

ORDINARY MEETING 28 OCTOBER 2015	8
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REQUEST FOR A PERMISSIBLE CHANGE TO A MATERIAL CHANGE OF USE FOR MULTIPLE DWELLINGS, HOLIDAY ACCOMMODATION, SHOPPING FACILITIES, BUSINESS FACILITIES, DETACHED BOTTLE SHOP AND TAVERN – 48-50 HARTLEY STREET CAIRNS CITY – DIVISION 5

D Favier | 8/30/186 SEDA | #4916891

<u>PROPOSAL:</u>	REQUEST FOR A PERMISSIBLE CHANGE
<u>APPLICANT:</u>	WCL-CENTRAL PARK (QLD) PTY LTD C/- PLANNING PLUS PO BOX 8046 CAIRNS QLD 4870
<u>LOCATION OF SITE:</u>	48-50 HARTLEY STREET CAIRNS CITY
<u>PROPERTY:</u>	LOT 10 ON SP201303
<u>PLANNING AREA:</u>	CITY CENTRE
<u>PLANNING SCHEME:</u>	CAIRNSPLAN 2009
<u>REFERRAL AGENCIES:</u>	DEPARTMENT OF INFRASTRUCTURE LOCAL GOVERNMENT AND PLANNING
<u>NUMBER OF SUBMITTERS:</u>	NOT APPLICABLE
<u>STATUTORY ASSESSMENT DEADLINE:</u>	28 OCTOBER 2015
<u>APPLICATION DATE:</u>	21 APRIL 2015
<u>DIVISION:</u>	5
<u>APPENDIX:</u>	<ol style="list-style-type: none"> 1. PROPOSED PLANS & DOCUMENTS – TOWER 1 2. PROPOSED PLANS & DOCUMENTS TOWERS 2-7 3. UPDATED CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS 4. UPDATED INFRASTRUCTURE CHARGES

LOCALITY PLANRECOMMENDATION:

A That Council approves the Request for Permissible Change to the Development Permit Change for Stage 1, being for a Material Change of Use for Multiple Dwellings, Holiday Accommodation, Shopping Facilities, Business Facilities, Detached Bottle Shop and Tavern over land described as Lot 10 on SP 2010303 located at 48-50 Hartley Street/81-83 Spence Street, Cairns City subject to the following:

- 1. Delete the Approved Drawing(s) and/or Document(s) schedule and Appendix 1 of the Negotiated Decision Notice dated 30 January 2015 (#4621288) and replace with the following Approved Drawing(s) and/or Document(s) schedule and Appendix 1 of this report:**

Drawing or Document	Reference	Date
Nova Cairns – Ground Floor Plan	CA Cox Rayner Plan Page 4 (Council reference – #4883455)	August 2015
Nova Cairns – Level CP1	CA Cox Rayner Plan Page 5 (Council reference – #4883455)	August 2015
Nova Cairns – Level 1 + CP2	CA Cox Rayner Plan Page 6 (Council reference – #4883455)	August 2015
Nova Cairns – Level 2 + CP3	CA Cox Rayner Plan Page 7 (Council reference – #4883455)	August 2015
Nova Cairns – Level 3 Podium Deck	CA Cox Rayner Plan Page 8 (Council reference – #4883455)	August 2015
Nova Cairns – Level 5 Typical Tower Level	CA Cox Rayner Plan Page 9 (Council reference – #4883455)	August 2015
Nova Cairns – Tower 1 Level 3 Podium Deck	CA Cox Rayner Plan Page 10 (Council reference – #4883455)	August 2015
Nova Cairns – Tower 1 Level 5 Typical	CA Cox Rayner Plan Page 11 (Council reference – #4883455)	August 2015

Drawing Document	or	Reference	Date
Nova Cairns Tower 1 Level 15 Subpenthouse	-	CA Cox Rayner Plan Page 12 (Council reference – #4883455)	August 2015
Nova Cairns Tower 1 Level 16 Penthouse	-	CA Cox Rayner Plan Page 13 (Council reference – #4883455)	August 2015
Nova Cairns Tower 1 Level 17 Roof Terrace	-	CA Cox Rayner Plan Page 14 (Council reference – #4883455)	August 2015
Nova Cairns Elevations (South)	-	CA Cox Rayner Plan Page 16 (Council reference – #4883455)	August 2015
Nova Cairns Elevations (North)	-	CA Cox Rayner Plan Page 17 (Council reference – #4883455)	August 2015
Nova Cairns Elevations (East)	-	CA Cox Rayner Plan Page 18 (Council reference – #4883455)	August 2015
Cairns Nova Elevations (West)	-	CA Cox Rayner Plan Page 19 (Council reference – #4883455)	August 2015
Cairns Nova – 3D Perspective	-	CA Cox Rayner Plan Page 21 (Council reference – #4883455)	August 2015
Cairns Nova – Yield Schedule – Tower 1	-	CA Cox Rayner Plan Page 23 (Council reference – #4883455)	August 2015

2. Amendment to the following Conditions:

Extent of Development Permit

3. This Development Permit approves Tower 1 (Stage 1) and construction of the podium only for Tower 2 (Stage 2).

For certainty, this Development Permit approves the uses detailed in the Tower 1 Yield Schedule and delineated on plan by the ‘Yield Calculation Staging Line’. Prior to the Commencement of Uses detailed in the Tower 2 Yield Schedule and delineated on plan by the ‘Yield Calculation Staging Line’ a further Development Permit for Stage 2 must be obtained from Council. The following aspects of development are not approved as part of this Development Permit:

- a. The ground floor ‘retail’ tenancies (approx. 452 566m² gross floor area) attached to the Stage 2 podium and adjoining plaza area as shown on the Stage 1 Ground Floor Plan (CA Cox Rayner Plan Page No. 39 4); and,
- b. Tower 2 or any residential development associated with Stage 2 of the proposed development.

Approval for these tenancies and any future residential towers for Stage 2 must be sought as part of future Development Applications to Council.

External Works

13. Undertake the following works external to the land, along the full length of the property's Spence Street frontage (unless otherwise specified), at no cost to Council:

- a. Construct full width paved footpath and landscaping in accordance with the Cairns City Centre Master Plan, including but not limited to:
 - i. Allowance for bin / street furniture;
 - ii. The bus stop area will need to provide disabled access to footpath levels in accordance with DTMR standards;
 - iii. Stainless Steel Tactile Ground Surface Indicators to be installed as per AS 1428.4.1:2009 and AS1428.1:2009.
- b. Provision of a short auxiliary left turn lane and associated line marking on Spence Street.

The width and capacity of the existing two westbound traffic lanes shall not be affected. The auxiliary left turn lane may require new or reconstructed pavement. Drawings to enable a complete review of the compliance of the proposed access, footpath and on-street work must be submitted to Council. The drawings are to show pavement details of the auxiliary left turn lane, linemarking details, traffic / parking signage details and footpath details. The drawings are also to show details of the bus stop fronting the site.

- c. Provide detailed design drawings and implement all external works as recommended by the endorsed revised traffic impact assessment report.
- d. Provision of commercial concrete crossovers and aprons in accordance with FNQROC Development Manual Standard Drawing S1015B, or other surface treatment as deemed appropriate by Council.

NB: The maximum grade for a cross-over is 3% and when the site fronts and existing footpath the new cross-over must not interfere with existing footpath formation.

- e. The edge of the service access crossover must be setback a minimum of 1.5m from the existing light pole and post mounted switchboard / PE cell controller located on the footpath of the Spence Street road reserve. If this setback cannot be achieved without the need to relocate the said infrastructure, the infrastructure, including the lighting column on the opposite side of Spence Street, must be relocated such that the existing opposite pole arrangement and the design illuminance level as specified in AS/NZS 1158 is maintained.
- f. Upgrade existing Rate 3 street lighting within the median and footpath along the Spence Street frontage to Council's standard LED lighting column to provide improved lighting for the safe movement of vehicular and pedestrian traffic at night;
- g. Construct concrete kerb(s) at redundant crossover(s);
- h. The awning structural columns within the road reserve must be designed:
 - i. to avoid conflict with services within the road reserve; and
 - ii. to ensure public safety and structural integrity of the column(s) is maintained in the event a vehicle collides with the column(s).
- i. Repair any damage to existing kerb and channel, footway or roadway (including removal of concrete slurry from footways, roads, kerb and channel and stormwater gullies and drain lines) that may occur during and works carried out in association with the construction of the approved development.

All works in the road reserve need to be properly separated from pedestrians and vehicles, with any diversions adequately signed and guarded. Particular attention must be given to providing safe passage for people with disabilities (ie the provision of temporary kerb ramps if pedestrian diversions are necessary).

The external works outlined above require approval from Council in accordance with the Development Permit for Operational Works required by this approval. Such work must be constructed in accordance with the endorsed plan to the satisfaction of the Chief Executive Officer prior to Commencement of Use.

Bicycle Parking

30. Provide secured, on-site bicycle parking in accordance with Table C2.7 of the AUSTRROADS of Guide to Traffic Engineering Practice Part 11 – Parking. Based on the provisions in Table C2.7 (page 90) the minimum number of parking spaces required for the residential component of the development is 85 79 spaces (1 resident space per 3 units, 1 visitor space per 12 units). On-site bicycle parking for the non-residential component of the development must be provided in accordance with the rates specified for each of the individual uses. The bicycle parking area must be constructed prior to Commencement of Use.

Landscaping Plan

48. The site, including ground floor public use areas, podium (Level 1) recreational plaza and terraces, must be landscaped in accordance with details included on a Landscaping Plan which is in accordance with the FNQROC Development Manual and Cairns City Centre Master Plan. The Landscaping Plan must show:
- a. Proposed methods of integrating the landscape theme with the streetscape upgrades required along the Spence Street frontage of the property.
 - b. Planting Design
 - i. The inclusion of individual character through landscape design and plant species for the roads, public uses areas and outdoor areas within the development;
 - ii. A planting design that does not include any species that are identified as Declared or Environmental Weeds or constitute an Invasive Species;
 - iii. Provide a hierarchy of planting, which includes shade trees, shrubs and groundcovers.
 - c. The roof terrace must remain un-landscaped
 - d. Hard Landscaping Works
 - i. Hardscape elements such as raised garden beds, seating areas, street furniture, refuse bins and details of proposed water features
 - ii. Methods of providing suitable shelter, weather protection and shade to users of the outdoor areas, including any proposed shade tree planting;

- iii. Natural and finished ground levels including details of all retaining works;
- iv. Details of any perimeter, private courtyard, terrace, plaza or street fencing;
- v. Protection of landscaped areas adjoining parking areas from vehicular encroachment by a 150 mm high vertical concrete kerb or similar obstruction;
- vi. Bicycle parking in public areas in accordance with conditions of this Development Permit.

Two (2) A1 copies and one (1) A3 copy of the Landscaping Plan must be endorsed by the Chief Executive Officer prior to the issues of a Development Permit for Building Work.

The completion of all landscaping works must be undertaken in accordance with the endorsed plan prior to Commencement of Use. Landscaped areas must be maintained at all times to the satisfaction of the Chief Executive Officer.

3. Delete the following Conditions:

- Condition 21: Vehicle Parking
- Condition 37: Traffic Impact Assessment Report
- Condition 46: Basement Parking and Dewatering

4. Insert the Following new Conditions:

Vehicle Parking

- #. Provide 167 on-site vehicle parking spaces in accordance with the approved plans and the Car Parking Action Plan prepared by Cardno and dated 12 October 2015 (Council ref: #4903845).

The car parking layout must comply with the Australian Standard AS2890.1 2004 Parking Facilities – off-street car parking and be constructed in accordance with Austroads and good engineering design. In addition, all parking, driveway and vehicular manoeuvring areas must be imperviously sealed, drained and line marked.

- #. In addition to Condition X above, provide 41 at-grade vehicle parking spaces in accordance with the “findings for stage 1” contained in the Car Parking Action Plan prepared by Cardno and dated 12 October 2015 (Council ref: #4903845). These spaces are to be provided until the Commencement of Use of the fifth (5th) Tower of the Development or as otherwise agreed by the Chief

Executive Officer.

The car parking layout must comply with the Australian Standard AS2890.1 2004 Parking Facilities – off-street car parking and be constructed in accordance with Austroads and good engineering design. In addition, all parking, driveway and vehicular manoeuvring areas must be imperviously sealed, drained and line marked.

Limitation on Use of Roof Terrace

#. The roof terrace is permitted only for use as an outdoor recreation space. To be clear, this area is not permitted to be used for consumption of food and beverage or other uses that may attract wildlife, particularly birdlife, unless agreed to by the Chief Executive Officer.

5. Where required update the Condition numbering. All other Development Permit Conditions under the Negotiated Decision Notice 8/30/186 (Decision Notice #4621288, dated 30 January 2015) remain unchanged.

- B. That Council approves the Request for a Permissible Change to the Preliminary Approval for Stages 2 – 7, being for a Material Change of Use for Multiple Dwellings, Holiday Accommodation, Shopping Facilities, Business Facilities, Detached Bottle Shop and Tavern over land described as Lot 10 on SP 201303, located at 48-50 Hartley Street / 81 – 83 Spence Street, Cairns City, subject to the following:

1. Delete the Approved Drawing(s) and/or Document(s) schedule and Appendix 1 of the Negotiated Decision Notice dated 30 January 2015 (#4621288) and replace with following Approved Drawing(s) and/or Document(s) schedule and Appendix 2 of this report:

Drawing or Document	Reference	Date
Nova Cairns – Ground Floor Plan	CA Cox Rayner Plan Page 4 (Council reference – #4883455)	August 2015
Nova Cairns – Level CP1	CA Cox Rayner Plan Page 5 (Council reference – #4883455)	August 2015
Nova Cairns – Level 2 + CP2	CA Cox Rayner Plan Page 6 (Council reference – #4883455)	August 2015
Nova Cairns – Level 2 + CP3	CA Cox Rayner Plan Page 7 (Council reference – #4883455)	August 2015
Nova Cairns – Level 3 Podium Deck Plan	CA Cox Rayner Plan Page 8 (Council reference – #4883455)	August 2015
Nova Cairns – Level 5 Typical Tower Plan	CA Cox Rayner Plan Page 9 (Council reference – #4883455)	August 2015
Nova Cairns – Elevations (North & East)	CA Cox Rayner Plan Page 11 (Council reference – #4883455)	August 2015
Nova Cairns –	CA Cox Rayner Plan Page 12	August 2015

Drawing Document	or	Reference	Date
Elevations (South & West)		(Council reference – #4883455)	
Nova Cairns – 3D Perspective		CA Cox Rayner Plan Page 14 (Council reference – #4883455)	August 2015
Nova Cairns – Yield Schedule (Overall)		CA Cox Rayner Plan Page 16 (Council reference – #4883455)	August 2015
Nova Cairns – Yield Schedule (Tower 1 & 2)		CA Cox Rayner Plan Page 17 (Council reference – #4883455)	August 2015
Nova Cairns – Yield Schedule (3 & 4)		CA Cox Rayner Plan Page 18 (Council reference – #4883455)	August 2015
Nova Cairns – Yield Schedule (5 & 6)		CA Cox Rayner Plan Page 19 (Council reference – #4883455)	August 2015
Nova Cairns – Yield Schedule (Tower 7)		CA Cox Rayner Plan Page 20 (Council reference – #4883455)	August 2015

2. Delete the following Conditions:

- Condition 10: Traffic Impact Assessment
- Condition 14: Parking

3. Insert the Following new Conditions:

Vehicle Parking

#. Provide on-site vehicle parking in accordance with the approved plans and the Car Parking Action Plan prepared by Cardno and dated 12 October 2015 (Council ref: #4903845).

#. Provide and implement a detailed Implementation and Monitoring Plan that demonstrates how the proposed reduction actions outlined in the “Implementation and Monitoring Plan” section of the Car Parking Action Plan prepared by Cardno and dated 12 October 2015 (Council ref: #4903845) will be implemented for the life of the project. The Implementation and Monitoring Plan should consider project staging, governance, establishment and ongoing costs.

The detailed Implementation and Monitoring Plan must be prepared by a suitably qualified professional and endorsed by the Chief Executive Officer prior to issue of a Development Permit for Building Work for the second (2nd) Tower.

The Implementation and Monitoring Plan may be updated over the life of the project to reflect changes in technology or upon evaluation of the effectiveness of the reduction actions to the satisfaction of the Chief Executive Officer.

#. Following the Commencement of Use of the fifth (5th) Tower an evaluation report on the implementation of the detailed Implementation and Monitoring Plan must be prepared by the Applicant to demonstrate that the assumptions in the report are verified. The evaluation report must be prepared and submitted to the satisfaction of the Chief Executive Officer prior to the issue of a Development Permit for Building Works for sixth (6th) and seventh (7th) Towers.

Note: Where the number of required car parking spaces cannot be provided, the Applicant may enter into an Infrastructure Agreement with Cairns Regional Council to address the deficit of onsite car parking spaces.

Staging Plan

#. Provide a plan detailing the proposed staging of the Development, prior to the issue of a Development Permit for a Material Change of Use for Stage 2.

4. Where required update the Condition numbering. All other Preliminary Approval Conditions under the Negotiated Decision Notice 8/30/186 (Decision Notice #4621288, dated 30 January 2015) remain unchanged.
- C. That the Infrastructure Charges Notice under Negotiated Decision Notice 8/30/186 (Decision Notice #4621288, dated 30 January 2015) is updated with the Infrastructure Charges attached as Appendix 4 to this report.
 - D. That Council grant Delegation to the Chief Executive Officer to determine any future Development Application for a Material Change of Use for Stages 2-7 under the Preliminary Approval 8/30/186.

EXECUTIVE SUMMARY:

Council is in receipt of a 'Request for a Permissible Change', to the Negotiated Decision Notice dated 30 January 2015 over land located at 48-50 Hartley Street / 81 – 83 Spence Street, Cairns City.

In summary, the predominate proposed changes include the removal of the basement level car parking and its relocation into an additional podium level, increase in the total retail/office gross floor area and reduction in the total number of units.

The amendment to the design has further resulted in a reduction in the total number of onsite car parking spaces provided. The Nova Cairns development proposal seeks to provide car parking at a rate reduced from both the CairnsPlan 2009 and the Draft Cairns Region Planning Scheme. WCL-Central Park (QLD) Pty Ltd (the 'Applicant') commissioned the preparation of a Car Parking Action Plan to assess and provide recommendations for provision of car parking at the proposed Nova Cairns development. The recommendations include actions aimed at providing incentives to discourage use and demand for car parking.

The Request for a Permissible Change was referred to the Department of Local Government Infrastructure and Planning (the 'Department') for assessment of the proposed changes. The Department responded in support of the proposed changes.

Planning Officers have undertaken a review of the Development Permit and Preliminary Approval conditions included within the Negotiated Decision Notice dated 30 January 2015 and the request for a Permissible Change is recommended for approval subject to the amendment to the relevant conditions as detailed in the above recommendation.

TOWN PLANNING CONSIDERATIONS:

Background

On 30 January 2015, Council issued a Negotiated Decision Notice for:

- Development Permit for Material Change of Use 'Multiple Dwellings', 'Holiday Accommodation', 'Shopping Facilities', 'Business Facilities', 'Detached Bottle Shop' and 'Tavern' (Stage 1); and
- Preliminary Approval for Material Change of Use 'Multiple Dwellings', 'Holiday Accommodation', 'Shopping Facilities', 'Business Facilities', 'Detached Bottle Shop' and 'Tavern' (Stages 2-7).

The development includes seven (7) high-rise towers (including six (6) residential and one (1) commercial) with a central access road combining low-speed vehicular access with an active pedestrian plaza, lined by shops and restaurants, as well as public open space.

The development is to be completed in stages, with the first stage of the project involving the construction of a Display / Sales Office (approved via Development Permit 8/7/3019) and Tower 1 at the Spence Street frontage of the site.

Proposal

The proposed changes to the approved drawings relate to the removal of the basement car parking and its relocation into podium areas. The applicant has stated that this change has arisen due to significant cost and time constraints associated with the construction of the basements. Development of the podium level for parking is reported to be a significantly cheaper and less problematic construction-wise.

The above changes result in the removal of the basement level and inclusion of an additional podium level. A podium height of approximately 11m is still proposed, approximately the height of the adjoining GHD building on Spence Street which includes a podium-like built form with 0m road frontage setbacks.

As a result of the abovementioned built form changes, the proposed yield has been affected. In summary the proposed new design results in an additional 752m² retail/office gross floor area and reduction of 56 units.

Table 1 below provides a summary of the amendments.

Tower	Currently Approved		Proposed	
	Retail/Office (m ²)	Units	Retail/Office (m ²)	Units
1	858	204	1,048	187
2	452	152	566	156
3	12,250	0	13,511	0
4	403	192	335	154
5	802	221	814	200
6	1,870	201	1,102	195
7	466	218	477	240
TOTAL	17,101	1,188	17,853	1,132

Table 1: Comparison of Yield

The reduction in total number units is partly attributed to the consolidation of a number of 1 bedroom units to create additional 2 bedroom units, refer to Table 2.

Bedroom Mix	Currently Approved Total	Proposed Total	
			Comparative Difference
1	427	168	-259
2	669	883	+214
3+	92	81	-11

Table 2: Comparison of Unit Mix

The amendment to the design has also resulted in a reduction in the total number of onsite car parking spaces provided from 1,351 to 686.

A copy of the amended plans pertaining to the Tower 1 Development Permit and the Tower 2-7 Preliminary Approval are attached at Appendix 1 and Appendix 2 respectively.

Assessment of Changing an Approval

Pursuant to s367 of the *Sustainable Planning Act 2009*, a Permissible Change for a development approval, is a change that:

- a. Would not result in substantially different development;

- b. If an application for approval were remade including the change, require referral to additional concurrence agencies or for a development that previously did not require impact assessment, require impact assessment; and
- c. Where development previously required impact assessment, be likely to cause a person to make a properly made submission objecting to the proposed change.

Statutory Guideline 06/09 'Substantially Different Development When Changing Applications and Approvals' can assist with determining if a proposed change to a development approval would result in a 'substantially different development' and considers that this may be the case if the proposed change:

- involves a new use with different or additional impacts;
- results in the application applying to a new parcel of land;
- dramatically changes the built form in terms of scale, bulk and appearance;
- changes the ability of the proposal to operate as intended. For example, reducing the size of a retail complex may reduce the capacity of the complex to service the intended catchment;
- removes a component that is integral to the operation of the development
- significantly impacts on traffic flow and the transport network, such as increasing traffic to the site;
- introduces new impacts or increases the severity of known impacts;
- removes an incentive or offset component that would have balanced a negative impact of the development; and
- impacts on infrastructure provision, location or demand.

In determining that the proposed changes do not result in 'substantially different development', it is assessed that:

- the proposed change does not involve a new use;
- the development continues to apply to the same original parcel;
- the proposed change results in the removal of the basement level car parking area and incorporation of a proportion of this space into the existing podium. Whilst this does ultimately result in a change to the built form, it is not considered a dramatic change that affects the scale, bulk and appearance and can be appropriately managed through conditions.

The proposed changes do not result in an increase in building height. The development height remains limited by the Obstacle Limitation Surface (the 'OLS');

- the proposed new design results in an additional 752m² retail/office gross floor area and reduction of 56 units (partly through amalgamation of a number of 1 bedroom units). Furthermore, the total number of onsite car parking spaces provided is reduced from 1,351 to 686.

Whilst ordinarily this may have the potential to affect the operation of the development, the Applicant has provided a Car Parking Action Plan which assesses and provides recommendations for provision of car parking at the proposed Nova Cairns development. The recommendations in the plan include actions aimed at providing incentives to discourage the use and demand for car parking. The amended conditions recommended by Officers require the Applicant to further develop the Implementation and Monitoring Plan.

The amended conditions include a hold point at the Commencement of Use of the fifth (5th) Tower and require the Applicant provide an evaluation report to Council to assess the car parking reduction strategies. The report must be accepted by Council prior to the issue of a Development Permit for Building Works for sixth (6th) and seventh (7th) Towers.

Council Officers are satisfied that the changes will not affect the operation of the development.

- Although a number of onsite car parking spaces are removed, these have been replaced with a management strategy to discourage the use and demand for car parking;
- If the Car Parking Action Plan is successfully implemented this will reduce impacts on traffic flow and the transport network;
- Whilst ordinarily the proposed changes, particularly reduction in the number of parking spaces, could be seen to be the introduction of a new impact, the Applicant has provided to Council a Car Parking Action Plan which assessed and provides recommendations for provision of car parking at the proposed Nova Cairns development;
- The proposed changes do not remove an incentive or offset component that would have balanced a negative impact of the development; and
- The proposed changes are not considered likely to result in increased impacts on infrastructure provision, location or demand.

Further in support of the proposed changes satisfying the permissible change test, Officers note:

- If the application were remade, it would not require referral to additional Concurrence Agencies;
- The original application was subject to Code Assessment and therefore would not attract a higher level of assessment if the application were remade; and

- The original application was subject to Code Assessment and did not require public notification.

The proposed changes are not considered likely to result in any external impacts which have not already been considered as part of previous assessment processes.

General Discussion

Building Height

The original development was to include a 3 storey (11m) podium across the site which complies with Acceptable Measure A3.1. Under the original design the podium is setback from the street frontage to provide activation to the street and provide character and context to a part of Spence Street that is currently devoid of any dominant streetscape features, satisfying Acceptable Measure A3.2.

The height of the proposed podium is 4 storeys (11m). The additional level has been achieved without increasing height of the podium.

The overall height of the building remains regulated by the OLS.

The following proposed design features are supported:

- The retention of the proposed awnings along the internal road to maintain pedestrian comfort;
- The sleeving of the car parking area behind retail, units and townhouses;
- The retention of planned landscaping along the internal road and podium areas; and
- Variation in treatments to break up the massing of the podium façade

Conditions are included on the Preliminary Approval to require further consideration of amenity impacts associated with the future Towers 5, 6 and 7 on adjoining residential and commercial development due to the proximity of the podium walls to the common boundary, as well as overshadowing impacts resulting from these towers. These conditions remain relevant.

Vehicle Parking

The revised design results in an overall decrease in the number of vehicle parking spaces provided onsite due to the removal of the basement level which provided a large percentage of the sites vehicle parking. A summary of the onsite parking arrangement is provided below:

- Original provision of onsite parking includes 1,351 spaces;
- Revised provision of onsite parking includes 686 spaces;

- CairnsPlan 2009 requires 1,988 spaces (includes 30% reduction on non-residential uses); and
- Draft Cairns Region Planning Scheme requires 1,536 spaces (includes 30% reduction on non-residential uses).

The Nova Cairns development proposal seeks to provide car parking at a rate less than the standard requirements as outlined in its CairnsPlan 2009 and Draft Cairns Region Planning Scheme. In support of the proposed amendments the Applicant commissioned a Car Parking Action Plan (prepared by Cardno) which has reviewed opportunities to discourage use and demand for car parking (particularly among residents), incentives to encourage sharing, a car-free lifestyle, and providing an enabling environment to reduce the need to own a car.

The Car Parking Action Plan includes a number of measures that could be applied to the development which reduce the parking demand. Each measure is weighted differently depending on its effectiveness. The Car Parking Action Plan reports that the ultimate development parking demand ranges between 526 spaces and 1,097 spaces depending on the range of measures selected to reduce parking demand. The demand will vary depending on the management strategies implemented.

Tower 1 will be provided with 208 onsite parking spaces (includes 41 at-grade spaces). Although this is approximately 23 spaces (includes 30% cross utilisation reduction on non-residential component) under the Draft Cairns Region Planning Scheme requirements, this is considered acceptable for the initial tower to proceed. The risk to Council in relation to Tower 1 is reduced as there will remain a large balance parcel that could accommodate at-grade parking onsite. Prior to the issue of the Development Permit for Building Works for the second tower, the Applicant is required to provide to Council for endorsement a detailed Implementation and Monitoring Plan which describes the reduction actions that are to be implemented to reduce the parking demand for the remainder of the development.

Whilst the Car Parking Action Plan presents a range of options to reduce parking demand, these options are yet to be costed by the Applicant. The range of options to be adopted will be detailed in the Implementation and Monitoring Plan. Planning Officers anticipate that a minimum of 1,100 onsite parking spaces will be necessary to service the development. Where these spaces cannot be provided onsite, the Applicant may enter into an Infrastructure Agreement with Council whereby off-site parking spaces are provided or a monetary contribution is made in lieu of providing physical parking spaces.

Prior to the commencement of the fifth tower the applicant is required to undertake an evaluation report to assess the effectiveness of the adopted reduction actions. This is a hold point of the development. The remaining two towers will not be able to obtain a Building Permit until Council is satisfied with the findings of the evaluation report.

The considerations that have been given to the proposed car parking rates are unique to the Nova Cairns project. The Car Parking Action Plan proposes innovative solutions to reduce the overall car parking demand, which must be further refined and detailed to Council's satisfaction. The reduction actions are subject to a review between Commencement of Use of the fifth (5th) Tower and issue of a Development Permit for Building Works for the sixth (6th) Tower. This project presents a unique opportunity for Council to evaluate the success of the parking demand reduction actions and correct prior to the construction of the last two towers.

INFRASTRUCTURE CHARGES:

The Infrastructure Charges have been amended to reflect the revised unit schedule and gross floor areas. Refer to Appendix 4 to view calculations.

The application does not specify gross floor areas (GFAs) for the individual ground floor commercial tenancies to be used for either Shopping Facilities, Business Facilities, Detached Bottle Shop or Tavern, as the Applicant wishes to retain some flexibility in the allocation of these uses subject to market demand.

Once specific tenancies and uses for the ground floor uses have been confirmed, the Applicant can request a revision of the Infrastructure Charges Notice, if necessary.

CONCURRENCE AGENCY RESPONSE:

The Department of Infrastructure, Local Government and Planning ('DILGP') was a Concurrence Agency for the original application and as such is required to assess the Request for a Permissible Change. DILGP provided its response as a 'Relevant Entity' advising that the department does not object to the Permissible Change. A revised Concurrence Agency Response from the DILGP as a 'Responsible Entity' will be issued directly to the applicant, this however does not preclude issue of an approval for the 'Permissible Change'.

A copy of the DSDIP response is attached as Appendix 3.

DELEGATION:

The Preliminary Approval establishes the foundation for the development of Stages 2 - 7. Therefore, Council Officers seek that delegation is granted to the Chief Executive Officer to determine any future Development Applications for a Material Change of Use for Towers 2-7.



Danny Favier
Planning Officer
Action Officer

A handwritten signature in black ink, appearing to read 'Peter Boyd'.

Peter Boyd
Manager Strategic Planning & Approvals

A handwritten signature in black ink, appearing to read 'Kelly Reaston'.

Kelly Reaston
General Manager Planning & Environment