

15 July 2021

COASTPLAN GROUP PTY LTD
PO Box 568
FORSTER NSW 2428

Our Reference:

MOD2021/0041

Contact:

Bruce Moore

Notice of Determination Modification of Development Consent

Issued under the Environmental Planning and Assessment Act 1979

DEVELOPMENT DETAILS

Modification Consent No.	MOD2021/0018 modifying DA-521/2017
Property Details:	Lot 11 DP 47987, Lot 12 DP 47987, Lot 13 DP 47987 34-36 West Street, FORSTER NSW 2428
Modified Development Details:	Mixed use development
Determination:	Approved
Date determined:	15 July 2021

Modified Conditions of Consent

In accordance with Section 4.55 of the Environment Planning and Assessment Act 1979, Development Consent No. DA-521/2017 is modified by:

Amending Condition No. 1 to read:

1. Approved Documentation

The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No / Supporting Document	Reference / Version	Prepared by	Dated
Traffic Report	1	MRCagney Pty Ltd	6 Apr 2017
Site Waste Minimisation Plan		TVS Architects	undated
Site Survey	6714	Degotardi, Smith & Partners	13 Nov 2000
Stormwater Strategy Plans	S01, S02 issue 1	Coastplan Group	Mar 2017
Stormwater Drainage Quality Control Report	16148 issue 1	Coastplan Group	Mar 2017
SEPP 65 Statement		TVS Architects	3 Apr 2017
Statement of Environmental Effects	16104	Coastplan Group	April 2017
Statement of Environmental Effects	16104	Coastplan Group	May 2021
Landscape Concept Plans	SD001B, 10B, 100B, 110B, 150B, 160B, 170A, 190A, 200B, 300B, 500B, 600B, 800B, 801B, 900B, 901B, 902B, 903B, 950A, 951A, 952A		3 Apr 2017
Geotechnical Report	RGS01471.1-AB	Regional Geotech Solutions	31 Jan 2016
Ecological Assessment	116013_REO-001 Rev O	East Coast Environmental	31 Mar 2017
Cultural Heritage Report		Yettica Cultural Consulting Service	undated
Crime Prevention Through Environmental Design Report	16104	Coastplan Group	March 2017
Safer by Design Evaluation	Letter	NSW Police Force	14 Jul 2017
Arborist Report		TLC Tree Solutions	25 Mar 2017
Acoustic Report	M17612.01	Matrix Thornton	29 Mar 2017
Basix Certificate	810706M_02		9 May 2017
NATHERS certificate	0001467690	Building Sustainability Assessments	26 April 2021
Access Report	AN17-208250 Rev 01	Philip Chun	30 Mar 2017
Plan of Subdivision of Lots 11,12 and 13 in Deposited Plan 47987	Revision 6	Phillip John Chamberlain	30 April 2021
Water NSW response	letter	Water NSW	Undated
Survey Plan	5490.82 (1)	TVS Architects	3 Apr 2017
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Location Plan	18032 SP-01 Sheet 1 of 14	Phillip John Chamberlain	undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Basement Level	18032 SP-01 Sheet 2 of 14	Phillip John Chamberlain	undated



Plan No / Supporting Document	Reference / Version	Prepared by	Dated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Ground Floor	18032 SP-01 Sheet 3 of 14	Phillip John Chamberlain	undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Level 1	18032 SP-01 Sheet 4 of 14	Phillip John Chamberlain	undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Level 1	18032 SP-01 Sheet 5 of 14	Phillip John Chamberlain	undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Level 2	18032 SP-01 Sheet 6 of 14	Phillip John Chamberlain	undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Level 2	18032 SP-01 Sheet 7 of 14	Phillip John Chamberlain	undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Level 3	18032 SP-01 Sheet 8 of 14	Phillip John Chamberlain	undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Level 3	18032 SP-01 Sheet 9 of 14	Phillip John Chamberlain	undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Level 3	18032 SP-01 Sheet 9 of 14	Phillip John Chamberlain	undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Level 4	18032 SP-01 Sheet 10 of 14	Phillip John Chamberlain	undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Level 5	18032 SP-01 Sheet 11 of 14	Phillip John Chamberlain	undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Level 6	18032 SP-01 Sheet 12 of 14	Phillip John Chamberlain	undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Level 7	18032 SP-01 Sheet 13 of 14	Phillip John Chamberlain	undated
Roof	18032 SP-01 Sheet 14 of 14	Phillip John Chamberlain	undated
Architectural Plans			
Cover Sheet	5490.01 (4)	TVS Architects	11 May 2021
Development Statistics	5490.09 (5)	TVS Architects	11 May 2021
Location Plan	5490.10 (1)	TVS Architects	3 Apr 2017
Site Context Diagram	5490.11 (1)	TVS Architects	3 Apr 2017
ESD Strategies	5490.12 (3)	TVS Architects	11 May 2021
Communal Open Space	5490.16 (3)	TVS Architects	11 May 2021
Waste Management Plan	5490.17 (3)	TVS Architects	11 May 2021
Staging Plan	5490.18 (4)	TVS Architects	11 May 2021
Site Plan	5490.21 (3)	TVS Architects	11 May 2021
Lower Basement 2 Plan	5490.22 (4)	TVS Architects	11 May 2021
Upper Basement 1 Plan	5490.23 (2)	TVS Architects	11 May 2021
Ground Floor Plan	5490.24 (5)	TVS Architects	11 May 2021
Level 1 Floor Plan	5490.25 (4)	TVS Architects	11 May 2021
Level 2 Floor Plan	5490.26 (3)	TVS Architects	11 May 2021
Level 3 Floor Plan	5490.27 (5)	TVS Architects	11 May 2021
Level 4 Floor Plan	5490.28 (7)	TVS Architects	11 May 2021

Plan No / Supporting Document	Reference / Version	Prepared by	Dated
Level 5 Floor Plan	5490.29 (6)	TVS Architects	11 May 2021
Level 6 Floor Plan	5490.30 (6)	TVS Architects	11 May 2021
Level 7 Floor Plan	5490.31 (4)	TVS Architects	11 May 2021
Level 8&9 Floor Plan	5490.32 (6)	TVS Architects	11 May 2021
Level 10 Floor Plan	5490.33 (2)	TVS Architects	11 May 2021
Roof Plan	5490.34 (3)	TVS Architects	11 May 2021
Typical Unit Plans stage 2 & 3	5490.40 (5)	TVS Architects	11 May 2021
Typical Unit Plans stage 2 & 3 mirrored	5490.40a (2)	TVS Architects	11 May 2021
Typical Unit Plans – Stage 1 only	5490.40b (1)	TVS Architects	11 May 2021
Typical Unit Plans – Stage 1 only, mirrored	5490.40c (1)	TVS Architects	11 May 2021
Typical Unit Plans	5490.41 (1)	TVS Architects	11 May 2021
Typical Unit Plans mirrored	5490.41 (1)	TVS Architects	3 Apr 2017
Typical Unit Plan	5490.42 (1)	TVS Architects	3 Apr 2017
Typical Unit Plan mirrored	5490.42 (1)	TVS Architects	3 Apr 2017
Typical Unit Plans	5490.43 (1)	TVS Architects	3 Apr 2017
Typical Unit Plan mirrored	5490.43 (1)	TVS Architects	3 Apr 2017
Penthouse Unit Plans Stage 1	5490.44 (1)	TVS Architects	11 May 2021
Penthouse Unit Plans Stage 1	5490.45 (1)	TVS Architects	11 May 2021
Elevations (N & E)	5490.50 (5)	TVS Architects	11 May 2021
Elevations (S & W)	5490.51 (4)	TVS Architects	11 May 2021
Elevations (sectional)	5490.52 (5)	TVS Architects	11 May 2021
Elevations (sectional)	5490.53 (4)	TVS Architects	11 May 2021
Site Sections	5490.60 (3)	TVS Architects	11 May 2021
Materials and Finishes	5490.70 (1)	TVS Architects	3 Apr 2017
Materials and Finishes	5490.71 (3)	TVS Architects	11 May 2021
Materials and Finishes	5490.72 (3)	TVS Architects	11 May 2021
Library zone plan Ground	5490.80 (2)	TVS Architects	17 Feb 2020
Library Zone plan level 1	5490.81 (2)	TVS Architects	17 Feb 2020
Survey Plan	5490.82 (1)	TVS Architects	3 Apr 2017

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

In accordance with Condition 4 the proposed childcare centre, nightclub and cinema are not approved under this consent.

Reason: To ensure compliance.
(DA-521/2017/E – MODIFIED 11 April 2020)
(MOD2021/0041 - MODIFIED 19 May 2021)
(MOD2021/0018 – MODIFIED 15 July 2021)

Amending Condition No. 2 to read:

2 Staging of the development

The development is to be undertaken in accordance with the approved 'staging plan' as generally described by the following:

Stage 1a
Basement carpark and transfer slab
Stage 1b
Library
Visitor centre
Community centre
Community lounge
Council customer service centre
Community plaza
Community gardens
Restaurant/café (1)
Bike parking and end of trip facilities
Commercial floor space
Stage 1 c
53 residential apartments
3 penthouses
Lower common terrace for residents
Stage 1 resident parking
Lake Street road improvements
Stage 2
Supermarket
Retail shops
Restaurant/cafes (2)
Remainder of basement parking (128 spaces)
59 seniors living units
Penthouses (x2)
Stage 2 resident parking (149 spaces)
Pedestrian plaza (West Street frontage)
Service road access and driveways
Stage 3
29 Seniors Units
Penthouses (x2)
Upper level resident terraces and common facilities
West Street improvements
Stage 4
Gymnasium
Hotel
Serviced apartments
Middle Street improvements

Reason: In the interests of consistency.
(DA-521/2017/C – MODIFIED 22 November 2018)
(DA-521/2017/E - MODIFIED 11 APRIL 2020)
(MOD2021/0018 – MODIFIED 15 July 2021)

Deleting Condition No. 3

(MOD2021/0018 – MODIFIED 15 July 2021)

Amending Condition No. 8 to read:

8. Section 7.11 Contributions

A total monetary contribution must be paid to Council, pursuant to Section 7.11 of the Environmental Planning and Assessment Act 1979. The relevant contribution for each stage is to be payable prior to the issue of a Construction Certificate in respect of the relevant stage of the proposed development:

Stage 1a

GLW Headquarters -	\$ 8,800.00
GLW Road Haulage-	\$16,380.00

Stage 1b

GLW Headquarters-	\$3,600.00
FD Inner Roads-	\$225,997.50

Stage 1c

GLW Bookstock-	\$8,371.13
GLW Headquarters -	\$50,259.70
GLW S94 Administration-	\$23,058.60
FD Inner Roads-	\$185,445.30
FD Aquatic Centre -	\$32,971.07
FD Surf Life Saving -	\$9,724.32
FD Open Space -	\$157,680.11
FD Library Facility -	\$54,559.54
FD Community Facilities-	\$59,554.58

Stage 2 - \$1,252,386.89*

Stage 3 - \$550,898.10

Stage 4 - \$772,345.11

The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent (as modified 15 July 2021) and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

*Contribution for stage 2 includes \$414,413.12 for Forster District Parking – 22 spaces @ \$18,836.96 per space.

Reason: In the public interest and pursuant to Section 7.11 of the EP&A Act 1979.

(DA-521/2017/C - MODIFIED 22 November 2018)

(DA-521/2017/D - MODIFIED 11 April 2020)

(MOD2021/0018 – MODIFIED 15 July 2021)

Amending Condition No. 17 to read:

17. Bond required to Guarantee against Damage to Public Land

Prior to the issue of a Construction Certificate for each sub-stage of Stage 1, a Damage Bond Application form together with payment of a bond for the total amount of \$124,000

and a non-refundable administration fee of \$330 must be submitted to Council. The bond is payable for each sub-stage as follows:

- a. Stage 1A - \$88,000
- b. Stage 1B - \$36,000

The bond will remain in place until completion of the entire development consisting of all stages. The bond is payable for the purpose of funding repairs to any damage that may result to Council assets from activities/works associated with the construction of the development and to ensure compliance with Council standards and specifications. The bond and administration fee can be transferred should Stages be constructed continuously.

A final inspection will be carried out by the responsible Council officer and the bond (minus any fees required for additional inspections) will be considered for refund:

- a) once all works, including landscaping, driveway construction, turfing etc, have been completed, and;
- b) following issue of an occupation certificate by the certifying authority.

The damage bond is reviewed periodically and therefore the fee and bond amount payable will be determined from Council's current fees and charges document at the time of lodgement of the damage bond.

Reason: Protection of public assets.

(DA-521/2017/E - MODIFIED 22 November 2018)

(MOD2021/0067 – MODIFIED 31 March 2021)

(MOD2021/0018 – MODIFIED 15 July 2021)

Amending condition No. 45 to read:

45. Public Engineering Works

The following public engineering works shall be carried out within the road reserves and comply with the relevant Australian Standards, Council's standards/specifications and requirements:

Stage 1b:

- Road works along the full site frontage in Lake Street including:
- Redesign the roundabout at the intersection of West and Lake Streets including profile/mill the existing to have a minimum 50mm thick AC10 resheet.
- Roundabout for the vehicle access/driveway to service the property in Lake Street and the associated means of draining the roundabout.
- Profiling/milling of road pavement (where required) and full width 30 mm asphaltic concrete road carriageway re-sheet and tack seal along the full site frontage in Lake Street starting from the existing roundabout at the intersecting of Lake and West Streets up to and including the new roundabout that will service the Lake Street driveway/entrance.
- Construction of kerb returns at the intersection of Lake and West Streets.
- Reconstruct kerb and gutter.
- Landscaping including minimum 1.2m wide footpath paving within the road/nature reserve.
- Street stormwater drainage pipeline if required.



- Bus shelter and associated works including bus zone signage, paving and tactile marking in accordance with Commonwealth Disability Standards for Accessible Public Transport.
- Landscaping that includes/provides a minimum 1.2 m wide footpath within Lake Street.
- Dedication of corner splay (5m x 5m) at the intersection of Lake / West Streets.
- Undergrounding of electricity along the southern side of Lake Street from the western side of West Street to the power pole outside 6 Lake Street.
- Streetlights for the Lake Street roundabouts.
- All line marking.
- Stormwater drainage and treatment facilities.
- All required street signage including:
 - a. A vehicle space for a person with a disability.
 - b. Timed parking for a:
 - loading bay - 14m long truck: and
 - 2 spaces for cars with caravans.
 - Temporary garbage collection area, including road signage for the early morning day of pick up.

Stage 2:

- Reconstruct the kerb and gutter in West Street.
- Kerb blister for the Norfolk Island Pine tree in West Street.
- Stormwater drainage and treatment facilities in West Street.
- All required street signage including:
 - a vehicle space for a person with a disability in West Street.
 - timed vehicle spaces in West Street.
- Adjust the roundabout and any associated stormwater drainage in Lake / West Street intersection including profiling/milling of road pavement (where required) and re-sheet.
- Milling of road pavement (where required) in West and Middle Streets.
- Full width 30 mm asphaltic concrete road carriageway re-sheet including profiling/milling of road pavement (where required) along the full site frontages in West and Middle Streets.
- Raised threshold including upgrading street lighting.
- Under grounding of electricity in West Street from the north side of Lake Street to Short Street.
- Landscaping that includes/provides a minimum 1.2 m wide footpath within West Street.
- Dedication of corner splay (3m x 3m) at the intersection of West / Middle Streets.

Stage 4:

- 25 x 90 degree car parking spaces in Middle Street including kerb and gutter, a dish gutter across the pumping station, sealed pavement and adjacent street lighting.
- Full width 30mm asphaltic concrete road carriageway re-sheet including profiling/milling of road pavement (where required) along Middle Streets from West Street site boundary to Macintosh Street.
- 2.5m wide concrete footpath along the northern side of Middle Street in combination with timber boardwalk across street trees roots where required. Works to extend across the development site to Macintosh Street.

- Removal of any temporary garbage collection area.

Reason: To ensure works within Council's road reserve are constructed to a suitable standard and for public safety.
(MOD2021/0018 – MODIFIED 15 July 2021)

Amending condition No. 91 to read:

91. Restriction of Use

Prior to the issue of any relevant Occupation Certificate, a restriction as to user is to be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, limiting use of the approved Seniors Housing Apartments. The instrument is to identify that the units are to be used only for the purposes of seniors or people who have a disability, people who live within the same household with seniors or people who have a disability, staff employed to assist in the administration of and provision of services to housing provided under this Policy.

The restriction shall remain in place unless a separate application is made to the determining body for consideration of alternative uses.

Seniors and disabled persons are as defined in the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

Reason: The application was assessed on the basis that the apartments would be used for Seniors Housing purposes and to meet the requirements of clause 18(1) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.
(MOD2021/0018 – MODIFIED 15 July 2021)

Amending condition No. 95 to read:

95. Restriction of Use

The approved Seniors Housing Apartments are to be used only for the purposes of:

- (a) seniors or people who have a disability,
- (b) people who live within the same household with seniors or people who have a disability,
- (c) staff employed to assist in the administration of and provision of services to housing
- (d) provided under this Policy.

unless a separate application is made to the determining body for consideration of alternate uses.

Seniors and disabled persons are as defined in the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

Reason: To ensure that the apartments would be used for Seniors Housing purposes and to meet the requirements of clause 18(1) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.
(MOD2021/0018 – MODIFIED 15 July 2021)

Amending condition No. 104 to read:**104. Ground Level Food and Drink Patrons**

Each ground level food and drink premises is to be restricted to providing a maximum number of customers / patrons as described below and is to include the designated outdoor areas. Each premise is to provide seating for all customers.

Location	Number of Patrons
Restaurant/ Café (1) North West corner	155
Restaurant/ Café (2) North West corner adjacent Residential lobby	127
Restaurant/ Café (3) North East corner of Building B	259

Reason: In the interests of protecting public amenity, to reduce anti-social behaviour, to ensure compliance with Building Code of Australia with regard to amenities.
(MOD2021/0018 – MODIFIED 15 July 2021)

Reasons for Conditions

The modified conditions have been imposed in order to safeguard the present and likely future amenity of the locality and to ensure a satisfactory standard of development.

Section 8.9 of the Environmental Planning and Assessment Act confers on an applicant for modification of consent who is dissatisfied with the determination of the application by the consent authority a right of appeal to the Land and Environment Court.

Enclosed for your information is the amended plan (where applicable) and consent.

Please note that modification of this consent under Section 4.55 of the Environmental Planning and Assessment Act may require amendment to any Construction Certificate for this development (if a Construction Certificate has been previously issued). It is recommended that you check with your Principal Certifying Authority.

Yours faithfully



Bruce Moore
Coordinator Major Assessments