to the commencement of building works on the site.

The approval and completion of all landscaping works must be undertaken in accordance with the endorsed plan prior to Commencement of Use. Where landscaping is contained in the road reserve, a Development Permit for Operational Works to establish the external works must be obtained prior to the commencement of any landscape works.

Landscaped areas must be maintained at all times to the satisfaction of the Chief Executive Officer by the property owner.

Landscaping Maintenance & Management Plan

27. In conjunction with the submission of a Detailed Landscaping Plan, submit for approval a Landscaping Maintenance and Management Plan.

This plan must detail the maintenance and/or management regime(s) that are to be implemented to ensure the establishment of the landscaping features of the development and the ongoing long term landscaping maintenance for the life of the development.

The Landscaping Maintenance and Management Plan must demonstrate how the plants associated with the vertical landscaping features will be safely established and maintained.

The Landscaping Maintenance & Management Plan must be endorsed at the same time as the Detailed Landscaping Plan prior to the commencement of any landscaping works on the site.

Vegetation Damage

28. Damaged vegetation must be either:
 - a. Removed and disposed of at an approved site; or
 - b. Mulched or chipped and used onsite.

External and Security Lighting

29. Install and maintain a suitable system of security lighting to operate from dusk to dawn within all areas where the public may gain access, including car parking areas, building entrances and vegetated areas.
30. External lighting must not exceed a maximum light intensity of 150 candela (measured at 3 degrees above the light source's horizontal plane) and must not consist of straight parallel lines of lighting 500m to 1000m long; flare plume; upward shining lights; flashing lights; laser lights; sodium light; or reflective surfaces.
31. External lighting must be installed in accordance with *AS/NZS 4282:2019 – Control of the obtrusive effects of outdoor lighting*. The installation of external lighting must be certified by a suitably qualified person in accordance with the Australian Standard.

Air-Conditioning, Plant and Machinery Screens

32. Air-Conditioning, Plant and Machinery units located above ground level and visible from external properties and the street at the frontage of the land must be screened from view with appropriate materials or landscaping.
33. Mechanical plant must not be located on balconies or adjacent to other liveable spaces.

Street Signage Incorporating Numbering

34. Clear and legible signage incorporating the street number must be provided for the benefit of motorists. Signage and numbering must be installed on the premises prior to the Commencement of Use.

Geotechnical Investigation

35. Prior to the issue of a Development Permit for Building Works, submit a Geotechnical Assessment to Council which provides site specific details and advice in relation to the stability of the site, settlement and foundation design. The Geotechnical Assessment must identify any existing services in the area and advise of any protection measures required to avoid disturbance or loading of any relevant services.
36. Prior to the issue of a Certificate of Classification, submit certification from a Registered Professional Engineer Queensland (RPEQ) confirming that all works have been conducted in accordance with the approved Geotechnical Assessment.

Dewatering Management Plan

37. In the event that dewatering is required to facilitate the approved development, a Dewatering Management Plan must be submitted for endorsement by Council, prior to any works commencing on-site. The Dewatering Management Plan must be prepared by a suitably qualified professional and include, but not limited to:
- a. Dewatering technique to be employed;
 - b. Anticipated dewatering flowrate and total dewatering duration;
 - c. Controls to be employed (i.e. settling tank, turbidity curtain);
 - d. Measures and techniques to manage noise, vibration and odour issues;
 - e. Monitoring;
 - f. Contingency plan in case of emergency;
 - g. Specifications for dewatering and treatment; and
 - h. Point of discharge or place of disposal.

Acid Sulfate Soils Investigation

38. If any excavation is proposed that may result in disturbance of actual or potential acid sulfate soils (AASS/PASS), an acid sulfate soils investigation must be undertaken prior to excavation and the recommendations of the investigation implemented prior to such works commencing. The Acid Sulfate Soils Management Plan must be prepared by a suitably qualified person.

NB: Planning Scheme Policy – Acid Sulfate Soils provides guidance on preparing an acid sulfate soils investigation.

Construction Management Plan

39. A Construction Management Plan must be submitted to Council and endorsed prior to works commencing on the site. The Construction Management Plan must address all activities/operations associated with construction including:
- a. Hours of construction;
 - b. Location(s) of construction access;
 - c. Parking of vehicles (including construction site employees and delivery vehicles);
 - d. Traffic management and control (including loading and unloading);
 - e. On-site dust and noise management, so as to not cause a nuisance to the amenity of the surrounding area;

- f. Tree protection management in accordance with the Australian Standard *AS4970 – Protection of trees on development sites*;
- g. Location and details of construction signage including any signage that is to be illuminated.

The Construction Management Plan must also provide details of any construction method(s) that will result in temporary intrusions into the operational airspace of the Cairns Airport and provide associated evidence of relevant approvals from the responsible entities for such intrusions.

The approved Construction Management Plan must be complied with and a copy kept on the premises at all times during construction of the development.

Construction Signage

- 40. Prior to the commencement of any construction works associated with the development, signage detailing the project team must be placed on the road frontage(s) of the site and be located in a prominent position.

The signage must detail the relevant project coordinator for the works being undertaken on the site and must list the following parties (where relevant) and telephone contacts:

- a. Developer;
- b. Project Coordinator;
- c. Architect/Building Designer;
- d. Builder;
- e. Civil Engineer;
- f. Civil Contractor;
- g. Landscape Architect.

The signage must be retained on the frontage of the site for the duration of construction activities.

Stockpiling and Transportation of Fill Material

- 41. Soil used for filling or spoil from excavation is not to be stockpiled in locations that can be viewed from adjoining premises or a road frontage for any longer than one (1) month from the commencement of works.

Transportation of fill or spoil to and from the site must not occur:

- a. During peak traffic times;

- b. Before 7:00am or after 6:00pm Monday to Friday;
 - c. Before 7:00am or after 1:00pm on Saturdays;
 - d. On Sundays or public holidays.
42. Dust emissions or other air pollutants, including odours, must not extend beyond the boundary of the site and cause nuisance to surrounding properties.

Storage of Machinery and Plant

43. The storage of any machinery, material and vehicles must not cause nuisance to surrounding properties, to the satisfaction of the Chief Executive Officer.

Community Management Statement

44. Any future Community Management Statement must address the following matters:
- a. Landscaping maintenance and management including the following:
 - i. Show on a plan the location of the common property areas subject to the maintenance arrangement;
 - ii. Responsibility for the management of and ongoing maintenance of all in ground landscaping, vertical landscape features and planter boxes including, but not limited to, green walls and façade planters as identified on the approved plans; and
 - iii. Schedule of maintenance works;
 - b. An allocation must be made in the administration fund for the specific purpose of enabling maintenance and management activities of the landscape features referred to on the Landscaping Maintenance and Management Plan required by Condition 27;
 - c. Private water and sewerage infrastructure must be managed by a Community Titles Scheme. If the development consists of more than one body corporate, a parent body corporate must be established to manage the operation and maintenance of the internal water and sewerage infrastructure; and
 - d. All parking spaces must be included within the common property.

Any amendments to the Community Management Statement must not remove the above requirements for the life of the development. A copy of the Community Management Statement must be submitted to Council for review and endorsement under an application for Survey Plan Sealing.

Site Based Stormwater Management Plan

45. Submit a Site Based Stormwater Management Plan (SBSMP) for the development.

The SBSMP must report on the stormwater quantity and quality measures required for the land, and must include, but not be limited to, the following:

- a. Nominate best practice site management procedures to control the severity and extent of soil erosion and pollutant transport and any other water quality issues for both the construction phase and post-construction phase;

The SBSMP must be in accordance with the requirements of the *Environmental Protection Act 1994*, the *Queensland Urban Drainage Manual*, and the *FNQROC Development Manual* and must be submitted prior to works commencing on the subject site. All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer.

Plan of Drainage Works

46. Design and construct, at no cost to Council, all necessary stormwater management and drainage works (internal and external to the site) required to satisfactorily drain the subject land. The subject land must be drained to the satisfaction of the Chief Executive Officer, in particular:

- a. Drainage infrastructure in accordance with the *FNQROC Development Manual*; and

The above drainage measures should be submitted in conjunction with the application for Operational Works for the development. All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer.

Sediment and Erosion Control

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

Drainage

48. All inter allotment drainage is to be conveyed by above ground open channel catch drains in accordance with the *FNQROC Development Manual Section D4.13*.
49. All rear allotment drainage pits and associated pipework contained within the lot boundaries of this development site shall be private infrastructure and shall not become an asset of Council.

Concentration of Stormwater

50. The proposed development must not create ponding nuisances and/or a concentration of stormwater flows to adjoining properties.

Lawful Point of Discharge

51. 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, in accordance with the *Queensland Urban Drainage Manual, Fourth Edition (2017)*.

Damage to Infrastructure and Land

52. In the event that any part of Council's existing infrastructure or land is damaged as a result of construction activities occurring on the land, including but not limited to; mobilisation of heavy construction equipment, stripping and grubbing, notify Council immediately of the affected infrastructure or land and have it repaired, replaced or reinstated at no cost to Council.

FURTHER ADVICE

Further Approvals Required to Carry Out Development

1. The following further approvals are required prior to carrying out the development in accordance with the approved plans and drawings:
 - a. Development Permit for Building Work;
 - b. Development Permit for Operational Work;
 - c. Development Permit for Plumbing Work.

Planning Laws

2. Information relating to the *Planning Act 2016* (Qld), *Planning Regulation 2017* (Qld) and *Development Assessment Rules* is located on the Queensland Government's planning website – <https://planning.statedevelopment.qld.gov.au>.

Definitions

3. All terms used in this development approval have those definitions as defined under the *Planning Act 2016* (Qld) and *Planning Regulation 2017* (Qld) (as at the date of the approval), Queensland Development Code and CairnsPlan 2016.

To the extent of any inconsistency, the order of precedence of the above instruments is as follows:

- a. *Planning Act 2016* (Qld);
- b. *Planning Regulation 2017* (Qld);

- c. Queensland Development Code;
- d. CairnsPlan 2016.

FNQROC Regional Development Manual

- 4. Access to *FNQROC Regional Development Manual*, Local Laws, CairnsPlan 2016 and other referenced planning scheme policies are located on Council's website – www.cairns.qld.gov.au.

Future Compliance

- 5. This approval does not negate the requirement for compliance of any future use with CairnsPlan 2016 or any future in force planning schemes, all other relevant Local Laws and other statutory requirements.

Infrastructure Charges Notice

- 6. A charge levied for the supply of trunk infrastructure is payable to Council towards the provision of trunk infrastructure in accordance with the Infrastructure Charges Notice, a copy of which is attached for reference purposes only. The original Infrastructure Charges Notice will be provided under cover of a separate letter.

The amount in the Infrastructure Charges Notice has been calculated according to Council's Infrastructure Charges Resolution.

Please note that this Decision Notice and the Infrastructure Charges Notice are stand-alone documents. The *Planning Act 2016* (Qld) confers rights to make representations and appeal in relation to a Decision Notice and an Infrastructure Charges Notice separately.

The amount in the Infrastructure Charges Notice is subject to index adjustments and may be different at the time of payment. Please contact the Development Assessment Team at Council for review of the charge amount prior to payment.

The time when payment is due is contained in the Infrastructure Charges Notice.

Cyclone Watch Site Management

- 7. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council Officers, prior to commencement of works.

Smart Water Meters

- 8. Council will be implementing "smart" water meters during the currency period of this development. The Plumbing contractor must confirm with Council, at the time of making a Development Application for Plumbing Works, what the type of water metre should be installed.

Hazard Event Resilience

9. It is recommended that a Disaster Management Plan is prepared for the development and provided to residents of the development. The Disaster Management Plan should detail strategies to protect people and property in relation to significant inundation hazard risks or cyclone hazard events and the ongoing safety of residents, guests and staff during its operation and recovery after an event.

Amendment to Permit

10. Development Permit 8/7/3772 must be updated to reflect the approved plans associated with this development approval, in particular the work proposed to occur within Lot 200 on SP338361. Development Permit 8/7/3772 must be updated prior to the Commencement of Use or Council approval of a Plan of Survey, whichever occurs first.

PART B: INFRASTRUCTURE CHARGES

1. That an Infrastructure Charges Notice be given for the development.

LAND USE DEFINITIONS*

In accordance with CairnsPlan 2016 the approved land use of Multiple Dwelling is defined as*:

“Multiple dwelling means a residential use of premises involving 3 or more dwellings, whether attached or detached.”

*This definition is provided for convenience only. This Development Permit is limited to the specifications, facts and circumstances as set out in the application submitted to Council and is subject to the abovementioned conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

APPEAL RIGHTS

The rights of applicants 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*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

A copy of the relevant appeal provisions are attached as Appendix 3.

END OF DECISION NOTICE

APPENDIX 1: Approved Drawing(s) & Document(s)

MCKENZIE STREET

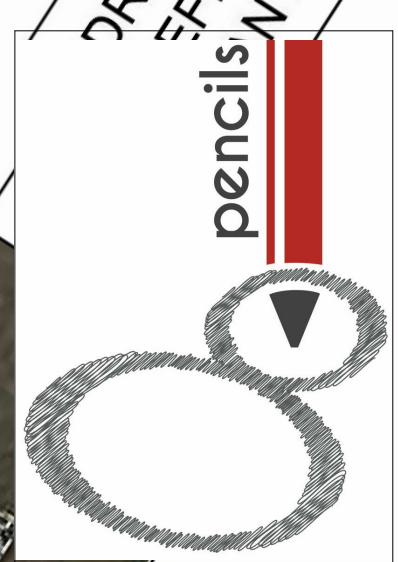
Esplanade

ESPLANADE

ESPLANADE

Esplanade

DA No. 8/7/3772



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DA1	Revised DA issue	7/11/22
REV	DESCRIPTION	DATE

CLIENT
S & K Lee

PROJECT
Lake Street Residential Development
 252-254 Lake St. Cairns North

DRAWING
Site Plan

PRELIMINARY
NOT FOR CONSTRUCTION

DRAWN	CHECKED	APPROVED
Author	Checker	Approver

SCALE
 1 : 425

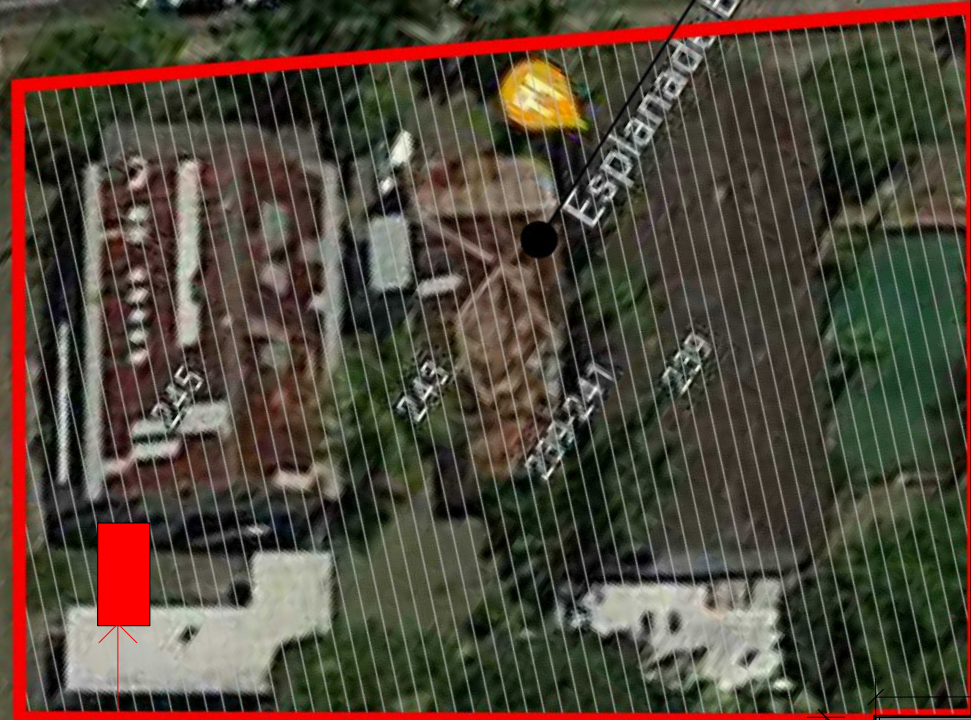
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P8-22	A02	DA1

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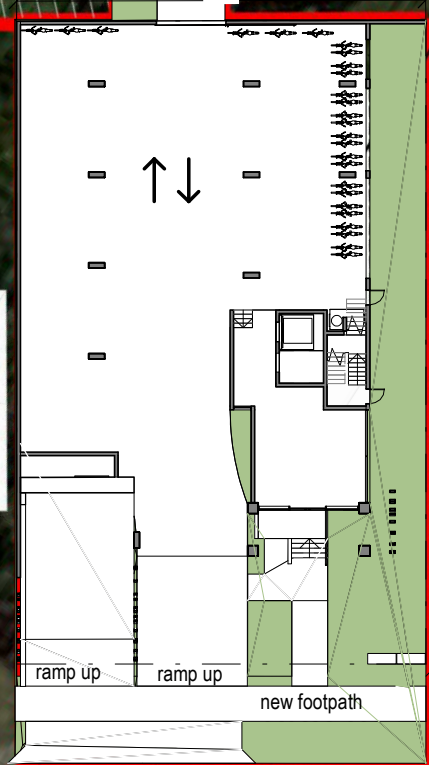


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ergon padmount
 4 x 6m

← access driveway

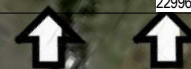


36.138 m

36.187 m

ramp up ramp up new footpath

OFES
 hydrant and
 sprinkler booster
 cabinets



LAKE STREET

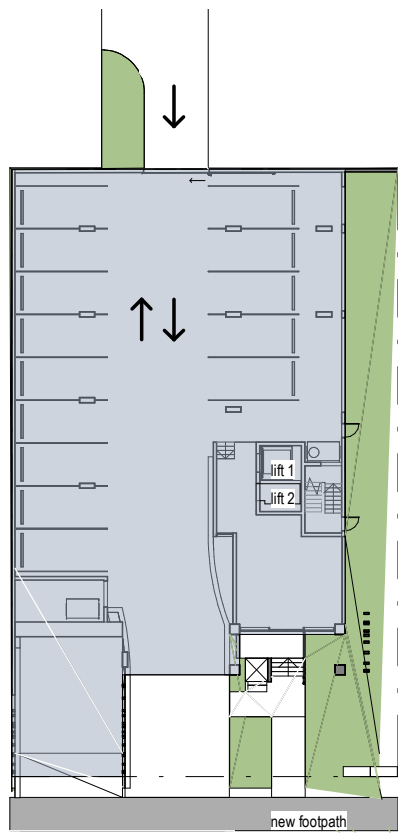
The Lake Street Cottage

Waterfront Terraces

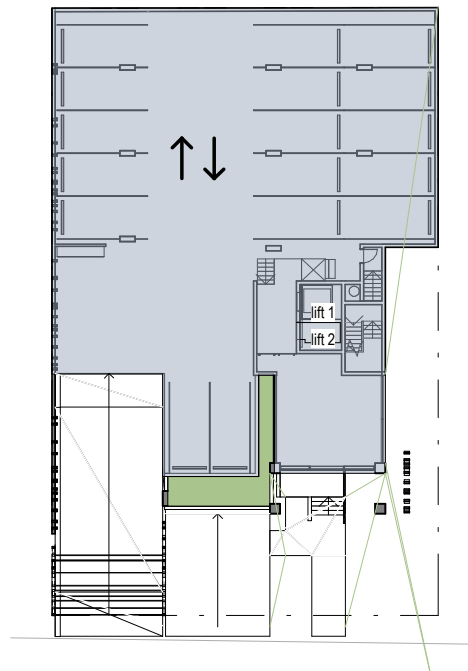
Lake St

1 Site Plan
 1 : 425 @ A3

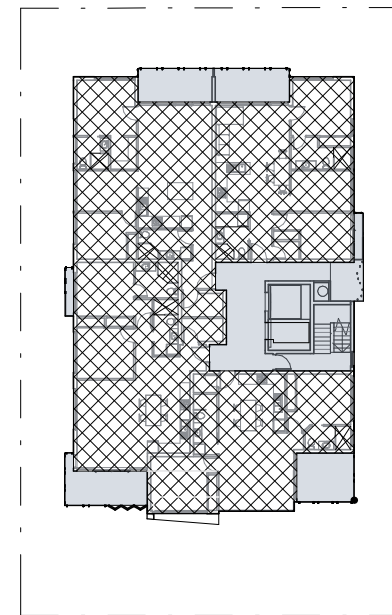
± EXISTING CONDITION



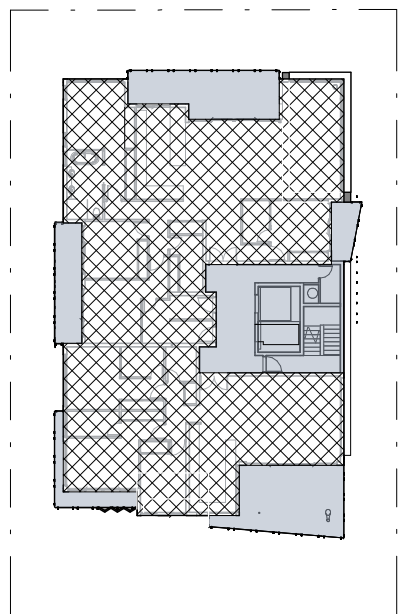
1 Ground Floor -site cover
1 : 450 @ A3



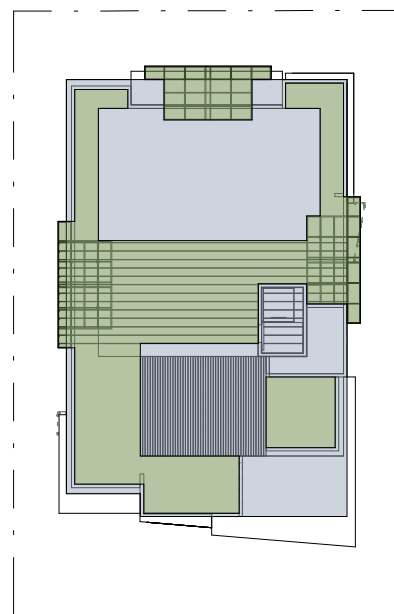
2 Level 1 - site cover
1 : 450 @ A3



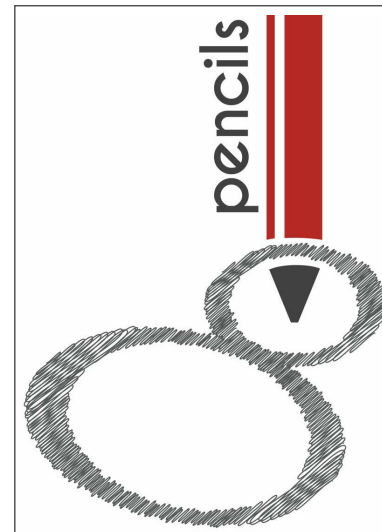
3 Level 2 to 7 - site cover
1 : 450 @ A3



4 Level 8 - site cover
1 : 450 @ A3



5 ROOF - site cover
1 : 450 @ A3



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CLIENT
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PROJECT
Lake Street Residential Development
252-254 Lake St. Cairns North

DRAWING
Rendering & Area Plans

PRELIMINARY
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DRAWN	CHECKED	APPROVED
Author	Checker	Approver

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1 : 450	17-Nov-22 3:13:44 PM

PROJECT N°	DRAWING N°	REV
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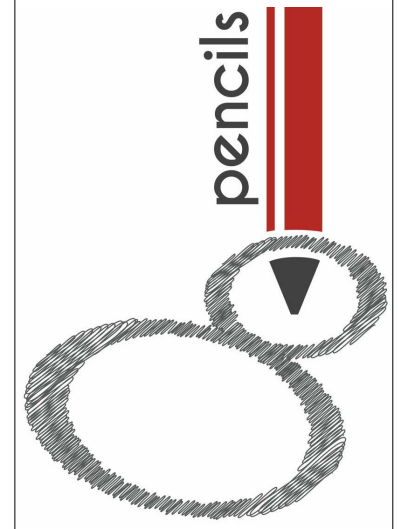


REFER DA No. 8/7/3/3772

PHASE 1 PROJECT.
DRIVEWAY ACCESS

PHASE 1 PROJECT
252-254 LAKE STREET
9 STOREYS
RESIDENTIAL

DRIVEWAYS TO BUILDING
REFER TO GROUND FLOOR
PLAN FOR DETAILS



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PROJECT
Lake Street Residential Development
252-254 Lake St. Cairns North

DRAWING
Site Plan - Proposed

PRELIMINARY

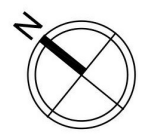
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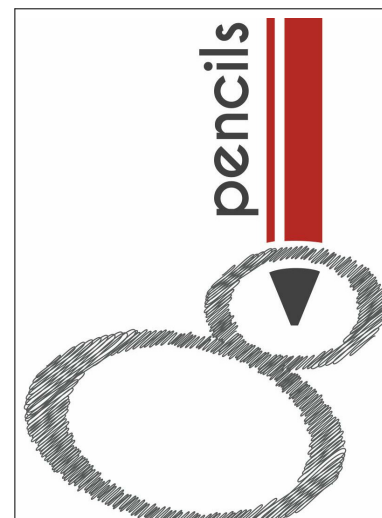
DRAWN	CHECKED	APPROVED
Author	Checker	Approver

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P8-22	A05	DA1

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REV	DESCRIPTION	DATE

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PROJECT
Lake Street Residential Development
 252-254 Lake St. Cairns North

DRAWING
Ground / First Floor

PRELIMINARY
NOT FOR CONSTRUCTION

DRAWN	CHECKED	APPROVED
Author	Checker	Approver

SCALE
1 : 200

PLOT DATE
17-Nov-22 3:13:46 PM

PROJECT N°	DRAWING N°	REV
P8-22	A06	DA1

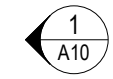
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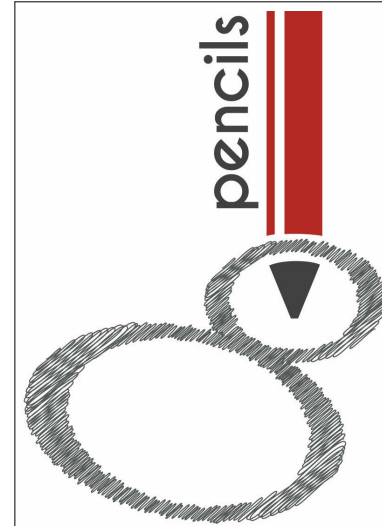


1 Ground Floor
 1 : 200 @ A3

2 Level 1
 1 : 200 @ A3

3 sliding fire door
 @ A3





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REV DESCRIPTION DATE

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PROJECT
Lake Street Residential Development
 252-254 Lake St. Cairns North

DRAWING
Level 2 and 3-7

PRELIMINARY

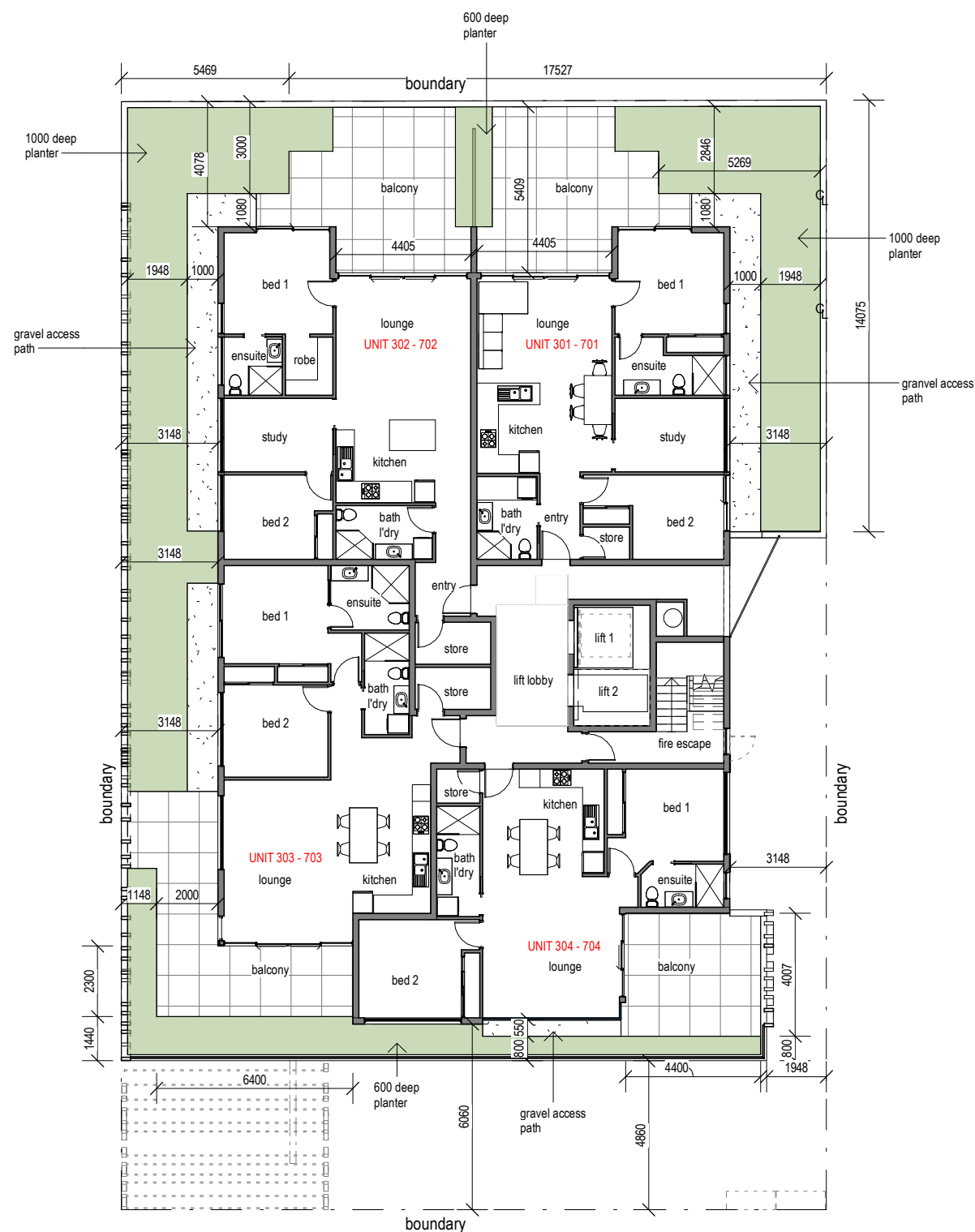
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DRAWN	CHECKED	APPROVED
MM	MM	Approver

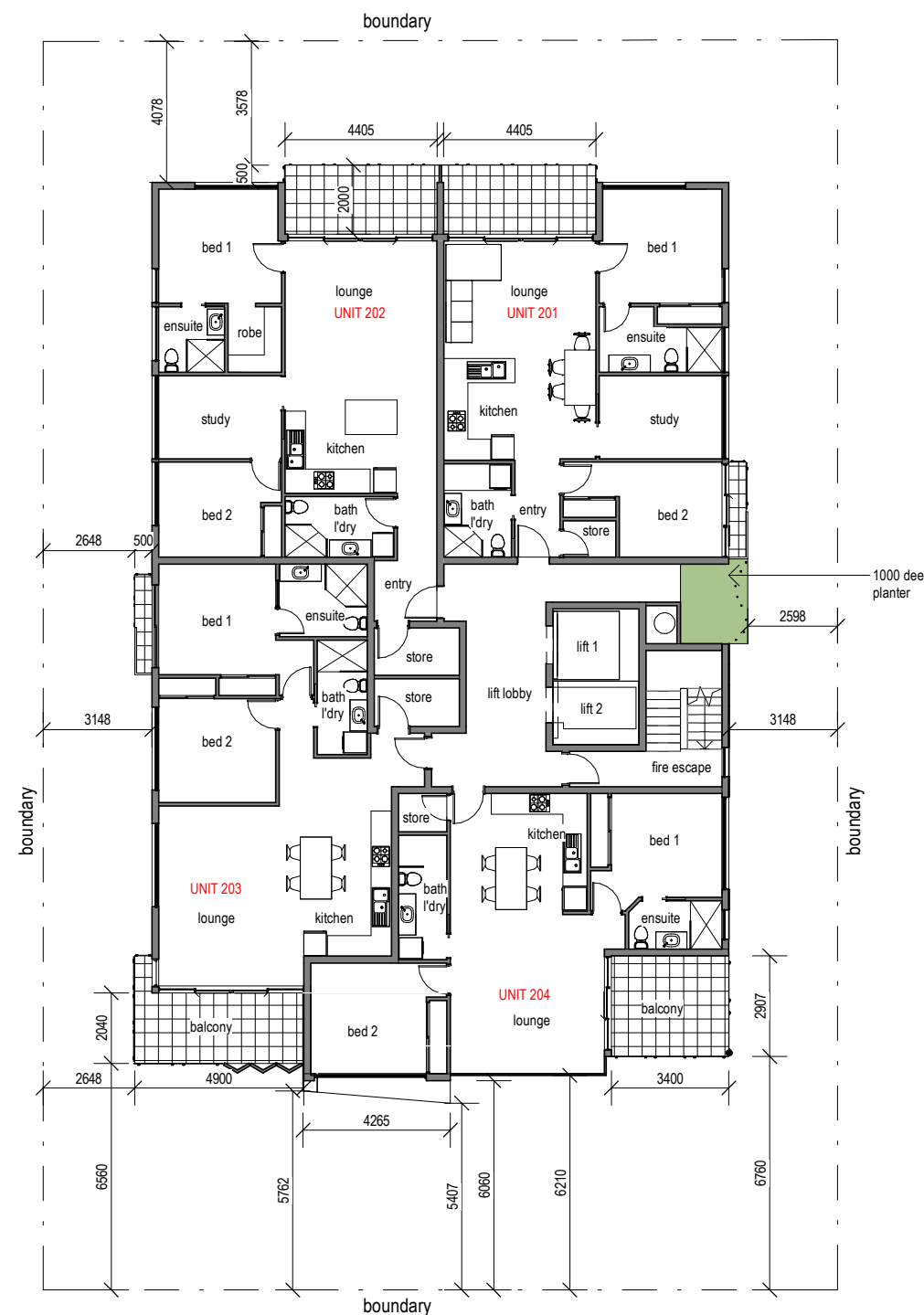
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P8-22	A07	DA1

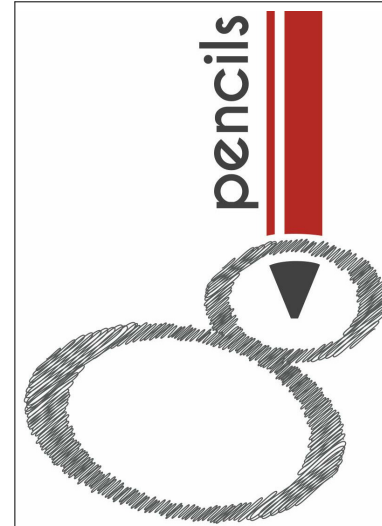
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1 Level 2
 1 : 200 @ A3



2 Level 3 to 7
 1 : 200 @ A3



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PROJECT
Lake Street Residential Development
 252-254 Lake St. Cairns North

DRAWING
Level 8 & Roof

PRELIMINARY

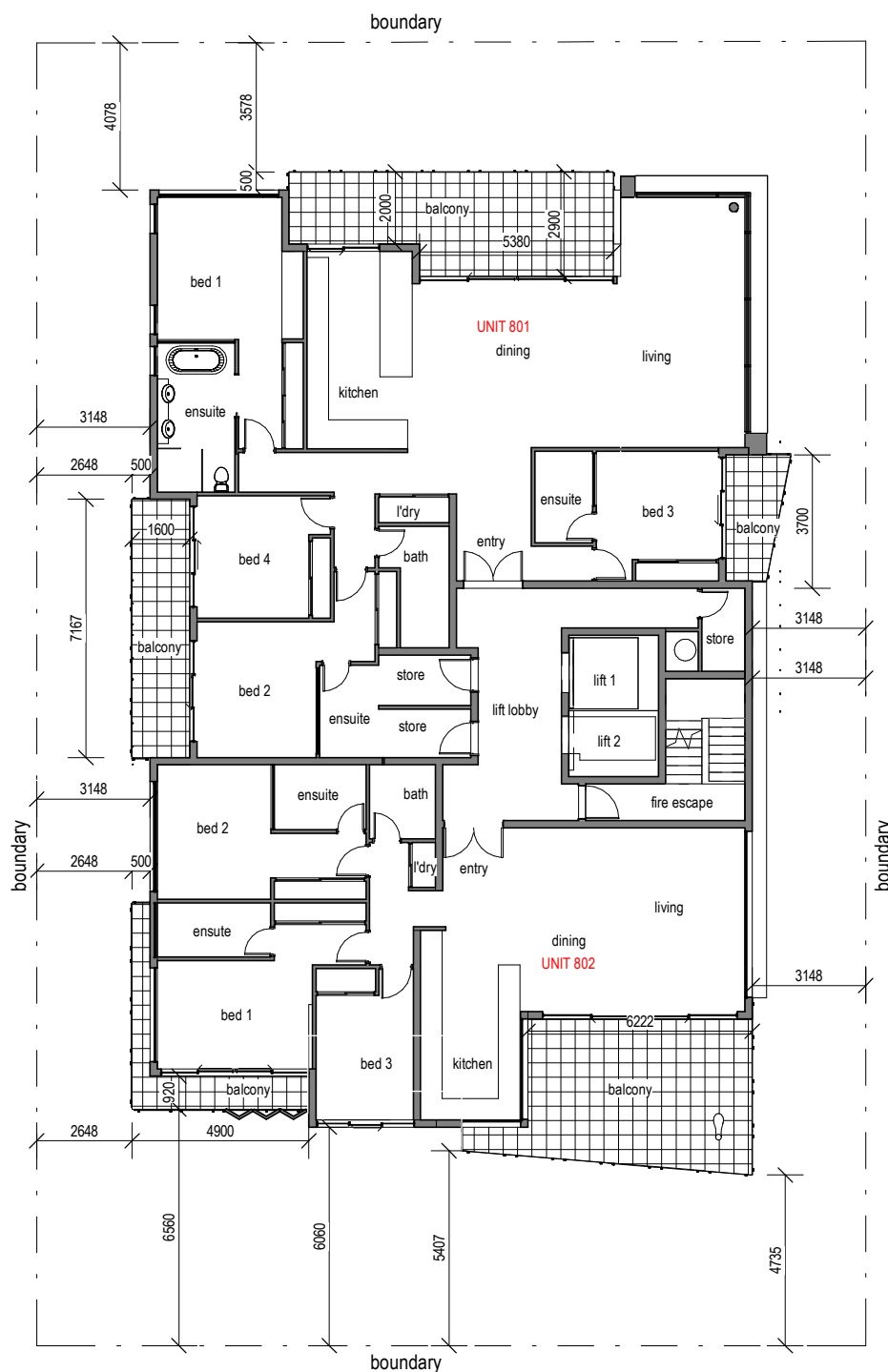
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Author	Checker	Approver

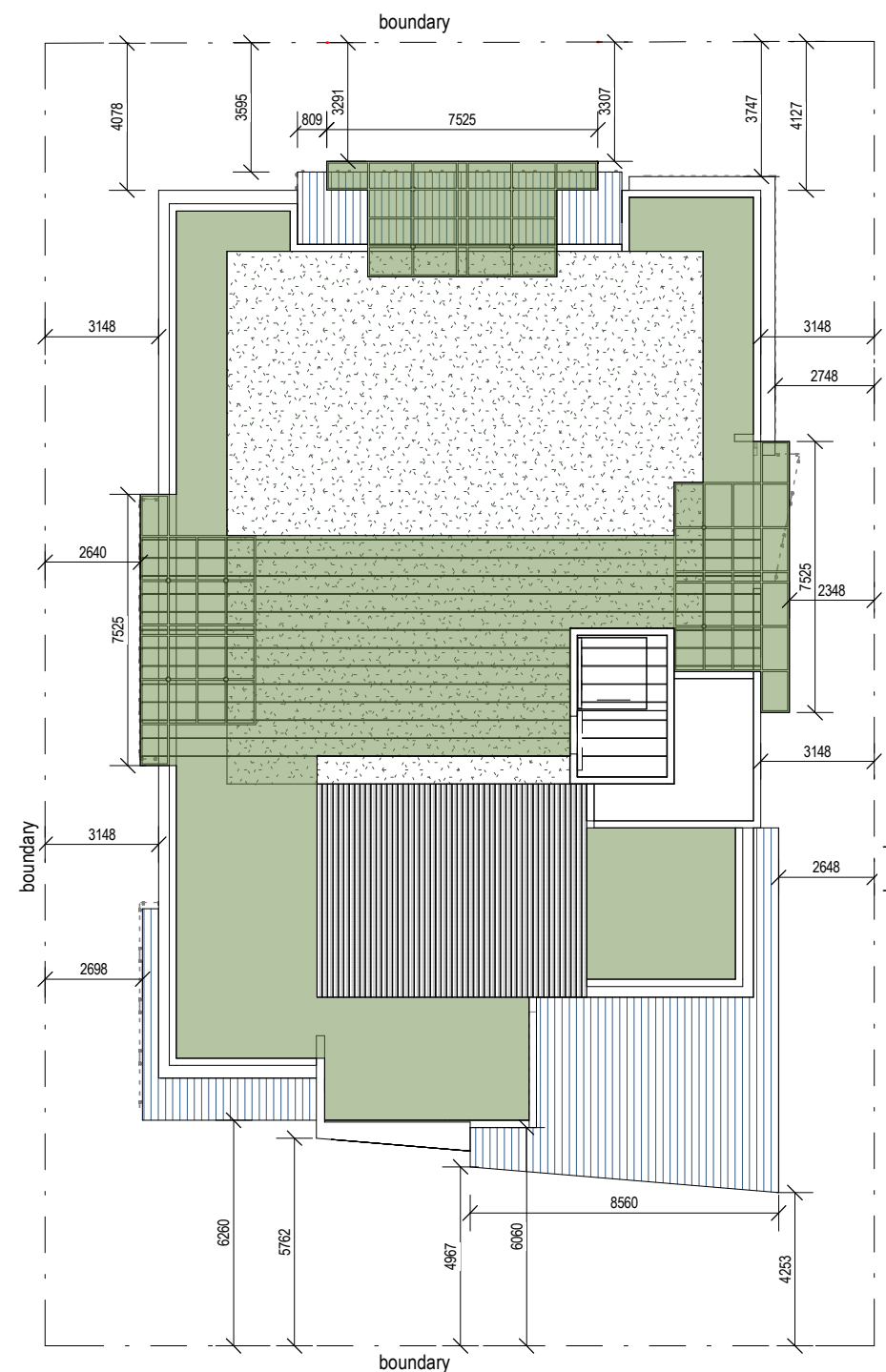
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P8-22	A08	DA1

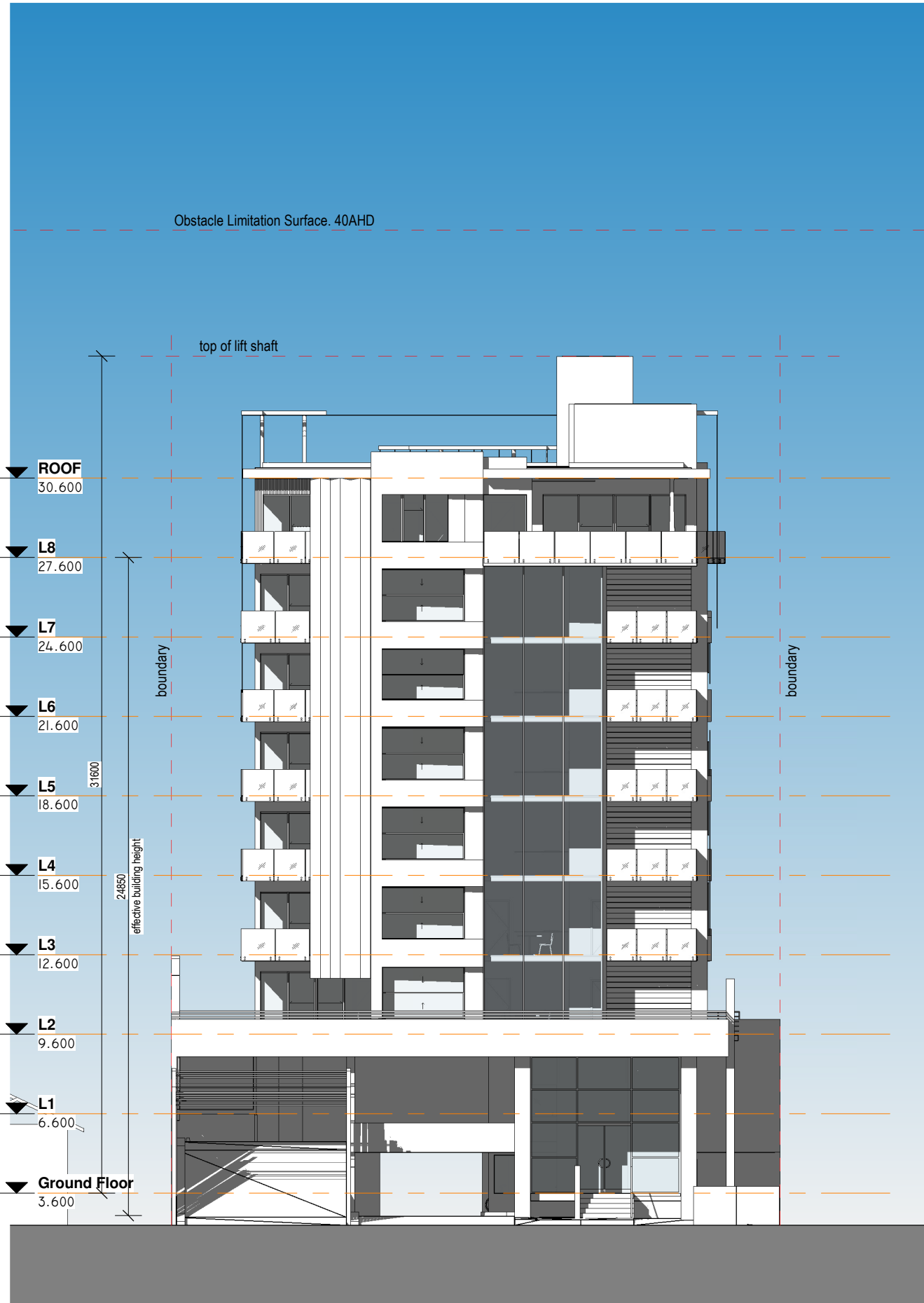
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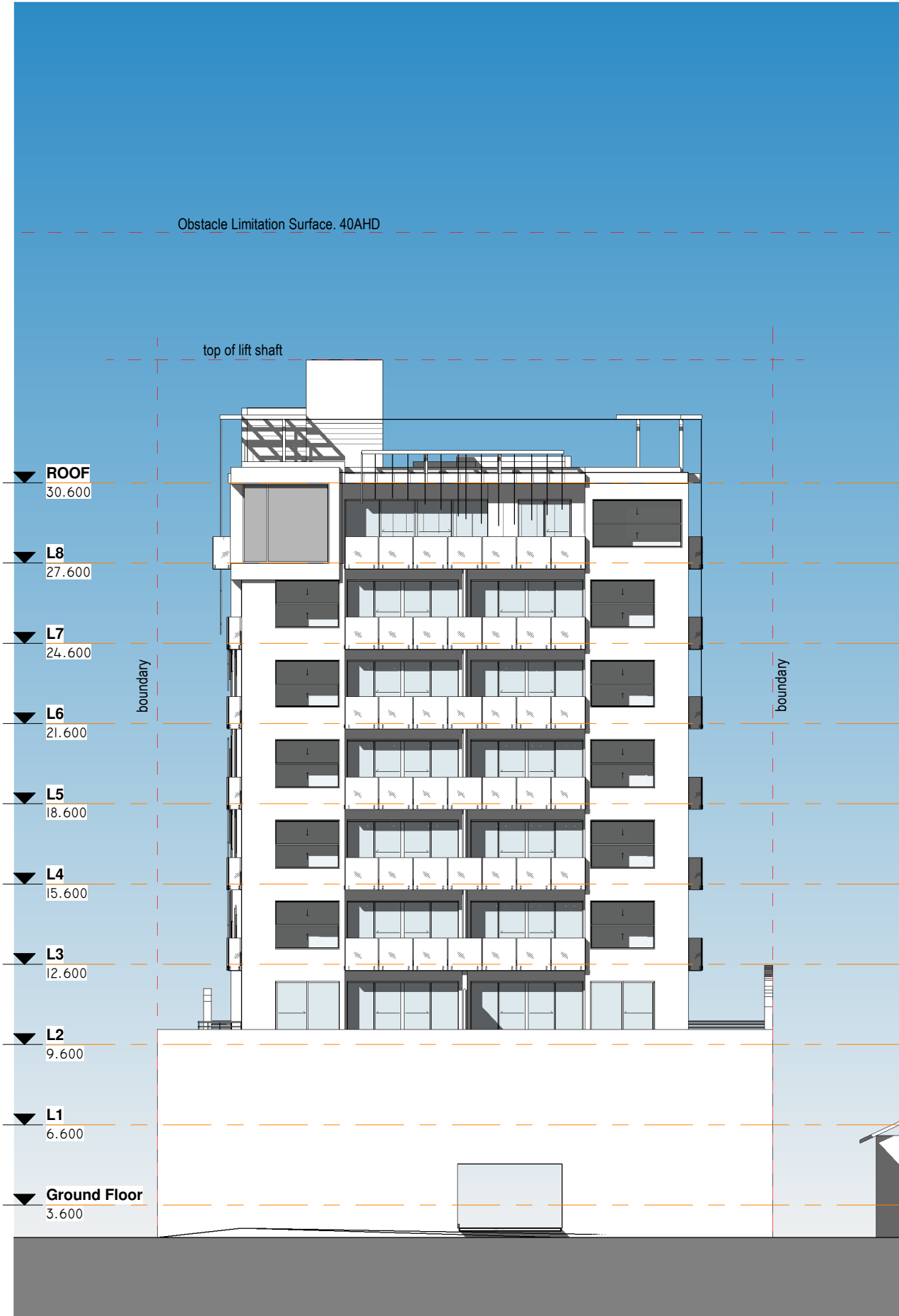
1 Level 8
 1 : 200 @ A3



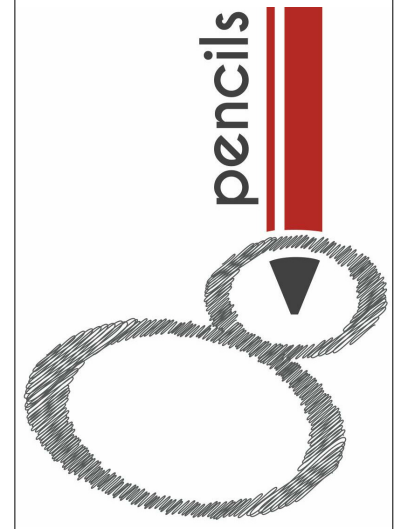
2 ROOF
 1 : 200 @ A3



1 SOUTH - WEST ELEVATION
1 : 200 @ A3



2 NORTH -WEST ELEVATION
1 : 200 @ A3



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252-254 Lake St. Cairns North

DRAWING
Elevations

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MM	MM	Approver

SCALE
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PLOT DATE
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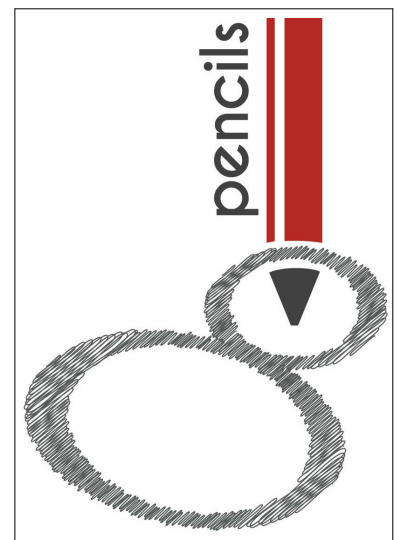
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P8-22	A09	DA1

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1 SOUTH - EAST ELEVATION
1 : 200 @ A3



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PROJECT
Lake Street Residential Development
252-254 Lake St. Cairns North

DRAWING
Elevations

PRELIMINARY
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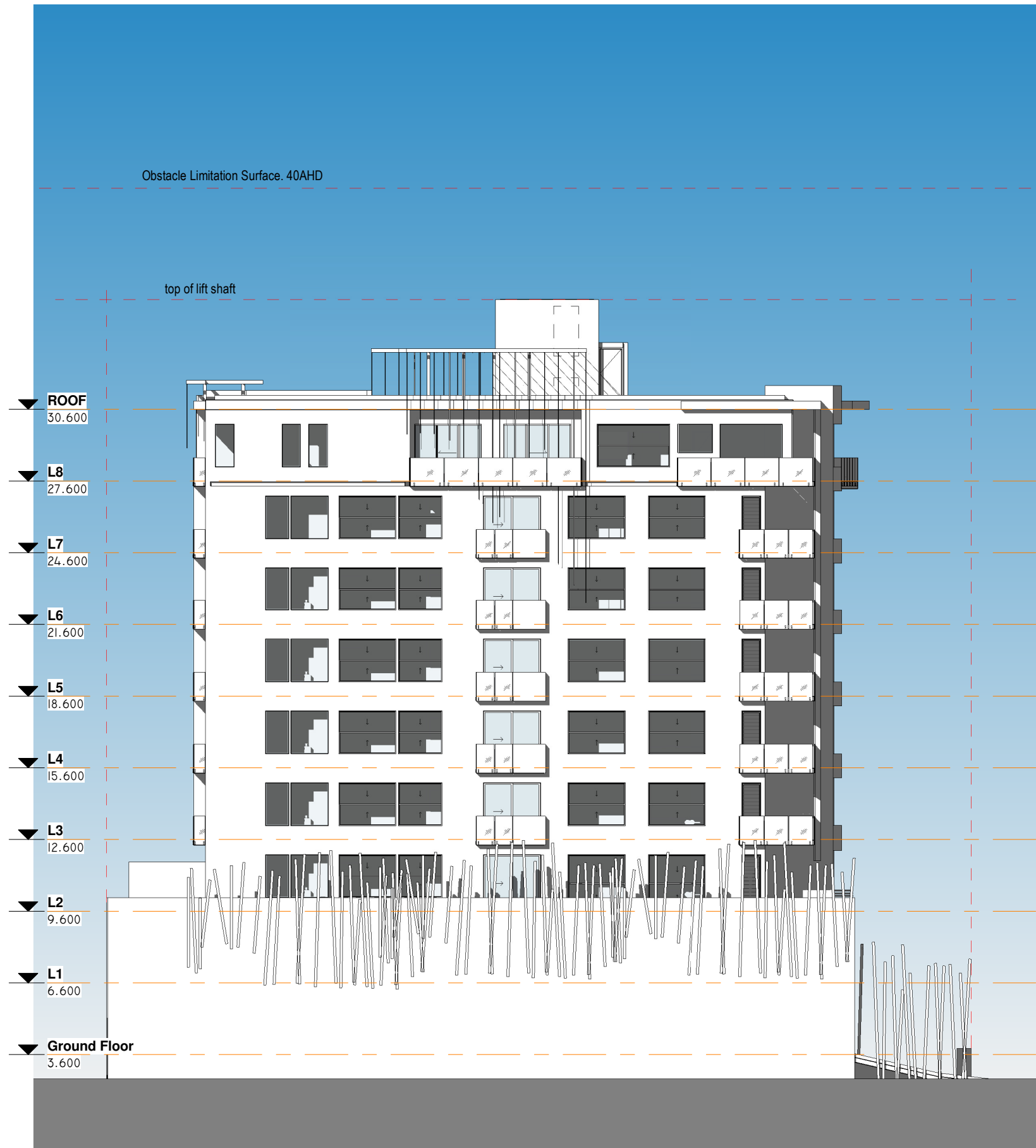
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Author	Checker	Approver

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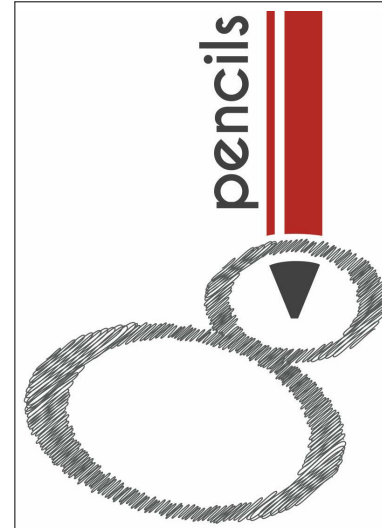
PROJECT N°	DRAWING N°	REV
P8-22	A10	DA1

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1 NORTH EAST ELEVATION
1 : 200 @ A3



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Lake Street Residential Development
252-254 Lake St. Cairns North

DRAWING
Elevations

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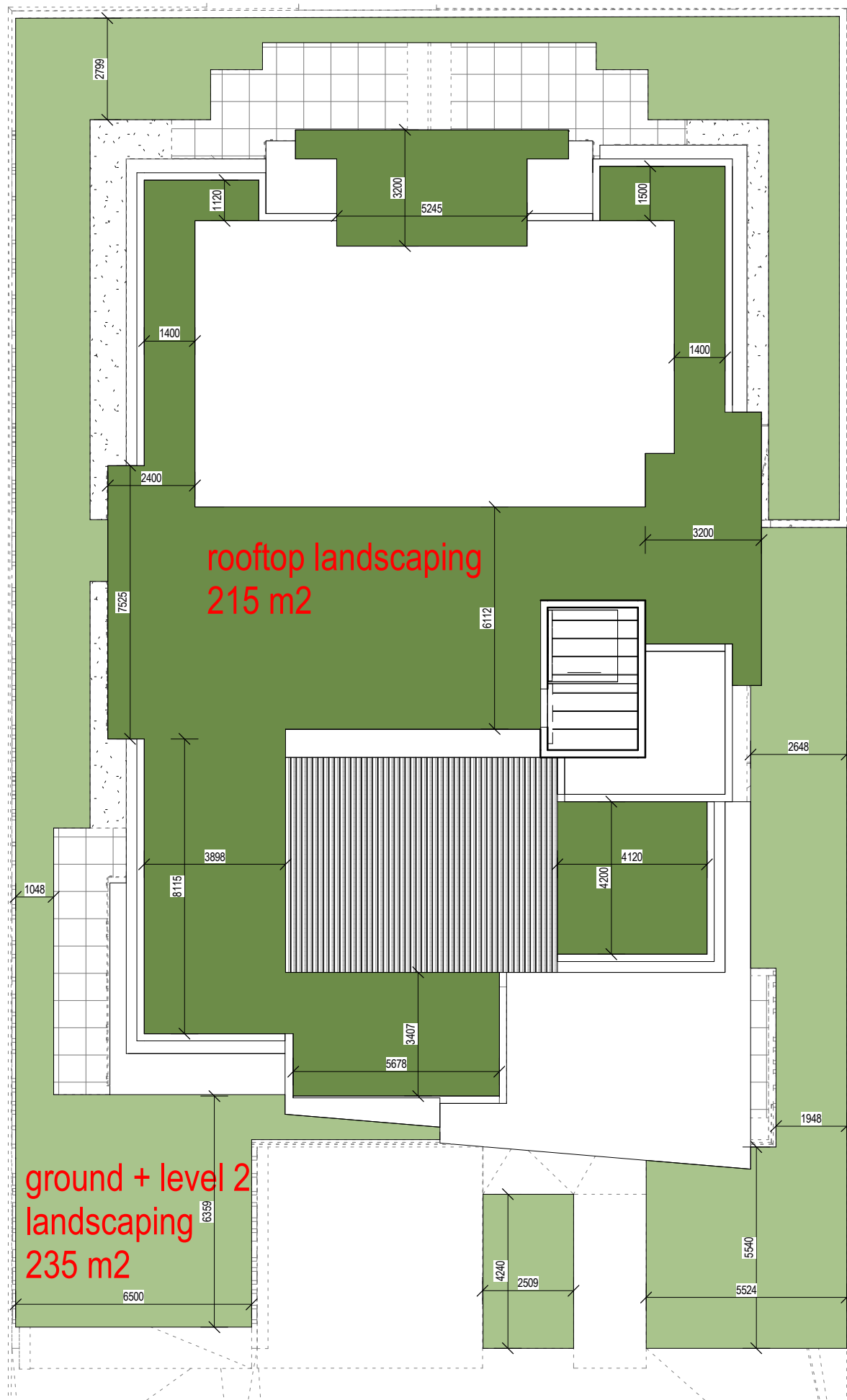
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Author	Checker	Approver

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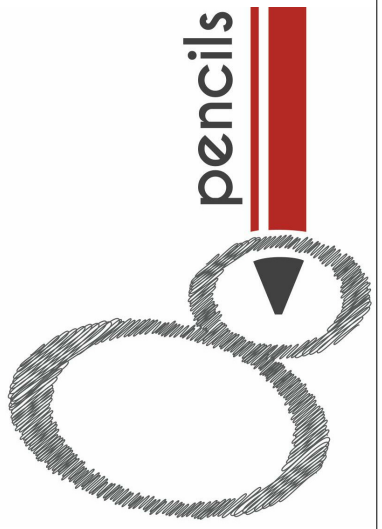
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1 landscape plan
1 : 150 @ A3



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PROJECT
Lake Street Residential Development
252-254 Lake St. Cairns North

DRAWING
landscape Areas

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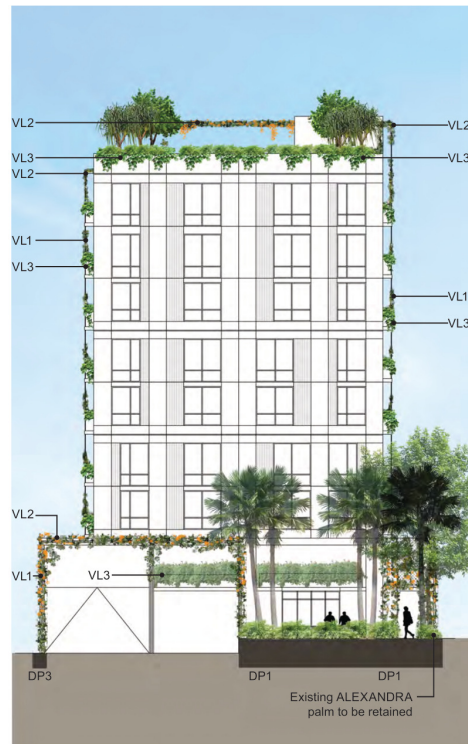
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Author	Checker	Approver

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South-West Elevation



South-East Elevation

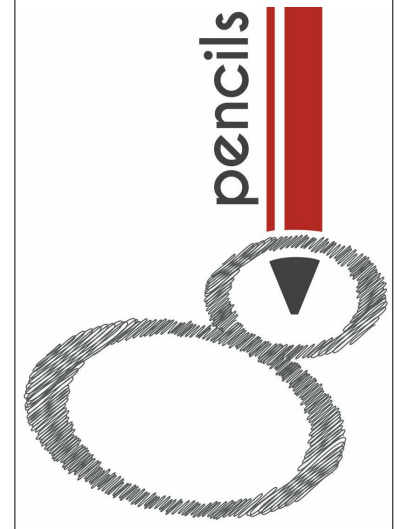
LEGEND
 DP1 - Deep Planting Tall Trees and Palms
 DP2 - Deep Planting undercroft shaded areas
 DP3 - Vine Planting
 DP4 - Street Trees and Build-outs
 VL1 - Vertical Landscape: Vine Trellis/Screen
 VL2 - Vertical Landscape: Vine Arbor/Canopy
 VL3 - Vertical Landscape: Podium Planter

Elevations



Scale 1:200 @ A3 DATE 12.07.2022 DRAWING NO 8LA_220501-L108 ISSUE B

Lake Street, Cairns



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PROJECT
Lake Street Residential Development
 252-254 Lake St. Cairns North

DRAWING
Landscape elevations

PRELIMINARY
NOT FOR CONSTRUCTION

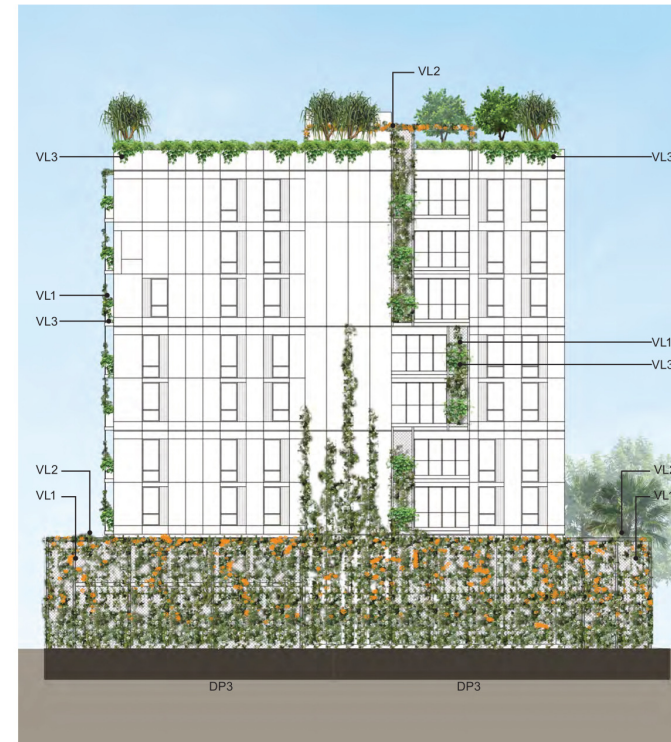
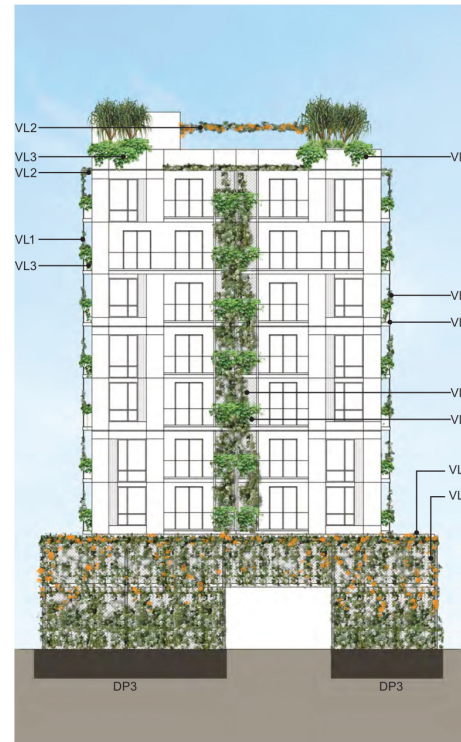
DRAWN	CHECKED	APPROVED
MM	MM	Approver

SCALE PLOT DATE
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P8-22	A14	DA1

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LEGEND
 DP1 - Deep Planting Tall Trees and Palms
 DP2 - Deep Planting undercroft shaded areas
 DP3 - Vine Planting
 DP4 - Street Trees and Build-outs

North-West Elevation

VL1 - Vertical Landscape: Vine Trellis/Screen
 VL2 - Vertical Landscape: Vine Arbor/Canopy
 VL3 - Vertical Landscape: Podium Planter

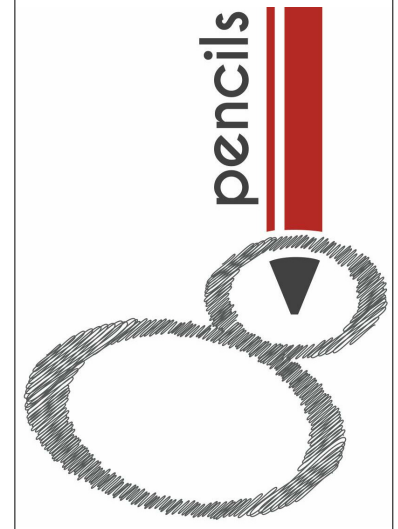
North-East Elevation

Elevations

Lake Street, Cairns



Scale 1:200 @ A3 DATE 12.07.2022 DRAWING NO 8LA_220501-L109 ISSUE B



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PROJECT
Lake Street Residential Development
 252-254 Lake St. Cairns North

DRAWING
Landscape elevations

PRELIMINARY
NOT FOR CONSTRUCTION

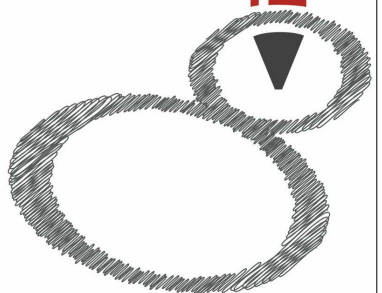
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REV DESCRIPTION DATE

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PROJECT
Lake Street Residential
Development
252-254 Lake St. Cairns North

DRAWING
Landscape Planter depths

PRELIMINARY

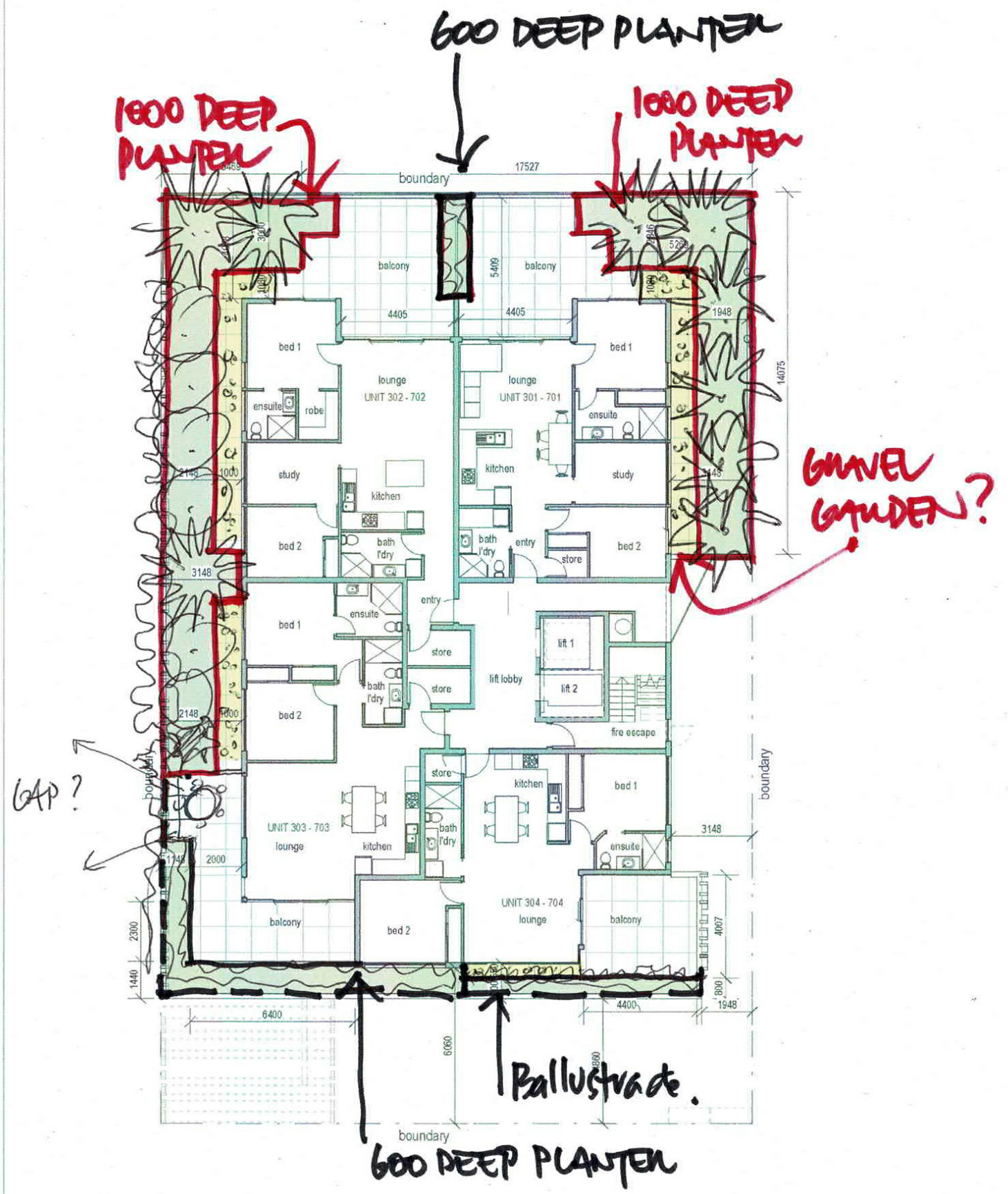
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DRAWN CHECKED APPROVED
Author Checker Approver

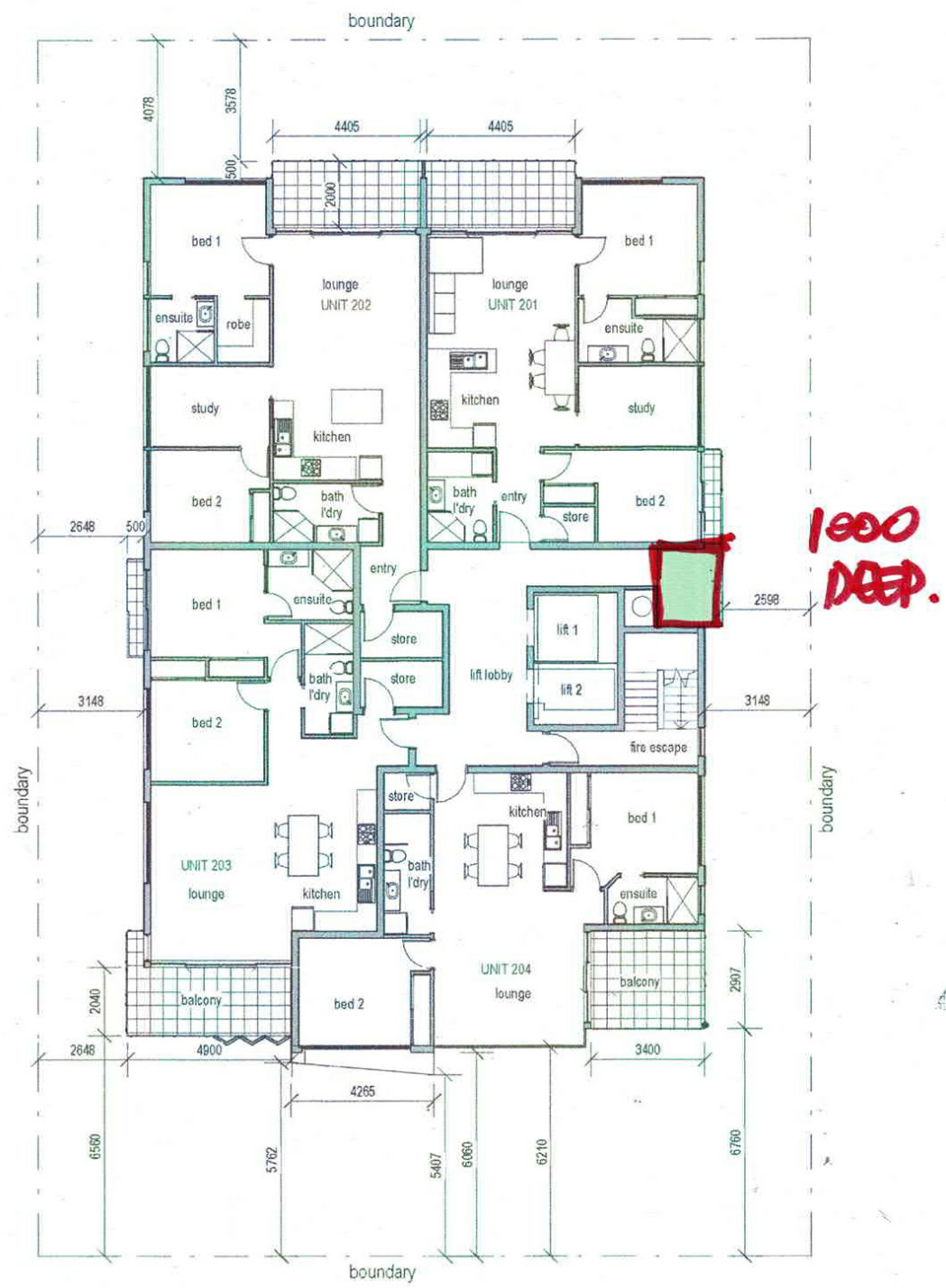
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P8-22 A16 DA1

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SEA MARK UP.
8/11/22.





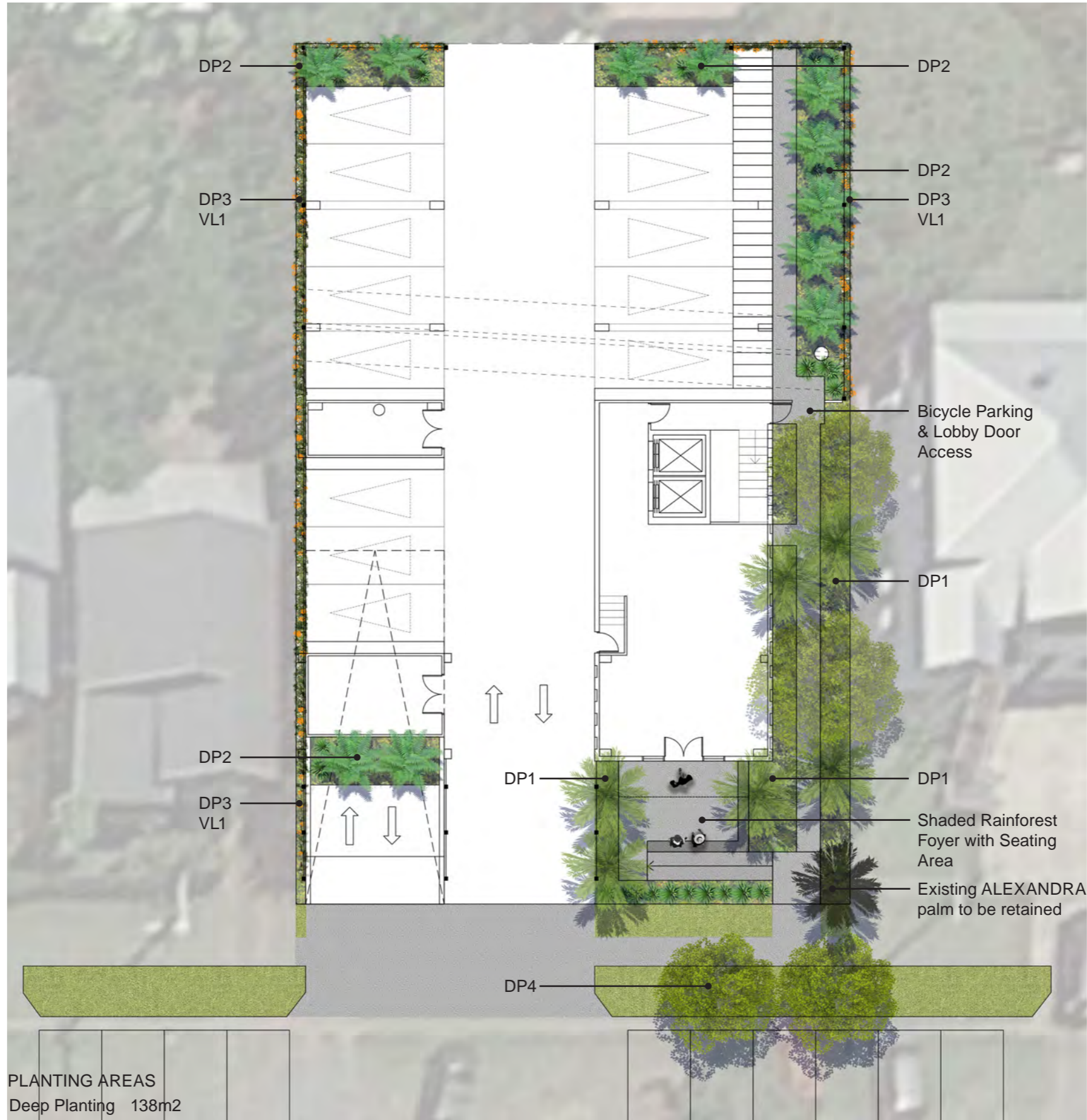
Vertical Landscape: Vine Trellis/Screen



ARCHONTOPHOENIX alexandrae



PLUMERIA rubra



LEGEND

- DP1 - Deep Planting Tall Trees and Palms
- DP2 - Deep Planting undercroft shaded areas
- DP3 - Vine Planting
- DP4 - Street Trees
- VL1 - Vertical Landscape: Vine Trellis/Screen
- VL2 - Vertical Landscape: Vine Arbor/Canopy
- VL3 - Vertical Landscape: Podium Planter



CYATHEA cooperi & Vertical Landscape



ASPLENIUM australascium



CUNJEVOI alocasia Macrorrhiza

Ground Floor

Lake Street, Cairns





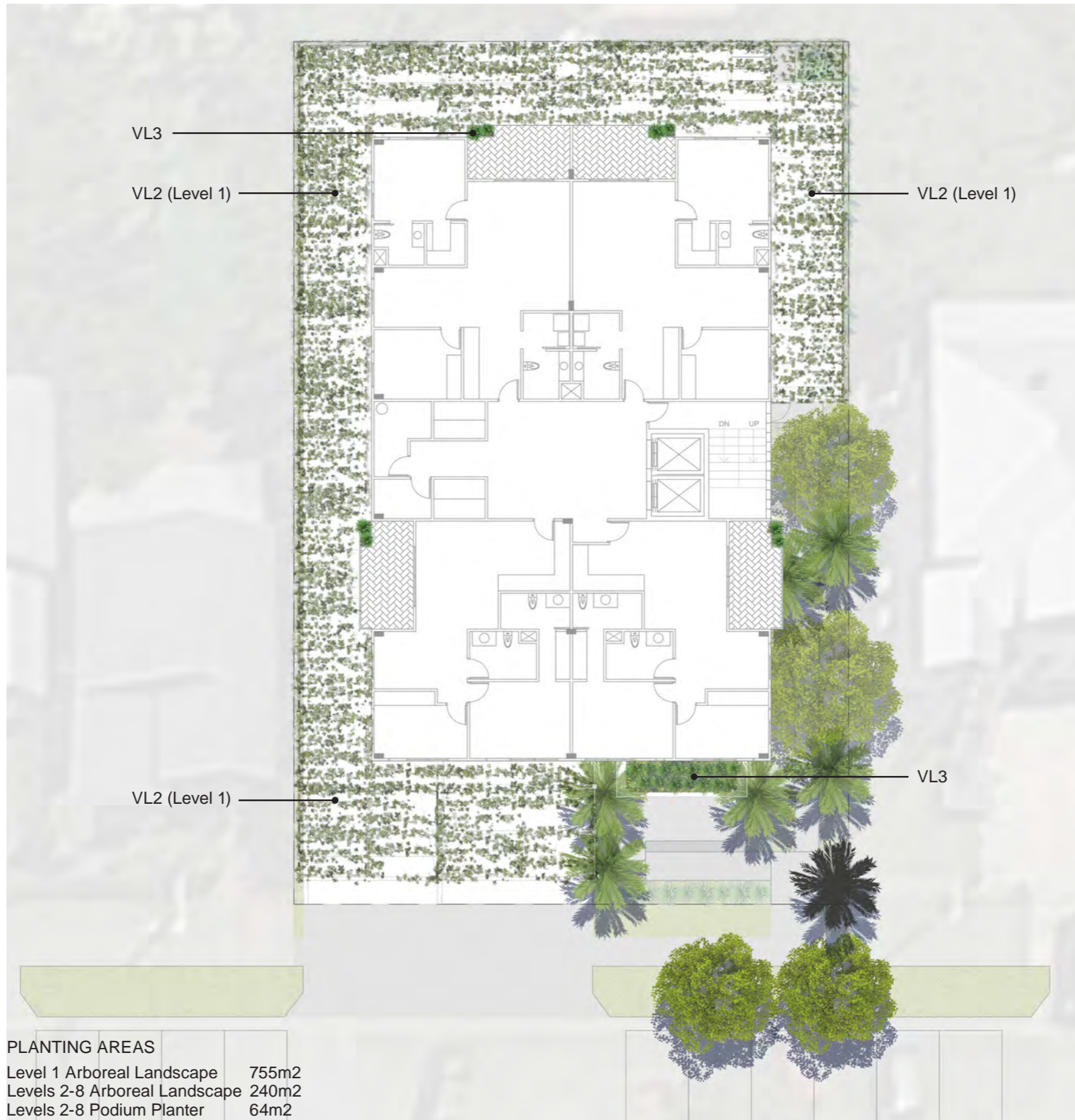
Vertical Landscape: Vine Trellis/Screen & Arbor



Vertical Landscape: Vine Arbor/Canopy



HARDENBERGIA violacea



PLANTING AREAS

Level 1 Arboreal Landscape	755m ²
Levels 2-8 Arboreal Landscape	240m ²
Levels 2-8 Podium Planter	64m ²

LEGEND

- DP1 - Deep Planting Tall Trees and Palms
- DP2 - Deep Planting undercroft shaded areas
- DP3 - Vine Planting
- DP4 - Street Trees

- VL1 - Vertical Landscape: Vine Trellis/Screen
- VL2 - Vertical Landscape: Vine Arbor/Canopy
- VL3 - Vertical Landscape: Podium Planter



Vertical Landscape: Vine Trellis/Screen



PTYCHOSPERMA macarthurii



ELAEOCARPUS eumundi

Levels 2-8

Lake Street, Cairns





SYZYGIUM wilsonii



PHILODENDRON xanadu



Decking & Artificial Turf



PLANTING AREAS	
Arboreal Landscape	70m ²
Podium Planter	121m ²

LEGEND

- DP1 - Deep Planting Tall Trees and Palms
- DP2 - Deep Planting undercroft shaded areas
- DP3 - Vine Planting
- DP4 - Street Trees

- VL1 - Vertical Landscape: Vine Trellis/Screen
- VL2 - Vertical Landscape: Vine Arbor/Canopy
- VL3 - Vertical Landscape: Podium Planter



PANDANUS spiralis



PANDOREA jasminoides

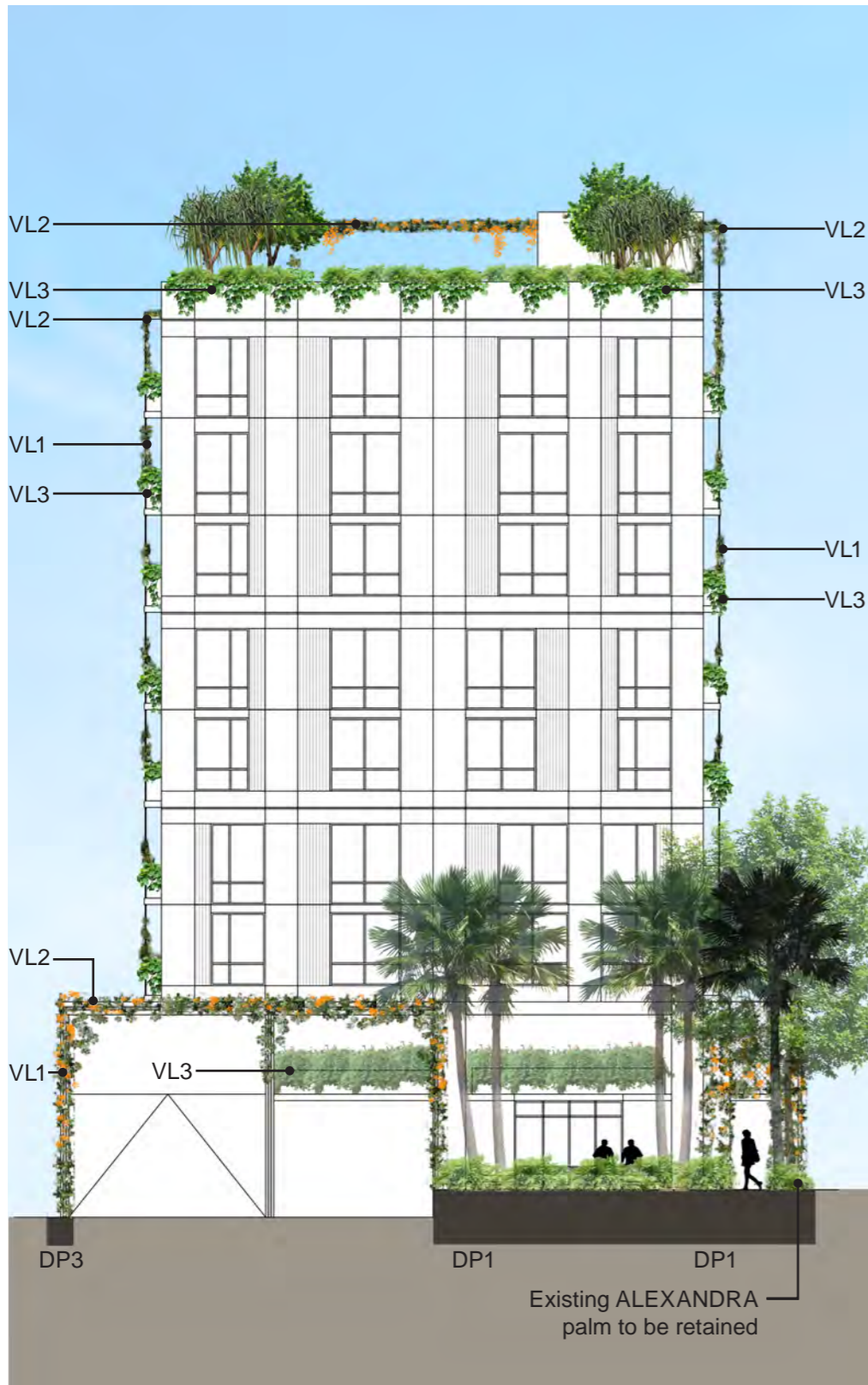


Shaded Communal Open Space

Roof Level

Lake Street, Cairns





South-West Elevation



South-East Elevation

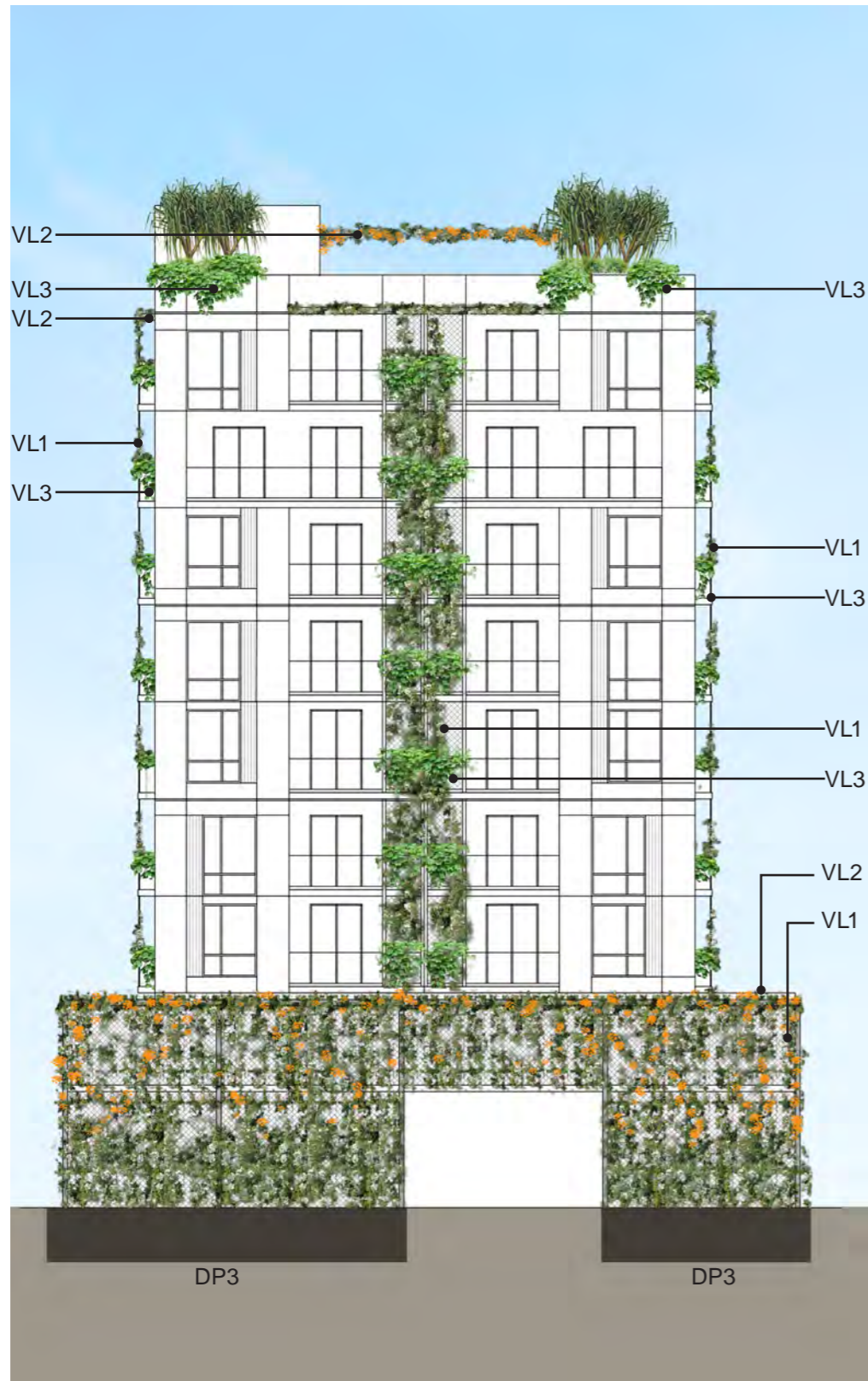
LEGEND

- DP1 - Deep Planting Tall Trees and Palms
- DP2 - Deep Planting undercroft shaded areas
- DP3 - Vine Planting
- DP4 - Street Trees and Build-outs

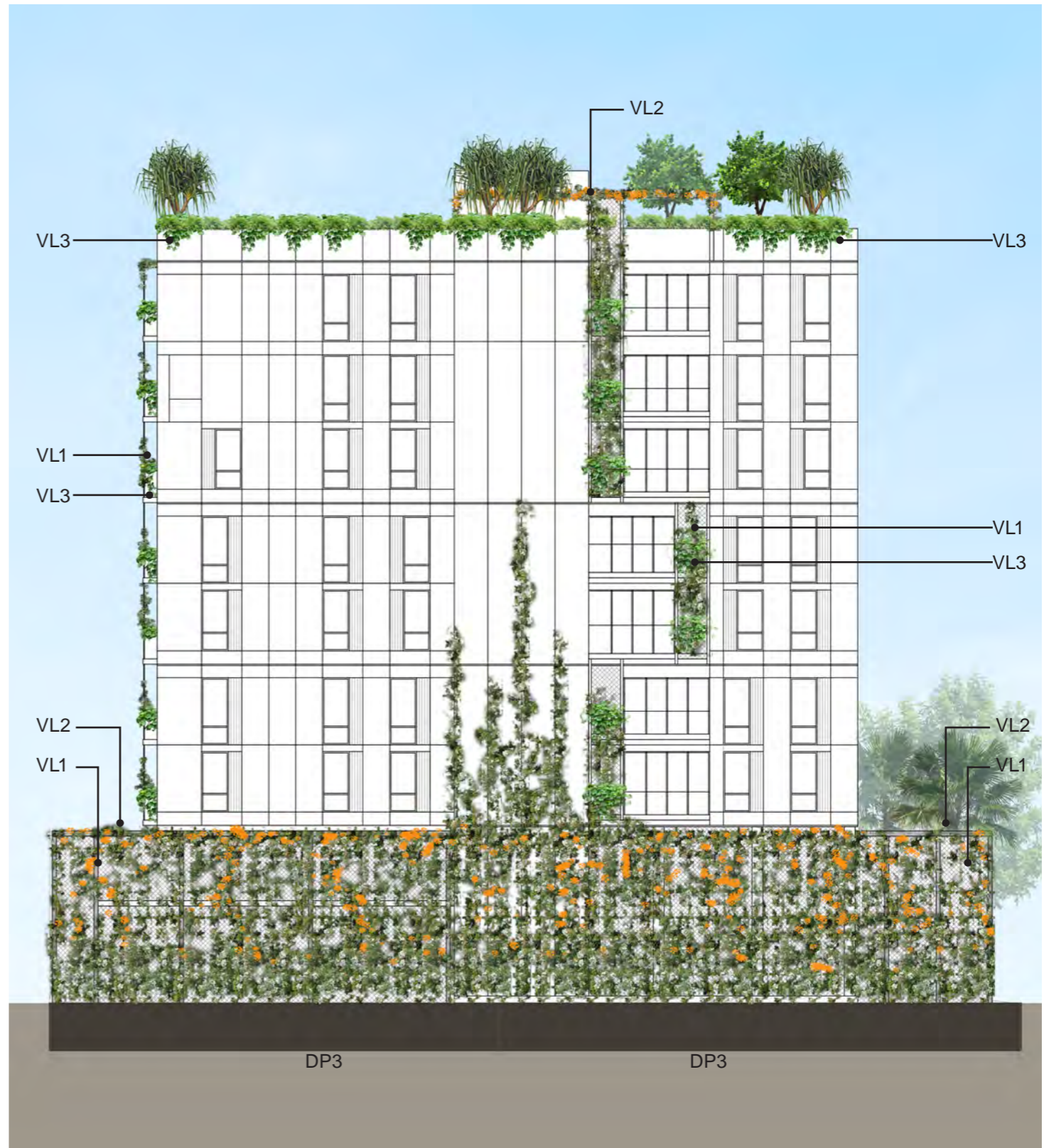
- VL1 - Vertical Landscape: Vine Trellis/Screen
- VL2 - Vertical Landscape: Vine Arbor/Canopy
- VL3 - Vertical Landscape: Podium Planter

Elevations

Lake Street, Cairns



North-West Elevation



North-East Elevation

LEGEND

- DP1 - Deep Planting Tall Trees and Palms
- DP2 - Deep Planting undercroft shaded areas
- DP3 - Vine Planting
- DP4 - Street Trees and Build-outs

- VL1 - Vertical Landscape: Vine Trellis/Screen
- VL2 - Vertical Landscape: Vine Arbor/Canopy
- VL3 - Vertical Landscape: Podium Planter

Elevations

Lake Street, Cairns

APPENDIX 2: Notice of Intention to Commence Use



Notice of Intention to Commence Use

DEVELOPMENT PERMIT
Planning Act 2016

Development Permit	8/7/5348
Date of Approval	7 February 2023
Approved Use	Multiple Dwelling
Location	239-241 Esplanade and 252 & 254 Lake Street, Cairns North
Property Description	Lot 200 on SP338361 and Lots 12 & 13 on RP701251

I/we are hereby notifying Cairns Regional Council of my/our intention to commence the approved use outlined above

on _____ (insert date).

I have read the conditions of the Decision Notice issued and believe that all the applicable conditions have been complied with.

Applicant:	
Address:	
Contact Phone:	
Signature of Applicant/Owner:	
Date:	

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) 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.

Statement of Reasons

The following information is provided in accordance with Section 63 of the *Planning Act 2016*.

Development Application:	8/7/5348
Property Address:	239-241 Esplanade and 252 & 254 Lake Street, Cairns North
Property Description:	Lot 200 on SP338361 and Lots 12 & 13 on RP701251
Application Proposal:	Material Change of Use (Multiple Dwelling)
Approved:	Under Instrument of Delegation
Approved on:	7 February 2023
Planning Scheme:	CairnsPlan 2016 v3.1

REASONS FOR DECISION

The reasons for this decision are:

1. The proposed development has been assessed in accordance with the provisions of the CairnsPlan 2016 v3.1 and is considered to comply with the Overall Outcomes and Performance Outcomes of the applicable codes.
2. In assessing the proposed development, conditions have been imposed to ensure compliance with the assessment benchmarks of the CairnsPlan 2016 v3.1.
3. The proposed development is consistent with the purpose of the Tourist Accommodation Zone Code in that it provides multiple dwellings at a scale and density that is capable of servicing local residents.
4. The proposed development will achieve immunity from the defined inundation event level in accordance with the Acceptable Outcomes of the Flood and Inundation Hazards Overlay Code and has been conditioned accordingly.
5. The height of the proposed development is below the obstacle limitation surface identified within the Airport Environs Overlay Code. A condition has been imposed requiring that the application provide certification of the as constructed building height to demonstrate that all buildings, structures, aerals, and any other permanent structures do not penetrate the obstacle limitation surface.
6. The proposed development is considered to achieve tropical urbanism design outcomes and contribute to the concept of a 'city in a rainforest'.

7. The proposed development provides adequate car parking spaces to accommodate the anticipated demand generated by the development.

ASSESSMENT BENCHMARKS

The following Assessment Benchmarks apply to the development:

State Planning Instruments	
Far North Queensland Regional Plan (FNQRP) 2009-2031	<p>The subject site is within the Urban Footprint.</p> <p>The Regional Plan has been appropriately integrated and reflected through CairnsPlan 2016.</p>
State Planning Policy (SPP)	<p>The State Planning Policy (SPP) contains the State Interest Policies and Assessment Benchmarks which are applicable to the development.</p> <p>The CairnsPlan 2016 advances the SPP except for erosion prone areas and coastal management district. The sites are not located within a coastal management district or erosion prone area and therefore all the State interests have been appropriately reflected in CairnsPlan 2016.</p>
CairnsPlan 2016 v3.1	
Tourist Accommodation Zone Code	<p>Complies.</p> <p>The purpose of the Tourist Accommodation Zone is to provide for multiple dwellings and the establishment of short-term accommodation that has a tropical design and character. The proposed development of the site for multiple dwellings has incorporated tropical design outcomes and elements, building design features and extensive landscaping. The site is constrained by flood hazards and the development has been designed to provide flood immunity.</p> <p>The development provides more than the minimum amount of parking required by the scheme and is an anticipated use within the area; the proposed development is residential and will not create noise, dust and odour impacts; it is recommended that any outdoor/external and security lighting is installed in accordance with the relevant Australian Standard and takes into consideration the site's location with respect to the Cairns Airport. Therefore, the development will ensure the tropical tourist and residential character of the area in terms of traffic, noise, dust, odour, lighting or other physical or environmental impacts are not adversely affected.</p> <p>An assessment has not been undertaken against the below Acceptable Outcomes of this code as the Building Height Overlay Code prevails to the extent of any inconsistencies:</p> <ul style="list-style-type: none"> - Height; - Site coverage; and - Setbacks.
Acid Sulfate Soils Overlay Code	<p>Conditioned to Comply.</p> <p>It is recommended that a condition of approval requires that an Acid Sulfate Soils Investigation is undertaken and where found, recommendations implemented as per the investigation to ensure the disturbance of acid sulfate soils is avoided or managed appropriately.</p>

<p>Airport Environs Overlay Code</p>	<p>Conditioned to Comply.</p> <p>The height of the building (including plant) is approximately 35.2 metres AHD which does not encroach into the obstacle limitation surface (OLS) of 40m-45m over the site. It is possible that during construction cranes and other equipment may encroach into the OLS. As such, a condition requiring confirmation that the developer has obtained approval from the relevant authorities prior to the issue of a Development Permit for Building Works is proposed.</p> <p>The site is within Zone C of the Light Restriction Zone and a Lighting Area Buffer. Conditions limiting maximum light intensity and reflective surfaces and the types of allowable outdoor lighting have been included.</p> <p>The development for residential purposes will not emit smoke, dust, ash or steam or a gaseous plume into the operational airspace of the Cairns Airport.</p> <p>The development is located within an area of interest for protection of aviation facilities. It is recommended that a condition be included requiring that the development does not interfere with the function of the Cairns Airport aviation facilities.</p> <p>The site is located within the 3km wildlife hazard buffer zone and does not include uses contained in Schedule 2, column 1 of Table 8.2.2.3.d.</p> <p>A condition has been included requiring that vegetation at maximum height does not encroach into the OLS and PANS-OPS Surfaces.</p>
<p>Building Height Overlay Code</p>	<p>Complies with Performance Outcomes.</p> <p>The development is consistent with the overall outcomes sought for Precinct 1 – Eastern Precinct of the overlay area in that the development provides a high-rise form of development. The building is proposed to have a height of 32.9 metres to the top of the lift shaft (approx. 35.2 metres AHD). The corresponding OLS is 40m-45m AHD. The units have outlooks to both the Esplanade and to the west of Cairns and have openings (i.e. balconies and windows) to multiple aspects to allow for the capture of breezes.</p> <p>The building is proposed to have structural elements and building materials of varying scales and textures to provide articulation and reduce the bulkiness of the building. The architectural treatments and landscaping will also ensure development on adjoining sites is respected as the overlay area transitions to higher density development in accordance with the current zoning and overlay.</p> <p>The building has balconies generally orientated towards the street frontages and has a communal recreation area on the roof of the building that has a minimum twelve (12) metre x twelve (12) metre area.</p> <p>The vehicle access points have been conditioned to comply with the requirements of the <i>FNQROC Development Manual</i> in accordance with the Parking and Access Code. The vehicle access points are not considered to dominate the street and leave space for street front landscaping on Lake Street.</p>

	<p>The appearance of the vehicle access point on Lake Street is softened by the arbor. The carparking areas are located within the building.</p> <p>The development generally achieves tropical design outcomes through the provision of articulation and façade treatments, appropriate setbacks, maintaining views of the Cairns area, and horizontal and vertical landscaping (including deep landscaping areas and planter boxes). The development also incorporates balconies, shading devices and vegetation to shade surfaces.</p> <p>Conditions have been imposed that require air-conditioning units, mechanical plant and equipment, electrical transformers i.e. padmounts, refuse storage areas and the like are screened from view from adjoining sites, streets and public places.</p>
Flood and Inundation Hazards Overlay Code	<p>Conditioned to Comply.</p> <p>The site is mapped entirely within the following areas:</p> <ul style="list-style-type: none"> - Precinct 3 – Sub-precinct Zone 1 – CBD & Environs; - Designated flood hazard area – flood inundation trigger area; and - Storm tide inundation hazard area. <p>Conditions have been imposed requiring that the carpark and finished floor levels of the units meet the 5% and 1% AEP levels respectively, plus 300mm freeboard where required.</p> <p>A condition has been included requiring that any ramps, stairs, and the like are contained within the curtilage of the building where the finished floor level of the building is above that of the existing footpath.</p> <p>It is considered that through the design of the development, the safety of people is protected and damage to property and the environment can be minimised.</p>
Landscape Values Overlay Code	<p>Complies.</p> <p>The site fronting the Esplanade (Lot 200 on SP338361) is mapped within the Coastal Scenery area of this overlay. This site is only proposed to be used for vehicle access to the development which is on the lots fronting Lake Street. As such, it is considered that the landscape values of the coastal scenery area will not be adversely affected.</p>
Transport Network Overlay Code	<p>Complies.</p> <p>Access will be gained from both Lake Street and the Esplanade. The development is considered to be compatible with the intended role and function of the transport network and will not compromise the safety and efficiency of the network. There are existing footpaths on both the Lake Street and Esplanade frontages and no upgrades to this infrastructure is required.</p>
Multiple Dwelling & Short-term Accommodation Code	<p>Complies with Performance Outcomes.</p> <p>The appearance of building bulk is reduced through the incorporation of balconies facing each of the street frontages, variations in built form which include architectural treatments, structural elements, roof features including landscaping.</p>

	<p>Each dwelling has openings to at least two different aspects, access to a covered, outside area for the drying of clothes and are not located on either side of an enclosed central corridor. However, it is noted that the lift lobby area is an enclosed space.</p> <p>Each of the units is provided with a private and functional outdoor area that has a minimum dimension of three (3) metres and is accessed directly from a living area.</p> <p>The code requires that not less than 35% of the site is provided as communal space where there are more than six (6) dwellings. As the new building is being constructed on the Lake Street site only, the required area has been calculated based on the area of the Lake Street sites. The required area for communal spaces is approximately 289m². A communal space is provided on the roof of the building which has an area of approximately 421m², inclusive of landscaped areas.</p> <p>Each unit has been provided with a secure storage area that has a minimum area of 2.5m², has a minimum height of two (2) metres, is weatherproof and has immunity to the 1% AEP inundation event.</p> <p>The site exceeds the maximum site cover of 40% prescribed by the code and has non-compliances with the setbacks and landscaping provisions. These elements have been discussed in the assessment of matters of non-compliance with the Building Height Overlay Code.</p> <p>A development condition has been imposed that requires screening of air-conditioning units and mechanical plant.</p>
Environmental Performance Code	<p>Conditioned to Comply.</p> <p>The development has been conditioned to provide outdoor/external and security lighting in accordance with the appropriate Australian Standard(s).</p> <p>The development does not involve activities that will create odorous air emissions, noise related environmental harm or airborne particles or emissions. The carparking areas are enclosed within the building and will be behind a fire-rated wall. It is not anticipated that they will impact on adjacent sensitive land uses.</p> <p>As the development includes twenty-six (26) units, a development condition has been imposed requiring the development be serviced by bulk bins. Details of the refuse enclosure are to be approved prior to the issue of a Development Permit for Building Works and constructed prior to Commencement of Use.</p> <p>Conditions have been imposed in respect of the concentration of stormwater, submission of a plan of drainage works and site-based stormwater management plan, erosion and sediment control measures and lawful point of discharge.</p>
Excavation and Filling Code	<p>Conditioned to Comply.</p> <p>The application states that excavation and filling on the site will be minimal, will not result in batters or retaining walls and will not exceed 40% of the site area of 500m².</p>

	<p>Development conditions have been imposed regarding stockpiling of soil from excavation and filling, and lawful point of discharge.</p>
<p>Infrastructure Works Code</p>	<p>Conditioned to Comply.</p> <p>The site has existing connections to electricity and telecommunications infrastructure, and Council’s water and sewer infrastructure network. Some additional works are required to facilitate the development and conditions have been included relating to internal and external water supply and sewerage works, and telecommunications. The Applicant does not anticipate that padmount electricity will be required, however, if it is required, a padmount is to be provided on Lot 4 on RP702076 with an easement benefiting Ergon and Lots 12 and 13 on RP701251.</p> <p>Conditions for stormwater discharge, stormwater quality management, erosion and sediment control, rectification of any damage to Council infrastructure or land, upgrades to existing street lighting, firefighting infrastructure and the submission of a construction management plan have also been imposed.</p>
<p>Landscaping Code</p>	<p>Complies.</p> <p>Landscaping has been addressed in the assessment of the Building Height Overlay Code. Development conditions have been imposed requiring a detailed landscaping plan and a landscaping maintenance and management plan be submitted for endorsement.</p>
<p>Parking and Access Code</p>	<p>Complies & Conditioned to Comply.</p> <p>Where within the Building Height Overlay, the following parking rates and bicycle spaces are specified for a Multiple Dwelling:</p> <ul style="list-style-type: none"> - Vehicles: <ul style="list-style-type: none"> o 1 space per one or 2 bedroom unit; or o 1.5 spaces per 3 or more bedroom unit; and o 1 space per 10 units for visitors; - Bicycles: <ul style="list-style-type: none"> o 1 space per dwelling unit which may be provided as internal storages areas for the multiple dwelling. <p>Given the above parking rates, the development is required to provide thirty (30) vehicle parking spaces and twenty-six (26) bicycle parking spaces. The development includes 31 vehicle parking spaces and 27 bicycle spaces. Some of the car parking spaces are proposed to be tandem spaces.</p> <p>A development condition has been imposed in respect to the required number of vehicle and bicycle spaces and the tandem spaces are required to be allocated to specific units to avoid tenants being parked in by tenants from other units.</p> <p>A discussion of the multiple access points was undertaken as part of the assessment of the Building Height Overlay Code.</p> <p>Due to height limitations a refuse collection vehicle will not be able to drive into the carpark.</p>

	<p>As such, refuse collection vehicles will park on the Lake Street driveway and bulk bins will be taken from the refuse enclosure in the carpark to the truck for collection. The Applicant has provided supporting information to demonstrate that this arrangement provides safe ingress and reversing manoeuvres and will not unreasonably impact on vehicle or pedestrian access.</p> <p>Conditions have been imposed for design and construction standards for vehicle parking spaces, construction of the accesses in accordance with the <i>FNQROC Development Manual</i>,</p>
Vegetation Management Code	<p>Complies with Performance Outcomes.</p> <p>Vegetation damage will occur in an appropriate and sustainable manner.</p> <p>A development condition has been imposed requiring that damaged vegetation is removed and disposed of at an approved site or mulched and chipped and used onsite.</p> <p>Refer below discussion of non-compliances.</p>

Non-Compliance with Benchmarks

The proposed development complies with the applicable criteria of the above-mentioned codes with the exception of the non-compliance addressed below:

Assessment Benchmark	
Performance Outcome	Assessment
Airport Environs Overlay Code	
<p>PO4 <i>Development is appropriately located and designed to prevent adverse impacts from aircraft noise.</i></p>	<p>The site is located within the 25-30 ANEF contour where a Multiple Dwelling is identified as an incompatible land use. Noting the surrounding area consists mainly of residential type uses or short-term accommodation, it is considered appropriate to support the development, subject to conditions. It is recommended that a Noise Assessment report is prepared by a suitably qualified person to ensure the development is appropriately designed to prevent adverse impacts from aircraft noise.</p>
Assessment Benchmark	
Performance Outcome	Assessment
Building Height Overlay Code	
<p>PO4 <i>Development ensures that on-site there is sufficient space outside of, and around the building to:</i></p> <p>(a) <i>maintain view lines and vistas to the mountains, the Esplanade and ocean along streets, between developments and from public places;</i></p>	<p>The code prescribes a maximum site coverage of 40%. The development proposes a site cover of 75% on the ground floor, 66% on level 1 and 41% on levels 2-8.</p> <p>The units have been designed to be orientated towards the Esplanade and to the west of Cairns and provide appropriate setbacks (refer assessment against PO6 below) to the side boundaries to ensure appropriate access to sunlight and ventilation is available to the development and adjoining sites, and view lines and vistas to the mountains, Esplanade and ocean along streets, between developments and from public places is maintained.</p>

<p>(b) <i>provide appropriate areas for deep landscaping to reflect and contribute to the concept of a 'city in a rainforest';</i></p> <p>(c) <i>maintain privacy and amenity for occupants of the site and adjoining sites;</i></p> <p>(d) <i>provide for adequate access to sunlight and ventilation for development on the site and on adjoining sites;</i></p> <p>(e) <i>provide adequate separation between buildings on the site and adjoining sites;</i></p> <p>(f) <i>ensure buildings maintain a moderate overall width.</i></p>	<p>Sufficient areas are available around the building, particularly along the south-eastern boundary and along part of the Lake Street frontage, for deep landscaping to reflect and contribute to the concept of a 'city in a rainforest'.</p> <p>The balconies of the units face either the Esplanade or Lake Street, however, there are parts of the balconies and some bedroom, bathroom and study windows that face neighbouring properties. The design of the building will ensure an adequate level of privacy and amenity is maintained for occupants of the site and adjoining sites.</p> <p>The Lake Street site is relatively narrow at approximately twenty-three (23) metres and the building is considered to be appropriately designed for the site to ensure it maintains a moderate overall width when compared to the total frontage of the site and is not bulky or overbearing.</p>
<p>PO6 <i>Development is set back from all site boundaries to:</i></p> <p>(a) <i>maintain the character and amenity of the streetscape and surrounding area;</i></p> <p>(b) <i>maintain view lines and vistas to the mountains, the Esplanade and ocean along streets, between developments and from public places;</i></p> <p>(c) <i>maintain privacy and amenity for residents and occupants;</i></p> <p>(d) <i>maximise the availability of light and ventilation to development, adjoining sites and public places;</i></p> <p>(e) <i>avoid a visually overbearing built form;</i></p> <p>(f) <i>provide for appropriate landscaping to reflect and contribute to the concept of a 'city in a rainforest';</i></p> <p>(g) <i>achieve tropical urbanism outcomes.</i></p>	<p>Acceptable Outcome AO6.1 prescribes the following setbacks for this site:</p> <ul style="list-style-type: none"> - 6 metres from the street frontage(s), other than the Esplanade; - 15 metres from the Esplanade; - ¼ height of the building above ground level or 3 metres, whichever is the greater, from the side and rear boundaries. <p>The building will have an arbor landscape feature with a width of approximately 6.4 metres built to the Lake Street frontage over the northernmost Lake Street vehicle entry. The remainder of the building will be setback in excess of 6 metres from Lake Street. The arbor will not be a visually overbearing structure and will support landscaping features which will soften the appearance of the vehicle entry and provide articulation and visual interest to the façade of the building. The arbor will not have an adverse impact on the character and amenity of the streetscape and surrounding area and contributes to tropical urbanism outcomes.</p> <p>The building is proposed to have non-compliant side boundary setbacks to the north-western, north-eastern and south-eastern side boundaries. These setbacks vary between 0 metres to 3.148 metres. The setback encroachments include carparking areas, planter boxes, unit walls, building services and lobby and balconies.</p> <p>There is a built to boundary wall on the north-western side for the ground floor and Level 1 carparking areas that will have an approximate length of 31.3 metres and height of 7.5 metres. The wall does not include any openings which will ensure vehicle headlights and noise do not impact on neighbouring residents. The built to boundary wall will be painted and include architectural treatments and vertical landscaping to articulate the wall and ensure its appearance is not visually overbearing. The wall on the north-eastern side for the Level 1 carpark will also be built to boundary. The wall will have a planter box on top containing some hanging plants/vines which will soften its appearance.</p>

	<p>The carpark will also be built to boundary on the north-eastern side where access will be gained from the Esplanade. Given the wall faces a lot which will be used for access, it is considered that there will not be impacts on the privacy and amenity of residents and occupants or availability of light and ventilation to the development and adjoining sites.</p> <p>The planter boxes, unit walls and balconies that encroach on the side boundaries are considered appropriate to ensure privacy and amenity of residents and occupants is maintained and are sufficiently setback to ensure sufficient availability of light and ventilation for the development and adjoining sites. The planter boxes will also contribute to the concept of a 'city in a rainforest'.</p> <p>Shadow diagrams have also been provided to demonstrate that adjoining properties will have adequate access to sunlight throughout the day at various times of the year. Additionally, the building setbacks are considered sufficient to allow adequate separation between buildings and ventilation to development on adjoining sites.</p>
<p>PO12 <i>Development is designed to ensure vehicle access points comply with the requirements of the Parking and access code and do not dominate the streetscape.</i></p>	<p>The code requires that where development fronts the Esplanade and another street, vehicle access is not gained from the Esplanade. The development proposes to gain access from both Lake Street and the Esplanade. The Esplanade access will be restricted to ingress only from the Esplanade and the Applicant has proposed a garden bed and boom gate to ensure vehicles cannot exit from the carpark onto the Esplanade. The vehicle access points have been conditioned to comply with the requirements of the Parking and Access Code. The access from the Esplanade is not considered to dominate the streetscape and will also provide access to the development approved under Development Permit 8/7/3772.</p>
<p>PO21 <i>Development is landscaped both horizontally on the site and structures, and vertically to provide a meaningful contribution to reflect the concept of a 'city in a rainforest'</i></p>	<p>The code prescribes the following landscaping requirements:</p> <ul style="list-style-type: none"> - Deep planting areas with a minimum dimension of 5 metres x 5 metres at each corner of the site; - Deep planting along the full frontage of the site with a minimum dimension of 2 metres and total area of 50m² or 5% of the total site area, whichever is the greater; - A minimum of 25% of the horizontal plane is landscaped; - A minimum of 15% of the building is vertically landscaped for each façade for the full height of the development. <p>The development includes the following landscaping areas:</p> <ul style="list-style-type: none"> - Approx. 235m² on the ground floor and level 2 podium; - Approx. 215m² on the roof level; and - Planter boxes, vine trellis/screens and vine arbor/canopy. <p>The planters will have depths of 600mm and 1000mm and will include trees and shrubs.</p> <p>Despite the development not strictly achieving all of the requirements of the acceptable outcomes, the proposed landscaping is considered to provide a meaningful contribution to reflect the concept of a 'city in a rainforest'.</p>

Assessment Benchmark	
Performance Outcome	Assessment
Multiple Dwelling & Short-term Accommodation Code	
<p>PO3 <i>Development is designed to:</i></p> <p>(a) <i>maximise the separation between buildings;</i></p> <p>(b) <i>provide adequate landscaping that contributes to establishing an attractive and safe streetscape and a high standard of amenity and privacy for residents;</i></p> <p>(c) <i>provide and open space around buildings for recreational opportunities;</i></p> <p>(d) <i>reduce the bulk of buildings.</i></p>	<p>The maximum GFA for development within the Tourist Accommodation Zone is 1.2 x site area. For this development, the maximum GFA would thus be 993.6m². A GFA of 2,392m² is proposed.</p> <p>The development is considered to have sufficient separation from adjoining buildings, being in excess of 5 metres.</p> <p>Adequate landscaping is proposed on the Lake Street frontage and vertically that will contribute to establishing an attractive and safe streetscape and a high standard of amenity and privacy for residents.</p> <p>There is no recreational open space proposed around the building, however, a large communal recreation space is proposed on the roof of the building.</p> <p>The bulk of the building is reduced through architectural treatments, structural elements, building materials, planter boxes and vertical landscaping which will articulate the façade, provide visual interest and soften the built form.</p>

Assessment Benchmark	
Performance Outcome	Assessment
Vegetation Management Code	
<p>PO1 <i>Vegetation is protected to ensure that:</i></p> <p>(a) <i>the character and amenity of the local area is maintained;</i></p> <p>(b) <i>vegetation damage does not result in fragmentation of habitats;</i></p> <p>(c) <i>vegetation damage is undertaken in a sustainable manner;</i></p> <p>(d) <i>the regions biodiversity and ecological values are maintained and protected;</i></p> <p>(e) <i>vegetation of historical, cultural and / or visual significance is retained;</i></p> <p>(f) <i>vegetation is retained for erosion prevention and slope stabilisation.</i></p>	<p>Vegetation is required to be cleared from Lot 200 on SP338361 to create the vehicle access from the Esplanade. Most of this vegetation sits towards the rear of the lot and is not considered to contribute to the character of the local area. The vegetation is not identified to contain fauna habitats or to have biodiversity or ecological value, or to have historical, cultural, or visual significance. The vegetation is not required to be retained for erosion prevention or slope stabilisation.</p> <p>The palm tree on the Lake Street frontage is proposed to be retained.</p> <p>New landscaping is proposed to be installed as part of the development which will provide an improved contribution to the character and amenity of the area.</p>

OTHER RELEVANT MATTERS

In accordance with section 45 of the *Planning Act 2016* and section 27 of the *Planning Regulation 2017* the assessment manager has noted the following submissions within the assessment of the application, in addition to the assessment benchmarks as discussed above.

1. Submissions

One (1) not properly made submission was received in relation to the application as follows:

Point of Submission	Council Officer Comment
<p>The submission raised concerns regarding the setback of the development to the north-western side boundary and the two levels of carparking and the ramp at eye level to living areas of the building to the north-west. The submission states that the vertical landscaping is unlikely to soften the visual impact and noise impacts from vehicles and will have an adverse impact on the short-term accommodation use of the neighbouring property.</p>	<p>It is acknowledged that the building is proposed to have non-compliant side boundary setbacks to the north-western, north-eastern and south-eastern side boundaries. These setbacks vary between 0 metres to 3.148 metres. The setback encroachments include carparking areas, planter boxes, unit walls, building services and lobby and balconies.</p> <p>There is a built to boundary wall on the north-western side for the ground floor and Level 1 carparking areas that will have an approximate length of 31.3 metres and height of 7.5 metres. The wall does not include any openings which will ensure vehicle headlights and noise do not impact on neighbouring residents. The built to boundary wall will be painted and include architectural treatments and vertical landscaping to articulate the wall and ensure its appearance is not visually overbearing. The wall on the north-eastern side for the Level 1 carpark will also be built to boundary. The wall will have a planter box on top containing some hanging/vining plants which will soften its appearance. Conditions ensuring such aspects will be incorporated have been imposed.</p> <p>The carpark will also be built to boundary on the north-eastern side where access will be gained from the Esplanade. Given the wall faces a lot which will be used for access, it is considered that there will not be impacts on the privacy and amenity of residents and occupants or availability of light and ventilation to the development and adjoining sites.</p> <p>The planter boxes, unit walls and balconies that encroach on the side boundaries are considered to ensure privacy and amenity of residents and occupants is maintained and are sufficiently setback to ensure sufficient availability of light and ventilation for the development and adjoining sites. The planter boxes will also contribute to the concept of a 'city in a rainforest'.</p> <p>Shadow diagrams have also been provided to demonstrate that adjoining properties will have adequate access to sunlight throughout the day at various times of the year. Additionally, the building setbacks are considered sufficient to allow adequate separation between buildings and ventilation to development on adjoining sites.</p>

It is noted that the application is subject to bounded Code Assessment, however, the concerns of the submitter have been raised with the Applicant. The concerns have been addressed through revisions to the design of the development and reasonable and relevant development conditions.