

8 REPORTS DIRECT TO COUNCIL**8.1 PLANNING AND ENVIRONMENT****8.1.3 REQUEST TO CHANGE DEVELOPMENT APPROVAL AND CONDITIONS - MATERIAL CHANGE OF USE OF PREMISES (MULTIPLE DWELLING UNITS), "BREEZE", 3 META STREET, MOOLOOLABA**

File No: MCU14/0079.02

Author: Principal Development Planner
Planning and Environment DepartmentAttachments: Att 1 - Amended Plans 27 [↓](#)
Att 2 - Independent Architect's Report 49 [↓](#)

Link to PD Online:

<http://pdonline.sunshinecoast.qld.gov.au/MasterView/Modules/Applicationmaster/default.aspx?page=wrapper&key=1818751>

SUMMARY SHEET	
APPLICATION DETAILS	
Applicant:	Aria Residential Pty Ltd
Proposal	Request to Change Development Approval & Conditions – Material Change of Use of Premises (Multiple Dwelling Units x 57)
Properly Made Date:	02/09/2016
Decision Due Date	17/10/2016
Number of Submissions for Original Application	Not Applicable
PROPERTY DETAILS	
Division:	4
Property Address:	3 Meta Street, Mooloolaba, QLD, 4557
RP Description:	Lot 1 SP 209830
Land Area:	993m2
Existing Use of Land:	Multiple dwelling under construction
STATUTORY DETAILS	
Planning Scheme:	Sunshine Coast Planning Scheme 2014 (21 May 2014)
SEQRP Designation:	Urban
Strategic Framework Land Use Category:	Urban
Local Plan Area:	Mooloolaba/Alexandra Headland Local Plan Area
Zone:	High Density Residential
Assessment Type:	Code – Change to Approval

PURPOSE

The purpose of this report is to inform council on issues relating to the “Breeze” development at 3 Meta Street, Mooloolaba, and provide a report on, and recommendations for, a Request to Change the Development Approval. The developer has sought a second Request to Change the Development Approval and Conditions which involves changes previously refused by council officers under delegation (on the basis of lack of supporting information). As a result, the matter is now put to council for determination.

EXECUTIVE SUMMARY

In 2014, council’s delegate approved an application for a Material Change of Use to establish a Multiple Dwelling (58 dwelling units) on the site, subject to conditions. The application was lodged under the Sunshine Coast Planning Scheme 2014 and was subject to code assessment.

In September 2015, building works commenced on the site following approval of the bulk excavation, retention and basement 3 ground slab by a private certifier. In May 2016, building work commenced on the above-ground construction. Approval for the remainder of the building was issued by the private certifier in June 2016.

In June 2016, the first request to change the development approval for a Material Change of Use (Change No. 1) was received by council. This request proposed multiple changes to the development and included, among other things, kitchen extensions into 16 balconies fronting the Esplanade. While assessing the request, council officers became aware that the private certifier had approved building plans which were not in accordance with the approved plans. In July 2016, council staff raised the issue of non-compliance with the private certifier, who then amended his building approval by redacting the kitchen build-outs on the approved plans.

In August 2016, council issued a “not properly made” letter, in response to Change No. 1, on the basis that the amended plans depicted a building that appeared to exceed the 30m height limit measured from natural ground level. This matter was subsequently addressed by the applicant, who submitted advice from a cadastral surveyor that the building was within the 30m height limit.

On 12 August 2016, Change No. 1 was approved in part and refused in part by council’s delegate. Council’s delegate refused all plans and elevations depicting:

- the proposed extension of kitchens into the balconies
- changes to the building façade/balustrades and
- changes to the upper floor layouts.

On 2 September 2016, the current request to change the development approval for Material Change of Use (Change No. 2) was properly made. The changes sought consist of major matters involving the built form, that is, kitchen extensions for 16 units, media rooms for 14 units and a re-design of the balustrading to the front balconies. The changes sought also include minor matters, that is, a small reduction in visitor parking, and removal of an external planting requirement. Additional information supporting this second request has been received.

The proposed changes have been assessed against the planning scheme and it has been determined that some of the major matters involving the built form are acceptable, and some are not. In summary, the proposed kitchen extensions into the smallest balconies (8 out of 16 proposed), the multi-purpose room additions related to these particular kitchen extensions (7 out of 14 proposed), and the significant changes to the balustrading are not supported.

The minor matters involving a reduction in visitor parking and removal of an external planting requirement are also not supported.

It has, therefore, been recommended that council approve part of the changes sought, that is, the kitchen extensions and multi-purpose rooms associated with the units with larger balconies only. This recommendation enables the applicant to proceed with some changes to the development, while still achieving the outcomes sought by the Sunshine Coast Planning Scheme 2014.

OFFICER RECOMMENDATION

That council APPROVE IN PART the Request to Change a Development Approval, Application No. MCU14/0079.02, situated at 3 Meta Street, Mooloolaba, in accordance with the following:

- (a) approval of the kitchen extensions and multi-purpose rooms associated with the units with larger balconies only, that is, units 203, 301, 403, 501, 603, 701, 803 and 901 as depicted on the amended plans received with the Request to Change a Development Approval**
- (b) refusal of the kitchen extensions and multi-purpose rooms associated with the units with smaller balconies, that is, units 201, 303, 401, 503, 601, 703, 801 and 903, as depicted on the amended plans received with the Request to Change a Development Approval**
- (c) refusal of the changes to the balustrading as depicted on the amended plans received with the Request to Change a Development Approval**
- (d) refusal of the proposed change to Condition 33 in respect of visitor parking and**
- (e) refusal to delete Condition 17A - the Norfolk Pines condition.**

FINANCE AND RESOURCING

The applicant is required to pay infrastructure charges as a consequence of the development approval already granted.

There is the potential for additional financial implications for council arising from:

- a minor increase in infrastructure charges in the event that Council agrees to the addition of a multi-purpose room in some or all 14 of the units or
- the cost of any prosecutions or appeal arising from council's decision in respect of the requested changes.

Given that the developer has built the aspects for which they seek approval, it is very likely that any refusal of the requested changes will result in an appeal to the Planning and Environment Court. It is the practice of that Court that each party bear its own costs in the matter, except in some limited circumstances. As a result, any appeal is likely to involve the expenditure of funds to defend the decision. Minimal costs for any appeal are likely to start around \$50,000. There are no fines issued by the Planning and Environment Court.

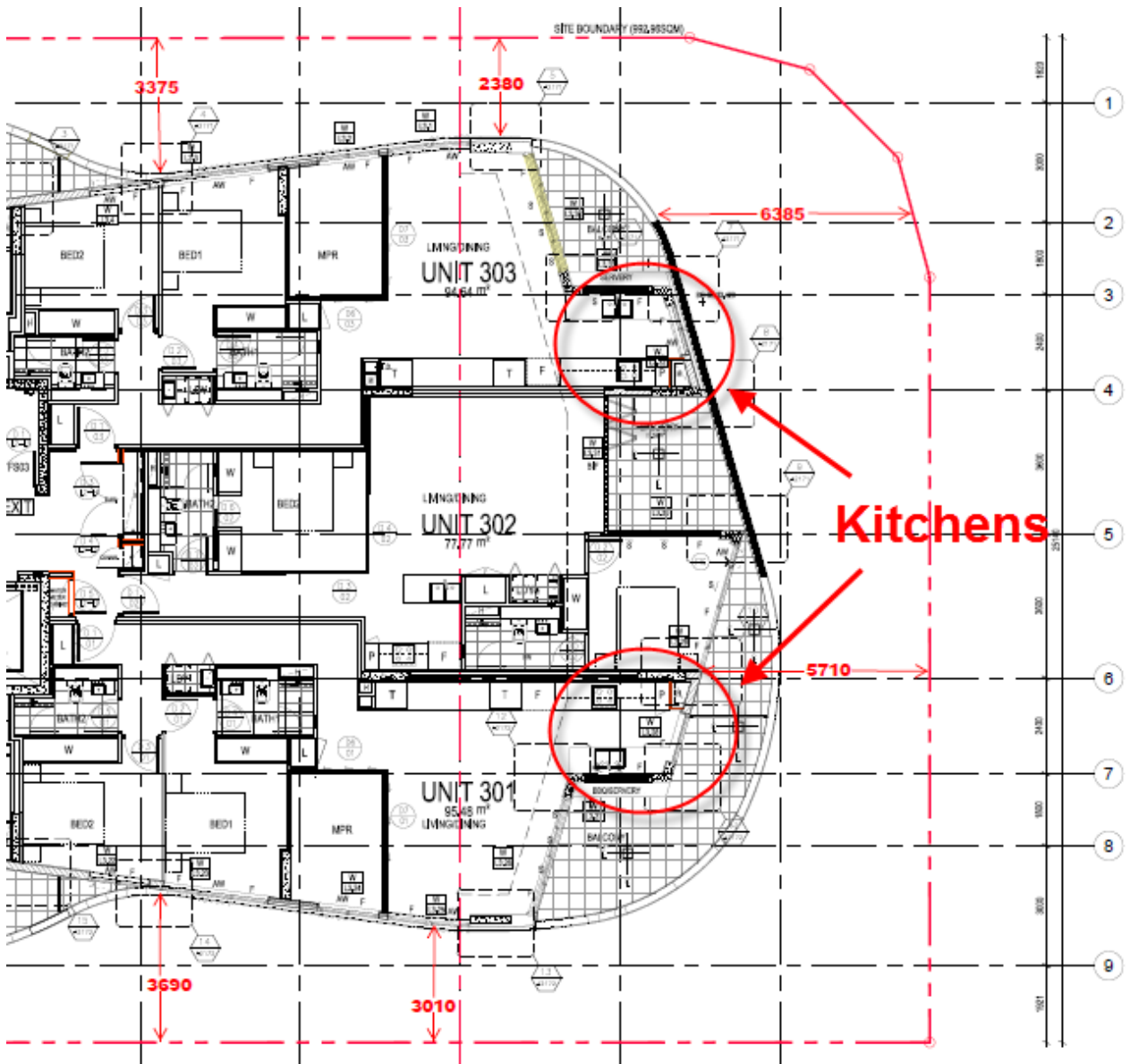
PROPOSAL

The application seeks approval of a change to the existing development approval. The changes sought consist of major matters involving the built form, and minor matters, involving development conditions. A new set of floor plans, elevations and sections have

been submitted for approval and these are included at **Attachment 1**. The changes sought are outlined below:

Kitchen extensions

Kitchens for the north facing units fronting the Esplanade now extend into the previously approved balcony spaces. This change affects a total of 16 units, including the outside two units on each level, except the ground level and the penthouse level. The applicant has advised that the kitchen extensions vary between a minimum of 5.9m² and a maximum of 7m² in area (the size of each varies per floor). An extract from the Level 3 plan showing the kitchen extensions is included below as an example.

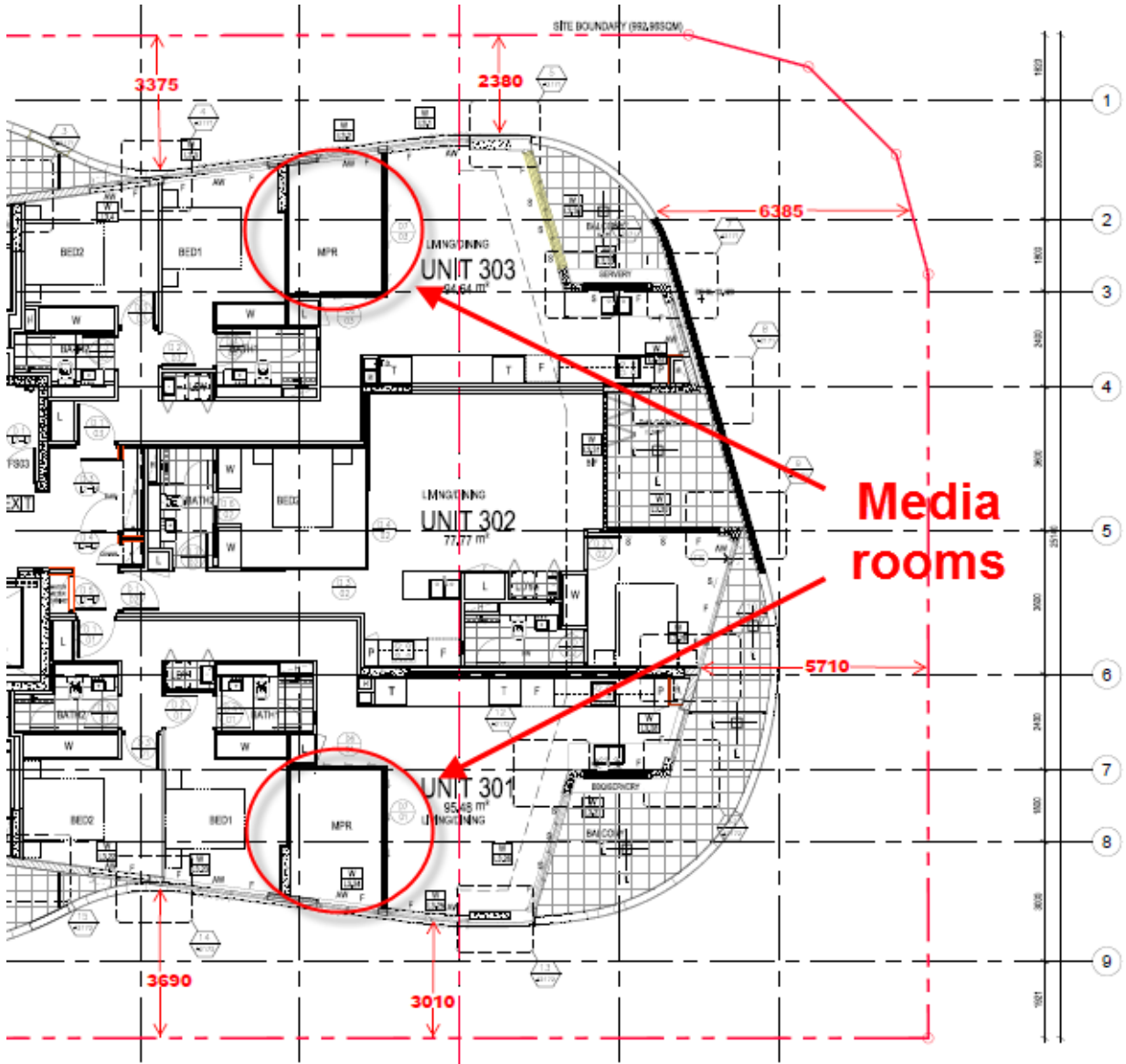


Multi-purpose Rooms

A media/multi-purpose room has been added to 14 of the north facing units fronting the Esplanade. This change affects the outside two units on Levels 2 to 7 inclusive, and the outside north-western unit on Levels 8 and 9. The inclusion of the multi-purpose rooms has affected the internal layout of these units by reducing the area originally shown as living/dining, and is likely to have resulted (in part) in the kitchens extending into the balcony

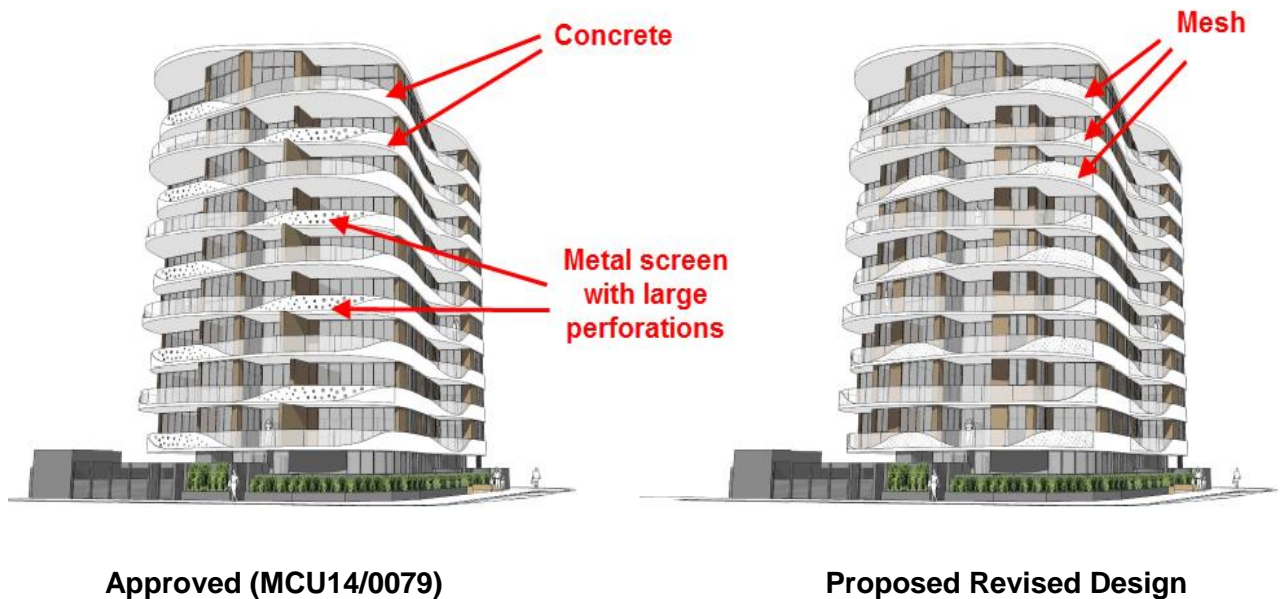
areas. Although the additional room is intended to be used as a multi-purpose room, this room is capable of being used as a bedroom.

An extract from the Level 3 plan showing the multi-purpose rooms is included below as an example.



Balustrading

The balustrading to the north facing units fronting the Esplanade has been changed to reduce the extent of solid concrete and metal screening, and to provide a different style of metal screening. A larger extent of glass balustrade is now provided. A plan illustrating the proposed changes is included below.



Car Parking and Bicycle Parking

The conditions of approval require the provision of 71 car parking spaces (61 resident plus 10 visitor), 7 motorcycle parking spaces and 32 bicycle parking spaces (27 resident plus 5 visitor).

Nine visitor car parking spaces (-1) are now proposed and, to offset the loss of one visitor car parking space, 8 motorcycle parking spaces (+1) and 49 bicycle parking spaces (+22) are proposed.

Norfolk Pines

The conditions of approval require the applicant to provide and plant 10 Norfolk Pine trees within park and/or road reserve close to the development. The applicant has requested that this condition be deleted because it is not relevant or reasonable, and because the proposed site and street landscaping will soften the building at its lower levels and add to the richness of the street environment.

SITE DETAILS

Background/Site History

11 July 2014 - council's delegate approved an application for a Material Change of Use to establish a Multiple Dwelling (58 dwelling units) subject to conditions. The application was lodged under the Sunshine Coast Planning Scheme 2014 and was subject to code assessment.

15 October 2014 - council issued a Negotiated Decision Notice with minor changes to conditions relating to design, clothes drying, waste, solar panels, access, parking, frontage works and changes to the basement car park plans.

4 September 2015 - the private certifier (Building Certification Consultants Pty Ltd) certified the bulk excavation, retention and B3 ground slab only, with the remainder of the building approval still to be given (council reference PC15/4888). (**Note:** this is a common approach to building approvals for multi-storey development and allows the basement works to get underway while a range of details around the apartments are still being finalised.

Underground basement parking areas on multiple levels are expensive and time-consuming elements of the overall design). Building works commenced on site around 25 September 2015.

May 2016 - building work had started on the above-ground construction. A later examination of the council's records reveals that no building approval had been issued at that time.

21 June 2016 - the first request to change the development approval for a Material Change of Use (Change No. 1) was received by council (council reference MCU14/0079.01) and involved the following changes:

- Addition of radiant heat shield for fire booster hydrant to project as a 600mm awning over the Meta Street road reserve.
- Unit 103 deletion and conversion to manager's office/unit – a fire booster hydrant was included within Unit 103's courtyard, thereby affecting the amenity and outlook of the unit. Therefore, it was proposed to change the unit to a manager's office and storage area to be added to Unit 102.
- SRV Relocation – as a result of detailed design of the basement and the inclusion of all service provisions, an on-site small rigid vehicle (SRV) parking space could no longer be accommodated within the site. Therefore, it was proposed that a dedicated SRV space be marked and signed within the First Avenue frontage.
- Reduction of 1 car parking space – as a result of detailed design of the basement and the inclusion of all service provisions, the required 72 car parking spaces including 10 visitor spaces could no longer be accommodated within the site. As such, it was proposed to provide for a total of 71 car parking spaces including 9 visitor spaces.
- Changes to balcony/kitchen of units 1 and 3 on levels 2 to 8 – Units 201, 203, 301, 303, 401, 403, 501, 503, 601, 603, 701, 703, 801 and 803 were provided with increased kitchen sizes and which extended in part into the original balcony area of each unit.
- Landscaping – the applicant requested deletion of the requirement in Condition 17 to provide three clumps of palm trees at suitable locations and with adequate soil volume because deep planting areas could not be provided due to the basement extending to all site boundaries.

30 June 2016 - Building Certification Consultants certified building plans (PC16/3650) for the remainder of the building (ground floor and above), and submitted notification to council.

13 July 2016 - while assessing Change No. 1, council officers became aware that the private certifier had approved building plans which were not in accordance with the approved Material Change of Use plans. On the same day, council's Coordinator of Building and Plumbing Services contacted the Brisbane-based certifier and raised the issue of non-compliance.

15 July 2016 - the certifier amended his building approval by redacting the kitchen build-outs on the approved plans, and submitted these amended plans to council.

5 August 2016 – council issued a “not properly made” letter in response to Change No. 1, on the basis that the amended plans depicted a building that appeared to exceed the 30m height limit measured from natural ground level.

9 August 2016 - the applicant provided different ground level survey data from the original survey data submitted, which indicated that the building was within the 30m height limit.

11 August 2016 – the applicant submitted additional certification from a cadastral surveyor that the building was within the 30m height limit.

12 August 2016 - Change No. 1 was approved in part and refused in part by council's delegate. Council's delegate approved:

- a reduction in the number of units from 58 to 57
- changes to the underground carpark and ground floor plans and
- removal of the requirement to provide three clumps of palm trees on the site and instead imposed an additional requirement to plant 10 Norfolk Pine trees within park and/or road reserve close to the development.

Council's delegate refused all plans and elevations depicting:

- the proposed extension of kitchens into the balconies
- changes to the building façade/ balustrades and
- changes to the upper floor layouts.

2 September 2016 – the current request to change the development approval for Material Change of Use (Change No. 2) was properly made.

Site Description & Surrounding Land Uses

The location of the subject site in relation to its surrounds is shown on the image below:



Site & Locality Description	
Road Frontage	The site has 3 road frontages: <ul style="list-style-type: none"> • Mooloolaba Esplanade approximately 24.5m • Meta Street approximately 36m • First Avenue approximately 23m
Existing Significant Vegetation	None
Topography:	Gentle slope across site
Surrounding Land Uses:	<p>North-west – High density residential development (Bellardoo), Mooloolaba Esplanade parkland</p> <p>North-east – Mooloolaba Esplanade parkland</p> <p>South-east – High density residential (Seaview Mooloolaba)</p> <p>South-west – High density residential development (The Beach Club Mooloolaba), Uniting Church</p>

STATUTORY PROCESS

The applicant has requested to make a change to a development approval under Section 369 of the *Sustainable Planning Act 2009*. A request to change a development approval under Section 369 can only be made in circumstances where that change would constitute a “permissible change”.

The proposed change to the development approval requested by the applicant is determined to constitute a permissible change on grounds that:

- the change would not result in a substantially different development because the changes are within the existing building footprint
- the change would not require the application to be referred to additional concurrence agencies
- the original application was code assessable and the change would not cause the application to become impact assessable and
- the change would not cause the approval to involve prohibited development.

On this basis, the applicant has lodged a lawful request under Section 369 of the Act.

ASSESSMENT

Kitchen extensions, multi-purpose rooms and balustrading

As these proposed changes to the development approval are inter-related, the assessment of these changes has been consolidated into one section of this report.

Applicant’s Representations

“It is understood that Council, through the previous permissible change application process expressed some concerns regarding the openness of the balconies and massing of the development. In this regard, the applicant has now prepared updated drawings for the north, south, east and west elevations. Aria have also further revised the kitchen and balcony reconfigurations to Unit Types 01 and 03 (a total of 16 units) to increase the external visual interest of the building and the internal functionality and liveability of each of these units. The proposed changes are considered acceptable for the following reasons:

- *The proposed extension of the kitchen spaces will not reduce privacy, view corridors or the apparent openness of the balconies presenting to the Esplanade, as the proposed mix of open, semi-transparent and solid balustrading will remain a dominant element of the building, and a habitable space (bedroom 2 of unit type 2) is already approved at the furthest forward point of the building envelope at each level. The kitchen extensions are all set back further than the 5 metre setback referred to in Council's Delegated Authority Report (2014)(refer page 7). This assessment is clearly demonstrated in the attached modelling;*
- *Council had originally intimated that the approval of the setbacks was provided due to the combination of a well-articulated façade featuring prominent curvilinear balconies with largely solid balustrading and alternating offsets to the frontages, in conjunction with the balcony depths. All of the aesthetic outcomes sought by these elements are maintained (including a high level of visual interest and "light and shade"), notwithstanding some refinement of the balustrade design and a reduction of the average balcony depth due to the "pop-out" kitchen elements;*
- *The balconies in the original approved model read as overly solid due to the perforated masonry balustrading stipulated in the cover model, to which Aria has now adapted to be a more varied solution as per the attached model (thereby increasing legibility of the space and maintaining the rhythmic banding of the design).*
- *To reduce the perceived bulk of the building from the Esplanade frontage and further enhance the amount of natural light to the building, Aria has demolished constructed joinery and glazing suites to units 203/401/503/601/703/801/903 and replaced them with floor to ceiling glass; and*
- *The requested changes will have no discernible impact on:*
 - *The utility of the relevant units – indeed their liveability will be enhanced by the introduction of an improved indoor/outdoor living experience which can better adapt to varying weather conditions;*
 - *The side setback and elevation to the adjacent Seaview Resort – no change;*
 - *The First Avenue and Meta Street setbacks and elevations – no change.*
 - *Overall, the requested changes will still result in a landmark signature building at a gateway location to Mooloolaba as sought by Council's original approval."*

In addition to floor plans and elevations, the applicant has submitted a series of perspectives illustrating the proposed changes to the front (northern) elevation of the building. Extracts from the perspectives are included below.

East



North-east (front)



North

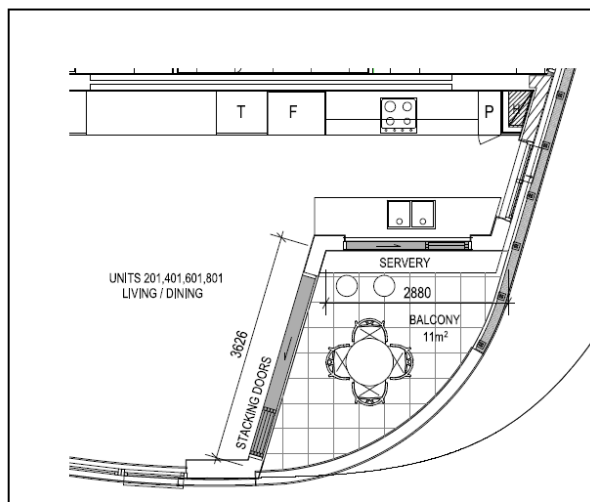


On 28 September 2016, the applicant also made the following additional representations about the impact of the kitchen extensions on the size and usefulness of the smallest balconies created as a result of the kitchen extensions.

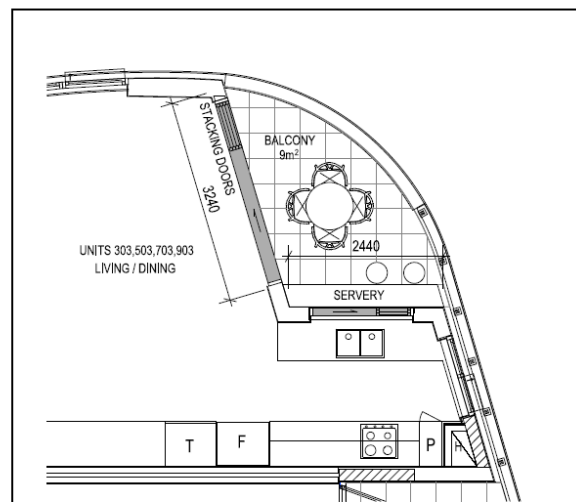
“Please also find attached enlarged balcony plans for the alternating Type 01 and Type 03 units. As demonstrated on these plans, the practicality and transitioning of the living space and external area is maintained through appropriate design outcomes. These plans illustrate the following:

- Sufficient space for a table and four chairs for each balcony configuration;
- Sufficient space for a servery and stools for each balcony configuration;
- Each servery accessed by a sliding, stackable window connecting to the kitchen; and
- Sliding, stacking doors that when open leave 75% of their length open, effectively connecting the inside and outside areas of each unit.”

An extract from the balcony plan depicting the smallest front balconies is included below.



BALCONY DETAIL PLAN
SCALE 1:60 @ A3



BALCONY DETAIL PLAN
SCALE 1:60 @ A3

The applicant has calculated that the sizes of the above balconies are 11m² and 9m². It should be noted that council officers have calculated the sizes are actually 9.65m² and

8.41m² if measured to the outside edge of the balcony slabs and if the serveries are included in the calculation (in other words, a “best case” measurement).

Assessment

Independent Architect’s Advice

Council officers engaged Deicke Richards to provide an independent urban design and architectural assessment of the proposed changes to the approval that relate to the kitchen extensions, balconies and balustrading. Deicke Richards has provided an assessment and this is included in full at **Attachment 2**. The advice section of the assessment is provided below.

“Kitchen Extensions

The kitchen extensions are inconsistent with the approval. The outcome for balcony Type A is in conflict with PO11 of the Multi Unit Res Code which stipulates “a balcony or similar private open space area directly accessible from the main living area which is not less than 12sqm in area with a minimum dimension of 3.0m”. It is correct that the approval locked in a balcony width of approximately 2.35m for Balcony Type A (less than the AO11.4). However given glazing could be opened for almost the full length of this balcony allowing the room full exposure to the deck, then the outcome would have maintained a high degree of amenity, and could be considered consistent with PO11.

The impact of the kitchen extensions on Balcony Type C is also not consistent with the Purpose and Overall Outcomes of the Multi-unit Res Code as it delivers a useable balcony area of only 6sqm as the rest can be overlooked and is unshaded.

It is not clear how the applicant can deliver compliance with approval condition 12 and PO15 for dedicated screen clothes drying areas, given that the walls that they may have been located on have now been built on. Further information is required on this from the applicant.

The kitchen extensions do impact on the overall built form appearance as outlined above and this was an important consideration in mitigating the then impacts of the building. However, it would be difficult to argue that this impact alone is that much greater than the approved party walls (between units 1, 2 and 3 on each level) and would create an impact on the built form sufficient to warrant their removal.

While the solution is not immediately evident, the impact of the kitchen extensions on user amenity is the predominant issue and one worth defending vigorously. Overall outcomes 2b, 2c and 2d of the Multi-res Code all reinforce issues of

- *Climatically responsive building design;*
- *Private open space that provides visual relief to built form; and*
- *High levels of privacy and amenity for residents.*

Approving the proposed kitchen modifications would be inconsistent with the intent of the Multi-Res Code. Council should:

1. *Request of the applicants demonstrate condition/code compliant solutions for clothes drying and all balconies; and*
2. *Request the applicant model kitchen extension options for Type A and C Balconies that are more consistent with Type B as a minimum sized balcony; and*
3. *Request the applicant model kitchen extension materials and colours for Type A and C that reinforce the horizontal banding intended in the original approval.*

And if the revised changes cannot satisfactorily deliver a greater consistency with the Multi-Res Code then Council should:

- 4. Consider not approving kitchen extensions on Type A balconies; and*
- 5. Condition colour and materials to kitchen extension on Balcony Type C that reinforce the horizontal banding intended in the original approval.”*

“Balustrading

The balustrading is a critical part of the architectural features of the building. It articulates the horizontal curves of the floor plan in the vertical dimension, but also delivers a diagonal ripple effect, which is a subtle but important effect. While not explicitly mentioned in the DA material, the design of the balustrading accounts for an important part of the building’s design merit, which according to officers mitigated the site cover and setback issues outlined in PO8 of the Multi Unit Res Code.

As this aspect of the building is reasonably easy to correct, Council should vigorously pursue the reinstatement of the balustrading. Negotiations with the applicant should seek:

- 1. Reinstatement of the screen balustrading to achieve the diagonal ripple effect;*
- 2. The use of a larger perforated metal balustrade to deliver the original ‘playfulness’ of the building and increase privacy to the balconies; and*
- 3. While it is unrealistic to expect the extent of concrete balcony to be increased, Council should ensure that any joins between metal and concrete balustrading are consistent with the curved join in the approved design.”*

Officer’s Comments

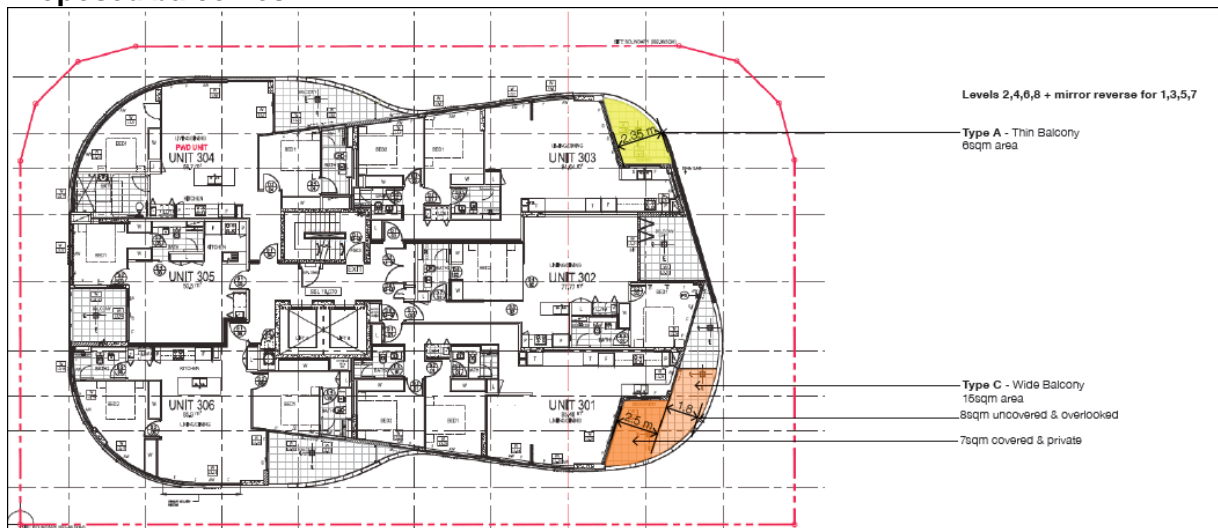
Having regard to the applicant’s additional representations, and the advice from Deicke Richards, it is considered that the kitchen extensions do not create a significant adverse impact on the built form and appearance of the approved building. The approved building already included a bedroom that extends forward of the Esplanade face of the building (one bedroom per floor above ground level, and two at the penthouse level), and this bedroom, together with the party wall separating two balconies per floor, already provides some interruption to the horizontal flow of the design. The inclusion of two kitchen extensions per affected floor, one immediately adjoining the approved bedroom extension, and one immediately adjoining the approved party wall, does not change the appearance of the building significantly.

However, it is considered that the kitchen extensions do create a significant adverse impact on the size of the approved balconies, with the greatest impact occurring on the smallest balcony type (Type A – yellow) as illustrated on the Deicke Richards sketches below. The kitchen extensions also impact on the usefulness of the larger balcony type (Type C – orange) because this balcony is partially uncovered and overlooked from above.

Approved balconies



Proposed balconies



The smallest proposed balcony type (Type A – yellow) does not meet Acceptable Outcome 11.4 (AO11.4) of the Multi-unit residential uses code, which requires each dwelling unit above ground level to have a balcony or similar private open space area that is directly accessible from the main living area, and which is not less than 12m² in area with a minimum dimension of 3m. The larger proposed balcony type (Type C – orange), although partially uncovered and overlooked from above, generally meets AO11.4 and the related Performance Outcome PO11.

The approved Type A balcony was 13.3m² in area and, although it was less than 3m deep, this was mitigated by the operable wall extending for approximately 6m, and effectively for the full length of the living/dining/kitchen area. In comparison, the proposed Type A balcony is calculated to be 9.65m² and 8.41m² in area, and 2.88m and 2.44m deep at its greatest depth (the size and depth alternates between floors).

It is acknowledged that council approved nine units in the development with a balcony of 8.75m², but these were considered acceptable because the nine units were one bedroom units only. The proposed Type A balcony is intended to service two bedroom units which, with the addition of the proposed multi-purpose rooms, are now capable of being used as three bedroom units.

It is considered that the proposed Type A balcony is deficient for the 2-3 bedroom units and would not meet Performance Outcome PO11 of the Multi-unit residential uses code in that future residents will not have sufficient area to enjoy private and semi-private spaces and accommodate visitors.

If the applicant had made a request to change the development approval prior to the building being built, council's delegate would most likely have approved the kitchen extensions into the Type C balconies, but would most likely have not approved the kitchen extensions into the Type A balconies. In other words, one kitchen extension per floor would have been approved in lieu of the two kitchen extensions per floor sought (i.e. 8 out of 16).

With regard to the proposed multi-purpose rooms, their inclusion has affected the internal layout of the north facing units fronting the Esplanade, by reducing the area originally shown as living/dining, and is likely to have resulted (in part) in the kitchens extending into the balcony areas. If the applicant had made a request to change the development approval prior to the building being built, council's delegate would most likely have approved the multi-purpose rooms associated with the units with the larger Type C balconies, but would most likely have not approved the multi-purpose rooms associated with the units with the smaller Type A balconies. In other words, 7 multi-purpose rooms would have been approved in lieu of the 14 multi-purpose rooms sought.

In respect of the balustrading, it is considered that the originally approved balustrading strongly articulates the alternating horizontal curves of the building. This aspect of the design significantly contributed to the overall quality of the design outcome and provided some justification for the development not meeting certain acceptable outcomes of the Multi-unit residential uses code (site cover, setbacks) at the time it was originally assessed by council officers. The balustrading also provided privacy screening to the smaller Type A balconies. The proposed balustrading does not articulate the horizontal curves of the building to the same extent as the approved balustrading, and provides minimal screening to the smaller Type A balconies. If the applicant had made a request to change the development approval prior to the building being built, council's delegate would most likely have not approved the proposed changes to the balustrading.

Car Parking and Bicycle Parking

Applicant's Representations

"Due to unforeseen requirements during detailed design, the transformer was required to be relocated to accommodate a pump room as per initial QFES requirements. The corollary of this change was the relocation of the SRV parking zone and the reduction of 1 car parking space for the transformer access room. As such, it is requested that the number of visitor parking reduces from 10 to 9.

In order to achieve an improved transport outcome in lieu of the visitor parking reduction, Aria have achieved 1 extra motorcycle park, 49 total residential/visitor bicycle parking spaces, including 5 class 3 spaces."

Assessment

This issue was assessed in conjunction with Change No. 1 and, although council's delegate approved a re-design of all basement levels and agreed to a reduction in resident car parking from 72 to 71 spaces, a reduction in the required visitor car parking (ten spaces within the total) was not approved.

In accordance with the Transport and parking code, the number of visitor car parking spaces required for a 57 unit multiple dwelling is 14, and therefore, a significant reduction in the visitor parking required for the development was already granted at the time the application was originally assessed.

Although the proposal to offset the loss of a further visitor parking space with an extra motorcycle space and additional bicycle parking spaces is acknowledged, it is considered that visitor car parking should not be reduced any further having regard to the significant reduction already approved, and the high usage of available on-street parking spaces observed in the surrounding streets (indicating a need for sufficient visitor parking to be accommodated on-site). The loss of the visitor space can be accommodated by the residential allowance, which presently exceeds the minimum requirement.

Norfolk Pines

Applicant's Representations

"Section 375 of the Sustainable Planning Act 2009 states that a condition imposed on a request to change an approval must be relevant to the proposed change (Section 375(2)) and must comply with Section 345 –which requires that a condition must:

- (a) Be relevant to, but not an unreasonable imposition on, the development or use of premises as a consequence of the development; or*
- (b) Be reasonably required in relation to development or use of premises as a consequence of the development.*

On the basis of the above test, it is not considered that Council should have required a condition regarding the planting of Norfolk Pines on a different site. Also it is difficult to see how acceptance of the requested changes to deal with car parking, the SRV layby area, and amended basement and ground level plans in the previous permissible change would have justified imposition of this condition.

In any case, the revised landscaping plans (as detailed in the revised Landscape Concept Package) now incorporate the following elements which further soften the building at its lower levels and add to the richness of the street level environment:

- Proposed street trees (advanced Pandanus species) on the Mooloolaba Esplanade and Meta Street frontages;*
- Green roof and green wall elements visible on the Mooloolaba Esplanade frontage; and*
- High quality, durable surface and wall treatments to ground level landscape areas inside the site and within the streets adjoining the site."*

Assessment

It should be noted that council's Engineering and Environmental Assessment team has not approved a revised Landscape Concept Package incorporating advanced Pandanus species as street trees. Pandanus trees are generally not supported as street trees because they drop large seeds resulting in a slip hazard on footpaths, and cannot be pruned or shaped. Pandanus trees are more suitable in larger areas of open space.

Condition 17A requires the applicant to provide and plant ten Norfolk Pine trees within park and/or road reserve close to the development, with such trees to be: located in positions agreed to by council; 25 litres in size; staked, tied and planted in 1 metre diameter mulched landscape areas; and maintained for a period of 12 months.

Condition 17A was imposed at Change No. 1 in conjunction with council's delegate agreeing to the removal of a requirement to plant three clumps of three palm trees within the site. The palm trees were unable to be accommodated within the site as they would have to be planted above the basement where insufficient soil volume (planting depth) could be provided. Council's delegate agreed to removal of the palm tree requirement and imposed the Norfolk Pine condition in its stead.

It is considered that the Norfolk Pine condition is both relevant to, and reasonably required, with regard to the development. The proposed development incorporates no deep planting on the site and relies largely on street trees to provide high quality landscapes (a requirement of the Multi-unit residential uses code). The planting of ten Norfolk Pines offsets the lack of deep planting areas and is not considered to be an unreasonable imposition on the development.

Summary and Options from Here

As previously discussed, if the applicant had made a request to change the development approval prior to the building being built, then council's delegate would most likely have approved the kitchen extensions and the multi-purpose rooms associated with the units with larger balconies, and would most likely have not approved the remaining kitchen extensions and media rooms associated with the units with smaller balconies. Furthermore, council's delegate would most likely have not approved the proposed changes to the balustrading. The additional changes sought, that is, the minor matters being the reduction in visitor parking and the removal of the Norfolk Pine condition, are not supported for the reasons outlined above.

The development is nearing completion, and the kitchen extensions and multi-purpose rooms have already been included in the building. Removal of these elements will involve significant structural changes to the building, and will be opposed by the applicant.

The balustrading to the north facing units fronting the Esplanade is predominantly clear glass at present, but a solid screening element could be attached to the existing balustrade in order to achieve screening of balconies and horizontal articulation that is generally in accordance with the existing approval. This would be relatively easy to do.

Having regard to the particular circumstances of this development, it is considered that the following options are reasonably available to Council.

Option 1 – Approve all changes sought

This option involves:

- Approving all kitchen extensions and media rooms.
- Approving the changes to the balustrading.
- Approving the proposed reduction in visitor parking.
- Deleting Condition 17A – the Norfolk Pines condition.

Pros:

- The building as built and the planning approval as changed will be congruent and the development can proceed towards completion.

Cons:

- Approving balconies for 2-3 bedroom units that are deficient and do not comply with the outcomes of the Multi-unit residential uses code will set an undesirable precedent for future developments.
- Approving the changed balustrading represents the loss of a significant architectural feature of the building, and only minimal screening to balcony spaces will be provided.
- Approving a further reduction in visitor parking may result in inadequate parking being available to visitors to the development, which is not consistent with the outcomes of the Transport and Parking Code.
- Acceptance of no deep landscape planting on site without any offset does not provide for high quality landscapes as required by the Multi-unit residential uses code and will set an undesirable precedent for future developments.

Option 2 – Approve the changes in part

This option involves:

- Approving the kitchen extensions and multi-purpose rooms associated with the units with larger balconies only, that is, units 203, 301, 403, 501, 603, 701, 803 and 901.
- Refusing the kitchen extensions and multi-purpose rooms associated with the units with smaller balconies, that is, units 201, 303, 401, 503, 601, 703, 801 and 903.
- Refusing the changes to the balustrading.
- Refusing the proposed reduction in visitor parking.
- Retaining Condition 17A – the Norfolk Pines condition.

Pros:

- Approving half of the kitchen extensions and multi-purpose rooms, and refusing the remainder, allows for all balconies fronting the Esplanade to achieve the performance outcomes of the Multi-unit residential uses code.
- Refusing the changes to the balustrading allows a significant architectural feature of the building to be retained, and better screening of balcony spaces.
- Refusing a further reduction in visitor parking, and, retaining the Norfolk Pines condition allows for the development to achieve the outcomes of the Transport and Parking code and the Multi-unit residential uses code.
- It is considered that an undesirable precedent for future developments will not be set.

Cons:

- The applicant is likely to oppose an approval only in part and lodge an appeal in the Planning and Environment Court. The outcome of such an appeal is unknown.

Option 3 – Refuse all changes sought

This option involves:

- Refusing all kitchen extensions and multi-purpose rooms.
- Refusing the changes to the balustrading.
- Refusing the proposed reduction in visitor parking.
- Retaining Condition 17A – the Norfolk Pines condition.

Pros:

- Refusing all kitchen extensions and multi-purpose rooms allows for all balconies fronting the Esplanade to achieve the performance outcomes of the Multi-unit residential uses code in the best possible way, and will ensure that the built form remains largely unchanged from the original approval granted.
- Refusing the changes to the balustrading allows a significant architectural feature of the building to be retained, and better screening of balcony spaces.
- Refusing a further reduction in visitor parking, and, retaining the Norfolk Pines condition allows for the development to achieve the outcomes of the Transport and Parking code and the Multi-unit residential uses code.
- It is considered that an undesirable precedent for future developments will not be set.

Cons:

- The applicant is likely to oppose the refusal and lodge an appeal in the Planning and Environment Court. The outcome of such an appeal is unknown.

Recommendation

Option 2 is recommended. Approving the kitchen extensions and multi-purpose rooms associated with the units with larger balconies only, enables the applicant to proceed with some changes to the development, while still achieving the outcomes sought by the Sunshine Coast Planning Scheme 2014.

CONSULTATION**IDAS Referral Agencies**

The application was referred to the following IDAS referral agencies.

Concurrence

Department of State Development, Infrastructure and Planning (SARA)

The department is a concurrence agency for State controlled road matters. The department responded by letter dated 5 October 2016 stating that it had no objections to the proposed changes.

Other ReferralsUnitywater

The application was forwarded to Unitywater and their assessment forms part of this report.

Internal Referrals

The application was forwarded to the following internal council specialists and their assessment forms part of this report:

The application was forwarded to Unitywater and the following internal council specialists and their assessment forms part of this report:

- Development Engineer, Engineering and Environment Assessment Unit
- Landscape Officer, Engineering and Environment Assessment Unit
- Urban Designer, Planning Assessment Unit.

CONCLUSION

Having regard to the applicant's representations, the advice received from Deicke Richards, and an assessment of the proposed changes against the planning scheme, it is recommended that council approve part of the changes sought, that is, the kitchen extensions and multi-purpose rooms associated with the units with larger balconies only. This recommendation enables the applicant to proceed with some changes to the development, while still achieving the outcomes sought by the Sunshine Coast Planning Scheme 2014.

