



DETERMINATION AND STATEMENT OF REASONS
HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	2 August 2021
PANEL MEMBERS	Alison McCabe (Chair), Sandra Hutton and Juliet Grant
APOLOGIES	None
DECLARATIONS OF INTEREST	<p>Cr Hutchinson declared a conflict of interest as she intends to be involved in Council's financial negotiations with the applicant for the sale of the land.</p> <p>Cr Fowler declared a conflict of interest as he put in a few expressions of interest with the applicant in 2016, in regard to a shop front.</p> <p>Cr Pontin declared a conflict of interest as she has voted on matters related to Enyoc within Council Meetings.</p>

Papers circulated electronically on 5th July 2021.

MATTER DETERMINED

PPSHCC-74 – MidCoast – MOD2021/0018 at 34 West St, Forster – modification to approved mixed use development (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel had the benefit of a briefing from the Council and the applicant. A supplementary memo from Council provided clarification of the approval authority for previous modification applications. The Panel notes that the previous modifications were all s4.55(1A) matters.

Arising from the Panel's deliberation and briefing from Council, and the applicant, the Panel sought a further supplementary memo addressing:

- The Planning Proposal recently adopted for the property to the east at 6-18 Lake Street;
- Relevant Draft Environmental Planning Instruments;
- The provisions of clause 13 and 14 SEPP (Coastal Management);
- Use of areas not approved in the original development application and GFA of those areas;
- Allocation of carparking and bicycle parking across the development, accounting for a baseline use allocated to the original non approved areas; and
- Identification of all conditions proposed to be modified and the reasons why.

The Panel has received a number of memos that have all been superseded by a memo dated 29 July 2021. The Panel has considered the further advice in the memo dated 29 July 2021.

The extent of change between the originally approved development and as proposed, has been clearly documented and assessed. The Panel is satisfied that the proposal as modified meets the substantially same development test under section 4.55(2)(a).

Condition 4 of the original consent did not approve a use for three (3) areas identified as:

- Cinema
- Childcare Centre
- Nightclub

The determination did not require these areas to be deleted from the built form – nor did it require a reduction in height, FSR or carparking.

This application is seeking a change in land uses that also result in a change and reallocation of carparking. Carparking originally allocated for the non approved uses, is proposed to be reallocated to new residential apartment uses.

As part of this proposal, the Panel considers that the areas with no land use approval should have a land use allocated as follows:

- Cinema – commercial premises
- Childcare Centre – retail premises
- Nightclub – Hotel – back of house storage

It is noted that the nightclub space is wholly below ground and does not lend itself to commercial use and is located adjacent to the carpark and the back of house functions of the hotel. This will require a modification to Condition 4.

With this land use allocation – carparking can be properly attributed to the relevant uses and a condition drafted accordingly. Condition 12b addresses this issue. This condition also needs to distinguish between the Seniors Housing and residential apartment allocation. The conditions also need to ensure that the required residential visitor parking is available for that purpose, separate to any particular individual unit owner or resident.

The Panel notes that in allocating uses, the proposal has resulted in a short fall of parking, thereby requiring a monetary contribution.

In considering the change to reduce the Seniors Housing component to 88 Independent Living Units from 139, the Panel notes that the resultant number of ILU's remains at the lower end of the size for a viable Seniors Housing development and considers that no further reduction should occur.

The Panel is satisfied of the merits of the mixed use development, and considers that the impacts arising from the changes are acceptable. The changes require amendment to a number of conditions which are detailed in Schedule 2.

The proposal could be approved subject to the modification of the conditions identified in Schedule 2.

Development application

The Panel determined to approve the modification to the development application pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979* subject to the modification to conditions in Schedule 2.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the modification application for the reasons outlined in the Council assessment report and the following reasons.

1. The proposed development is substantially the same development when compared against the development as approved; and
2. The proposed changes to the development do not result in unreasonable impacts.

CONDITIONS

The modification to development application was approved subject to the modification to the conditions of development consent identified in Schedule 2.

The changes identified include additional matters from those identified in the original public report. These matters include:

- Allocation of a land use to unapproved portions of the building;
- Clarification of carparking allocation; and
- Additional carparking contribution to address shortfall in parking provision.




The Panel amended proposed condition 12b to distinguish between carparking for Seniors Housing and residential apartment uses and visitor carparking. Corrections were also made to conditions 2 and 12b to ensure carpark numbers reflected reported allocation and physical provision. (Noting that condition 8 requires a contribution towards a 22 space shortfall).

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report.

Two (2) late submissions were received after the report was made publicly available. The Panel has considered these submissions in their deliberation, noting that some issues raised were not relevant to the consideration of the planning merits of this application.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Sandra Hutton
 Juliet Grant	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-74 – MidCoast – MOD2021/0018
2	PROPOSED DEVELOPMENT	<p>The modifications primarily relate to the residential units in Building A (currently approved as Stage 4), changes to Level 1 commercial space and alterations to staging so that Stage 4 reverts back to Stage 1C. The change does include some minor changes in Building B associated with additional communal open space. The proposed changes are:</p> <ul style="list-style-type: none"> • Change of units from seniors housing to regular residential apartments in Building A. • An additional storey (Level 7) to Building A containing three (3) penthouse units. • Strata subdivision of the apartments in Building A. • Conversion of previous residents' club to commercial space. • Extension of communal outdoor resident facilities at Level 3. • Alterations to restaurant area. • Minor alterations to the basement layout and provision of additional ancillary resident and commercial space. • Alterations to Level 2 parking area to provide additional resident parking. • Addition of a temporary garbage collection area. • Alterations to staging.
3	STREET ADDRESS	34-36 West Street, Forster 2428 Lots 11, 12 and 13 DP 47987
4	APPLICANT OWNER	Coastplan Group Pty Ltd MidCoast Council
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Coastal Management) 2018 ○ State Environmental Planning Policy (State and Regional Development) 2011 ○ State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development ○ State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 ○ State Environmental Planning Policy (Infrastructure) 2007 ○ Great Lakes Local Environmental Plan 2014 • Draft environmental planning instruments: <ul style="list-style-type: none"> ○ Design and Place SEPP ○ Housing Diversity SEPP ○ SEPP (Environment) ○ Proposed Employment Zones Framework ○ Remediation of Land SEPP • Development control plans: <ul style="list-style-type: none"> ○ Great Lakes Development Control Plan 2014 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: • Coastal zone management plan: Nil

		<ul style="list-style-type: none"> • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report: 5 July 2021 • Supplementary Council assessment report received: 12 July 2021 • Supplementary memo dated 16 July 2021 and received 21 July 2021 • Supplementary memo dated 27 July 2021 • Supplementary memo dated 29 July 2021 • Written submissions during public exhibition: one (1) • Written submissions received after public exhibition: two (2)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 5 May 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton and Juliet Grant ○ <u>Council assessment staff</u>: Lisa Proctor, Adam Matlawski, Bruce Moore, Paul DeSzell, Geoff Dowling and Sarah Butcher ○ <u>Department staff</u>: Leanne Harris and Lisa Foley • Site inspections: <ul style="list-style-type: none"> ○ <u>Sandra Hutton</u>: 17 May 2021 ○ <u>Juliet Grant</u>: 1 May 2021 • Final briefing to discuss council's recommendation: 15 July 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton and Juliet Grant ○ <u>Council assessment staff</u>: Lisa Proctor, Adam Matlawski, Bruce Moore, Paul DeSzell, Geoff Dowling and Sarah Butcher ○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley • Applicant Briefing: 15 July 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton and Juliet Grant ○ <u>Council assessment staff</u>: Lisa Proctor, Adam Matlawski, Bruce Moore, Paul DeSzell, Geoff Dowling and Sarah Butcher ○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley ○ <u>Applicant representatives</u>: Gavin Maberly-Smith and Coyne Graham <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the council assessment report</p>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the supplementary council assessment memorandum of 29 July 2021 as amended.

SCHEDULE 2

In accordance with Section 4.55 of the *Environment Planning and Assessment Act 1979*, Development Consent No. DA-521/2017 is to be 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 No / Supporting Document	Reference / Version	Prepared by	Dated
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 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

Plan No / Supporting Document	Reference / Version	Prepared by	Dated
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
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.

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 (164 spaces)
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 (80 spaces) Lake Street road improvements
Stage 2
Supermarket Retail shops Restaurant/cafes (2) Remainder of basement parking (131 spaces) 59 seniors living units Penthouses (x2) Stage 2 resident parking levels 1 and 2 (138 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

The development is to provide for a total of 513 carparking spaces. Note that development contributions are required for the shortfall of 22 car parking spaces in Stage 2 as referred to in condition 8.

Reason: In the interests of consistency.

Deleting Condition No. 3**Amending Condition No.4 to read:****4. Ambit of Consent and separate application required for non- approved uses and/or differing uses and/or fit outs**

This consent does not include approval for the childcare centre, nightclub or cinemas. These components of the application are to be removed from the plans prior to the issue of any construction certificate. The uses allocated to these spaces are to be considered as follows and subject to separate development consent:

Original Proposal (unapproved)	Likely Future Use	Gross Floor Area (m2)
Cinemas	Commercial office / business premises	1809
Childcare Centre	Retail	289
Nightclub	Hotel storage and back-of-house	817

Separate development consent shall be obtained for any use and/or fitout of any tenancy that differs from that approved under this development consent, unless such work or use is exempt development.

Reason: To ensure compliance with the terms of this consent.

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.

Amending Condition No.12 to read:

12a. Vehicle Parking and Access

Prior to the issue of a Construction Certificate for each relevant stage, plans and specifications detailing access, parking and manoeuvring on the site must be submitted to and approved by the Certifying Authority. Vehicular access, parking and manoeuvring must be in accordance with Australian Standards AS/NZS 2890.1 and AS 2890.2 in respect of the following items:

- a) Carpark and driveway layout.
- b) Taxi area at the Porte Cochere driveway.
- c) Pavement description (ie being concrete/ bitumen or a similar hard paved surface).
- d) Site conditions affecting the access.
- e) Suitable changes of gradient must be provided for along the critical path along each of the vehicle travel paths as recommended in:
 - AS 2890.1 for the vehicle; and
 - AS 2890.2 Table 3.2 for all trucks that will access the development.
- f) Turning paths for vehicles entering/exiting the ramp and main traffic routes through the development site and carparks to comply with:
 - For cars - AS2890.1 table 2.2 and figures 2.8 and 2.9.
 - For trucks - AS2890.2 tables 3.1 and 3.2.
- g) Existing and design levels.
- h) Drainage (pipes, pits, on-site detention, etc.).
- i) Accessible car parking space/s designed in accordance with Australian Standard AS/NZS 2890.6: Parking facilities - Off-street parking for people with disabilities;
- j) Line-marking and signage.

The plan shall also identify the allocation of car parking spaces for the approved uses. A total of 513 car parking spaces (including 22 spaces by monetary contribution) are to be allocated and provided within the development in general accordance with:

- MidCoast Council's DCP 2014; and
- SEPP (Housing for Seniors or People with a Disability) 2004 (where applicable).

The plan shall also identify the allocation of car parking spaces for residential uses.

Reason: To ensure suitable vehicular access and manoeuvrability is provided within the development.

Inserting Condition 12b to read:

12b. Parking Allocation

Car parking spaces shall be allocated as follows:

- Community / civic uses: minimum 78 spaces required;
- Residential (Seniors Housing) component: minimum 110 spaces required;
- Residential apartment component: minimum 92 spaces required, including 13 spaces for residential visitor parking;
- Hotel / serviced apartments: minimum 61 spaces required;
- Commercial / retail uses: minimum 150 spaces required (excluding the 22 space parking shortfall)*.

***Note:** parking shortfall for stage 2 commercial uses has been addressed in condition 8 and requires a development contribution.

Residential visitor parking shall not be subdivided, leased or controlled by or on behalf of any particular unit owner or resident.

Reason: To ensure suitable parking is available

Amending Condition No. 18 to read:

18. 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.

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 re-sheet.
- 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) a vehicle space for a person with a disability in West Street.
 - b) 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.

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*.

Amending Condition No. 94 to read:

94. 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*.

Amending Condition No. 103 to read:

103. 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: To ensure compliance with the terms of this consent.