**REASONS FOR REFUSAL – DA/619/2023 – PPSHCC-193**

**Reason 1**

The Development Application has not obtained the written consent of Central Coast Council, being the owner of the land identified as 5W The Entrance Road, required for the proposed drainage works through these parcels, contravening the requirements of Section 23(1) of the Environmental Planning and Assessment Regulation, 2000.

**Reason 2**

The applicant has not obtained the necessary permits from NSW Fisheries in accordance with Section 205 of the Fisheries Act 1994 as the proposed installation of new stormwater infrastructure piping discharges into Tuggerah Lake and has the potential to cut, remove, damage or destroy the *Zostera Capricorns* seagrass found along the Tuggerah Lake Foreshore.

**Reason 3**

The Proposal has not satisfactorily demonstrated it is not likely to cause an adverse impact on the matters listed under Section 2.10 of *the State Environmental Planning Policy (Resilience and Hazards) 2021*, including the integrity and resilience of the hydrological and ecological environment and impacts to existing public open space along the foreshore. Additionally, the excessive bulk, scale and size, including exceedance of height, will have an adverse effect on existing public open spaces due to the visual prominence of the proposal when viewed from the foreshore, contravening matters listed under Section 2.11 of the same SEPP.

**Reason 4**

The proposed development fails to comply with the requirements of SEPP 65 as:

1. The proposal is contrary to the 9 design quality principles relating to Sites 1 and 2 and
2. The proposal is contrary to the ADG requirements with respect to local character and context, precincts, building separation, street setbacks, side and rear setbacks, site analysis, orientation, public domain and interface, deep soil, visual privacy, pedestrian access, solar access, natural ventilation, room depths and apartment layout, private open space and balconies, common circulation, storage, acoustic privacy, facades, roof design, landscape design, planting on structures, adaptive reuse, mixed use, energy efficiency and building maintenance.

**Reason 5**

The proposed development does not achieve MU1 zone objectives that require new development protect and enhance the scenic qualities and character of commercial centres whilst ensuring new development provide diverse and active street frontages, contributing to vibrate and diverse public spaces as the proposed development does not acknowledge its coastal setting nor responding appropriately to or respecting the adjoining local heritage item identified as The Lake House.

**Reason 6**

Insufficient information has been submitted to enable proper assessment under the *Environmental Planning and Assessment Act 1979*, in relation to the following:

1. Height of Buildings (Clause 4.3 of the CCLEP 2022 and Part 2.3.3.1 of the CCDCP 2022) - Elevation and Sections Plans prepared by BVN and EM BE CE for both Sites 1 and 2 do not properly detail natural ground levels, floor levels, ceiling levels and roof/ridge levels to RL’s as ADH with property boundaries, setbacks from and adjacent buildings.
2. Floor Space Ratio (Clause 4.4 of the CCLEP 2022 and Part 2.3.3.2(a) of the CCDCP 2022) – Floor plans prepared by BVN and EM BE CE do not adequately detail the layout of the proposal, or figured dimensions of the proposed work, or provide appropriate scales with site boundaries or clearly set out the location of adjacent buildings or setbacks from all boundaries and adjoining buildings.
3. Written Request for Variation (Clause 4.6 of the CCLEP 2022) – The written request for variation prepared by Mecone and dated March 2023 is for discussion purposes only and not endorsed by the consultant.
4. Operational Waste Management Plans, prepared by Elephants Foot Consulting which states ‘*this WMP is not finalised and cannot be stamped for approval by Council’*.
5. Arborist Report, prepared by Monaco Designs Pty Ltd and dated 23 March 2023 which states ‘*surveys were not undertaken by Monaco Designs, hence we cannot confirm their accuracy’.*
6. Acoustic Assessment.
7. Social Impact Assessment.
8. Safety, Security and Crime Prevention, as the Safety Audit Report, prepared by Planning Ingenuity remains in draft and was not certified.
9. Economic Impact.
10. Statement of Environmental Effects, prepared by Mecone, and dated March 2023 remains in draft and is not endorsed by a suitably qualified planner.
11. The Landscape Concept Plan, prepared by Oculus, Drawing No. L201, L202, L203, L204 and L206, is not legible, appropriately scaled, and does not provide finished surface levels, embankments and grades, to confirm compliance with Part 2.3.3.3 and 2.3.9 of the CCDCP, including regarding the relevant requirements for landscaped area and deep soil.

**Reason 7**

The applicant has failed to provide a heritage management plan that explains or justifies the impact of the proposed development on the local heritage item, known as The Lake House, in accordance with Clause 5.10(5)(c) of the CCLEP 2022 and Part 3.6.2.2.3 of the CCDCP 2022.

**Reason 8**

The proposed development has failed to satisfy the requirements of Clause 5.21(c) relating to flood planning as the development has not minimised the flood risk to life and/or property, is not demonstrated to be compatible with the flood function and behaviour, does not avoid adverse or cumulative impacts on existing flood behaviour and has not demonstrated to enable safe occupation and efficient evacuation of the site in the event of the flood.

**Reason 9**

The submitted Acid Sulfate Soils Management Plan has failed to undertake appropriate PASS/ASS testing extending to proposed basement level depths as required by the Acid Sulfate Soils Manual and failed to consider the ongoing groundwater impacts of the proposed development including any draw down effects that may result on the downstream property in accordance with Clause 7.1 of the CCLEP 2022.

**Reason 10**

The proposed development fails to satisfy the relevant provisions of Part 2.13.3.3 of the CCDCP 2022 as the development does not appropriately surmise the proposed land use types, applicable parking rates and correct calculations for each.

**Reason 11**

The proposed development fails to satisfy the relevant dimensional requirements for safe and efficient operation of the carparks and therefore fails to comply with Part 2.13.3.3(a) of the CCDCP 2022 and the objective which supports it.

**Reason 12**

The proposed development fails to comply with Part 2.13.3.5 of the CCDCP 2022 as the development does not satisfy servicing, deliveries and waste collection requirements.

**Reason 13**

The proposed development contravenes Part 2.13.3.7 of the CCDPC 2022 as the proposed employee accessible parking space in Basement Level 1, Site 1, is located immediately adjoining the entry/exit ramp and does not meet minimum headroom requirements in accordance with AS2890.6:2009.

**Reason 14**

The proposed bicycle parking facilities to Sites 1 and 2 fail to comply with the minimum numbers required by Part 2.13.3.8 of the CCDCP 2022 and associated AS2890.3:2015 relating to bicycle parking.

**Reason 15**

The proposed motorcycle parking spaces to Site 1 fail to comply with minimum width requirements by Part 2.13.3.9 of the CCDCP 2022 in addition to no motorcycle parking spaces being provided in accessible areas for retail visitors to Site 1.

**Reason 16**

The proposed development has failed to incorporate suitably located visitor parking which is safe, accessible at all times and external to any security arrangements in accordance with Part 2.13.3.10 of the CCDCP 2022.

**Reason 17**

The proposed development fails to comply with Council’s Waste Control Guidelines in accordance with Part 2.14 of the CCDCP 2022 relating to the construction and operation of both Sites 1 and 2.

**Reason 18**

The proposed development does not suitably manage flooding impacts in accordance with Chapter 3.1, Appendix C, of the CCDCP 2022.

**Reason 19**

The site is not suitable for the proposed development having regard for the provisions of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979.*

**Reason 20**

The proposal fails to promote a high standard of urban design that responds appropriately to the existing or desired future character of the area which is an aim of the Central Coast Local Environmental Plan 2022. The height, scale, form and density of the development is not acceptable within the locality having regard for existing development in the area and will result in adverse visual impacts.

**Reason 21**

The proposal will result in unacceptable impacts on the residential amenity of neighbours from:

1. Adverse visual impacts from the height, bulk and scale of the development
2. Overlooking
3. Noise impacts
4. Light overspill

**Reason 22**

The proposed development has failed to demonstrate that essential services relating to stormwater drainage or on-site conservation and the collection and management of waste are available or that adequate arrangements have been made to make them available in accordance with Clause 7.6 of the CCLEP 2022.

**Reason 23**

The proposed development is inconsistent with the design guidelines of the ADG, the associated Design Quality Principles, and CCDCP 2022 resulting in poor site amenity, overlooking and noise and visual impacts both for the intended occupants and their visitors, as well as surrounding residential development.

**Reason 24**

The proposal is not in the public interest.