

# WILLOWTREE PLANNING



1 June 2026

Ref: WTJQ25-068

Brisbane City Council  
GPO Box 1434  
Brisbane QLD 4000



**Attention: Joel Wake**

**RE: RESPONSE TO INFORMATION REQUEST AND NOTICE OF CHANGE - A006949411  
576 ROYAL ESPLANADE MANLY QLD 4179**

Dear Sir/Madam,

Willowtree Planning acts on behalf of the Applicant in relation to the above development application over the land at 576 Royal Esplanade Manly (the Site).

An Information Request (IR) was received from Council on 6 March 2026. Pursuant to section 13.2(a) of the Development Assessment Rules (DA Rules), a full response to each of the items raised in the IR is provided below, along with the following supporting documents:

- **Attachment A** Revised Architectural Plans prepared by Reid Campbell
- **Attachment B** Revised DA Form 1
- **Attachment C** Revised Traffic Impact Assessment prepared by Bitzios Consulting
- **Attachment D** Air Quality Assessment prepared by Katestone
- **Attachment E** Noise Impact Assessment prepared by Acoustic Works
- **Attachment F** Civil Engineering RFI Response prepared by Sparks & Partners
- **Attachment G** Arborist Report prepared by Green by Nature
- **Attachment H** Landscape Concept Plan prepared by Place Design Group

As part of this response, some changes are proposed in response to the development application which are in response to Council's information request and/or minor changes as defined under the *Planning Act 2016*. The changes are described later in this letter.

## Response to Information Request

### 1. Land Uses

- 1.1 The development involves an ancillary restaurant and lounge component (shown on the proposal plans as a Bistro) of a significant scale both with respect to floor space and expected employee and patron numbers. Further to this, it is not clear from the information provided how this area remains associated with or subordinate to the ground level Club use. Given this, further information and / or revised plans is required to demonstrate that the Bistro is directly associated with, as well as subordinate and ancillary to the proposed Club use.*
- a. Provide further information to demonstrate the proposed Bistro is ancillary and directly associated with the proposed Club land use. This must include, but is not limited to, specific details regarding the operations of the Bistro such as intended operator(s),*

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- expected patronage, any limitation to access for patrons etc.*
- b. In the circumstance that the Bistro is not able to be demonstrated to be ancillary and subordinate to the Club land use, amend the application to apply for the land use most applicable to the Bistro as a separate permit.*
- 1.2 The proposal includes a shop use however limited information has been provided to demonstrate that the shop tenancies will be associated with the proposed and existing activities and will not compromise the viability of the nearby centre.*
- a. Provide further information to demonstrate the proposed Shop use complies with AO6 / PO6 of the Specialised centre code and Overall outcome 10b. of the Specialised centre zone code*

**Response:**

Item 1.1

In response to Item 1(b) of Council's request and further to discussions with Council, it has been determined the applicable land use category of the bistro is "Food and drink outlet". The Architectural Plans have been updated accordingly and a revised DA Form 1 is attached to reflect this change.

It is noted *Table 5.5.26—Specialised centre zone* of City Plan prescribes development involving a Food and drink outlet is subject to code assessment where up to 250m<sup>2</sup> GFA. In this instance, the amendment of this land use has resulted in a cumulative 410m<sup>2</sup> GFA between the lower level café and upper level bistro and as such, it is understood the application will now be subject to impact assessment and public notification.

Noting the change is made in response to the information request, the development assessment process should not stop in accordance with section 26.1(b) of the DA Rules. It is understood a revised Confirmation Notice will be required under section 26.2(a)(i) of the DA Rules.

In considering the response to this information request, the applicant has reviewed the Club land use in further detail and has determined the area marked 'office' may be more appropriately characterised as a standalone use. The intent for the office space is to fulfil an administrative or regulatory function for marina activities in accordance with the intent of the Specialised centre zone code. As such, the applicant proposes to amend this area to be for "Office" as defined. The Applicant submits this change could be in response to Council's information request and/or a minor change for the reasons set out in section titled 'Assessment of Changes' later in this letter.

Item 1.2

The final tenant arrangement is yet to be confirmed, however the Applicant intends to target the following types of tenants for the development:

- Boat brokerage services
- Boat rental (Go Boat)
- Boating syndication
- Marine retailers
- Marine electronics and mech sales
- Ship chandlery
- Providore

Upon further discussion with Council, it is noted some of the tenant options may be more appropriately defined as "Office" or "Port service". As such, these uses have been added to the development application, and a revised DA Form 1 is attached accordingly.



As above, the prospective tenants have a specialty focus on marine-related activities which will serve the needs of visitors to the marina and as such, will not compromise the viability of the nearby centres in accordance with AO6/PO6 of the Specialised centre code and overall outcome 10b of the Specialised centre zone code.

It is noted this change is also made in response to the information request and further discussion with Council and therefore the development assessment process should not stop in accordance with section 26.1(b) of the DA Rules. An assessment of this change against the minor change criteria is also provided for completeness.

## 2. Traffic and Refuse

2.1 *The development proposes to reduce the existing parking supply by 30 spaces however, supporting information has not sufficiently demonstrated how this will not adversely impact the operations of existing uses that utilise the car parking or the local road network. Provide additional information and revised reporting to address the following and to demonstrate compliance with AO9 / PO9 of the Specialised centre code and the Transport, access, parking and servicing planning scheme policy :*

- a. *Quantify the Gross Floor Area (GFA) and specific use of all existing buildings to be demolished;*
- b. *Calculate the existing trip generation from a peak hour survey of the site;*
- c. *Provide a "Net Increase" table to clearly demonstrate the additional burden on the local road network;*
- d. *Further clarification of the number of berths and other facilities served by the existing car parking areas.*

2.2 *The proposed refuse arrangement utilises front-lift bulk bins however, swept path analysis has been provided for a Medium Rigid Vehicle (MRV) in lieu of a Refuse Collection Vehicle (RCV). Front-lift bulk bins are required to be serviced by a 10.52m Front-Lift Loading RCV.*

*Provide the following information to demonstrate compliance with AO18 / PO18, AO19.2-19.3/ PO19 of the Transport, access, parking and servicing code:*

- a. *Provide an RPEQ certified swept path analysis for a 10.52m Front-lift loading RCV (As per BSD-3009) as specified in Table 3 of the Refuse PSP which demonstrates safe and efficient servicing can be undertaken whilst utilising a lock-to-lock time of 6.00s and kerb-to-kerb turning radius of 9.757m;*
- b. *Demonstrate the RCV can enter the development in a forward gear, service the development and exit the development in a forward gear;*
- c. *Clearly demonstrate the 'Refuse' area has been roofed and wholly screened;*
- d. *Denote the GFA (m<sup>2</sup>) and internal dimensions of the 'Refuse' area on the plans.*

*Note: Council core services include general refuse, commingled recycling and green waste. To support sustainable development and landfill diversion, Council encourages the use of its green waste service. If the development is proposing to utilise the green waste service from Council, amend the proposal plans to demonstrate sufficient storage and kerbside presentation area for the required number of 24OL green waste mobile garbage. Refer to*

*<https://www.brisbane.qld.gov.au/content/dam/brisbanecitycouncil/corpwebsite/about-council/documents/waste-management-technical-notes.pdf>.coredownload.pdf*

### **Response:**

#### Item 2.1(a)

As detailed on the Architectural Plans, Buildings A and B (which are proposed to be demolished) comprise a total a GFA of 743m<sup>2</sup>. The existing land uses are understood to comprise a café, yacht training centre, marine electrician, and marine retail tenancies. Buildings C, D and the four (4) storey boat stack are to be retained with a total GFA of 2,521m<sup>2</sup>. The total existing GFA is 3,264m<sup>2</sup>.

#### Item 2.1(b)

Peak hour surveys were undertaken as part of preparation of the Traffic Impact Assessment previously submitted. The findings of that survey were as follows:



- Thursday 24th July
  - 63 spaces were already occupied at 0600 (40% carpark capacity)
  - The maximum occupancy of 56% (87 spaces) occurred between 1000-1100 and 1330-1400.
- Friday 25th July
  - 64 spaces were already occupied at 0600 (41% carpark capacity)
  - The maximum occupancy of 56% (87 spaces) occurred between 1130-1200 and 1230-1300.
- Saturday 26th July
  - 66 spaces were already occupied at 0600 (43% carpark capacity)
  - The maximum occupancy of 50% (77 spaces) occurred between 0900-0930.

The high number of vehicles already parked prior to the 6am survey start is difficult to interpret, as these could comprise a mix of site-related and unrelated users, or potentially relate to the use of the marina berths and/or dry stackers. To ensure parking supply is prioritised for actual site users, Bitzios Traffic recommends this intent be reinforced through clear signage and controlled boom-gate access.

Nevertheless, on the basis of the above, the peak demand on those days was only 87 spaces.

Noting the surveys were undertaken in July, an additional survey was undertaken on Saturday 28th March 2026 to obtain updated rates. The findings were as follows:

- Saturday 28th March 2026
  - 90 spaces were already occupied at 0600 (58% carpark capacity)
  - The maximum occupancy of 77% (119 spaces) occurred between 1000-1130 and 1130-1200.

Given the existing carparking availability of 149 spaces and the peak use of 119 spaces, it is evident there is an existing oversupply of at least 30 carparking spaces based on the current GFA and demand.

#### Item 2.1(c)

The proposed development involves a net increase in 498m<sup>2</sup> GFA above the GFA of the existing buildings which are proposed to be demolished. Excluding the proposed communal amenities / service access (96m<sup>2</sup>) which will serve staff and visitors already on the site and not attract additional demand, then on a conservative basis 402m<sup>2</sup> of that GFA could lead to additional demand on the site and local road network.

Given there is an existing oversupply of at least 30 carparking spaces evidenced above, this would equate to 7.4 spaces per 100m<sup>2</sup> of proposed additional GFA being catered for under the current provision. It is noted this rate is above the prescribed rate for the proposed land uses.

An analysis of the prescribed carparking rate for the proposed uses is also included below to assist Council in its assessment.

Land use	GFA	Prescribed rate	Total
Club	72	3 spaces per 100m <sup>2</sup> GFA	2.2
Office	45	3 spaces per 100m <sup>2</sup> GFA	1.4
Food and drink outlet (above 400m <sup>2</sup> GFA)	410m <sup>2</sup> combined GFA 228m <sup>2</sup> outdoor dining area	30 spaces plus 5 per 100m <sup>2</sup> of GFA and outdoor dining area	61.9
Marine industry	378	2 spaces per tenancy plus 1 per 100m <sup>2</sup> GFA	13.8
Shop	240	5 spaces per 100m <sup>2</sup> GFA	12
		<b>TOTAL</b>	<b>92</b>

On this basis, the proposed development at peak would attract a demand of 92 spaces.

As detailed on the Architectural Plans, the proposed development has been amended to include additional carparking in the form of a carpark deck which will result in an overall availability of 148



carparking spaces on the site which is generally consistent with the existing provision onsite. This provision is well above the maximum peak demand for the uses as set out by the prescribed rates.

It is also noted the development is mixed use and there is a strong likelihood that visitors to the marina would utilise various tenancies (e.g., patrons visiting the shops may also stop in at the café).

Furthermore, noting the proposed uses will have different functions, including operating hours and peak times, the actual demand at any given time is unlikely to hit the peak amount. The proposed hours of operation for the café and bistro are particularly relevant given the food and drink outlet use has the highest prescribed carparking rate and there is only one (1) hour of crossover between these tenancies. The staggered and largely non-overlapping operating hours demonstrate that any crossover is limited in both duration and intensity.

On this basis, it has been determined the proposed development complies with AO9 / PO9 of the Specialised centre code and the Transport, access, parking and servicing planning scheme policy.

Item 2.1(d)

The carpark within the development site services the adjoining marina berths and dry stacker only. The berths associated with the d'Albora Marina are contained within Lease MOA. Other marina berths within the wider marina are serviced by other carparking areas.

Item 2.2

In responding to Item 2.1 of Council's information request and considering the revised layout for the carpark (which now includes the deck carpark), refuse storage is proposed to be co-located with the existing refuse area on the southern side of the boat stackers. Servicing is proposed to occur in accordance with the existing arrangements and private refuse contracts. The refuse storage area is accessed via the existing slide gate along the western boundary of the lease area and is accessible by the private contractor vehicle.

The refuse storage area will be sufficiently sized to accommodate the anticipated refuse generation of the development.

**3. Air Quality and Noise**

*3.1 The development proposes multiple uses that have the potential to include air and noise emissions and are located within 100m of sensitive zoning and uses on the opposite side of Royal Esplanade. Limited information has been provided to demonstrate that the development can achieve relevant air quality and noise criteria in the Specialised centre code.*

- a. Provide detailed information on all relevant activities (e.g. fibreglassing, sanding, grinding, spray painting, abrasive blasting, repair of marine engines, or other boat construction/maintenance tasks) to be undertaken as part of the Marine industry use and demonstrate how this complies with relevant air quality criteria under AO3.1 / PO3 of the Specialised centre code;*
- b. Provide an assessment of the specific marine industry activities proposed on-site that may generate noise and demonstrate how this aspect complies with AO2 / PO2 the Specialised centre code;*
- c. Clarify the intended hours of operation for the proposed uses and demonstrate how this achieves the outcomes under AO2 / PO2 the Specialised centre code;*
- d. Submit further information outlining whether a power generator / fuel burning (e.g. gas boiler that involves fuel burning) is proposed. Such information is to include maximum fuel burning capacity in MW; potential hours of use, type and quantity of fuel stored, air quality controls and type of engine.*

**Response:**

Item 3.1(a)-(b)



In response to Council's request, please refer to the **attached** Air Quality Assessment prepared by Katestone which includes an assessment of the proposed activities against the air quality criteria. Overall, the assessment found compliance with AO3 / PO3 of the Specialised centre code can be achieved.

Item 3.1(c)

Please refer to the **attached** Noise Impact Assessment prepared by Acoustic Works which clarifies the intended hours of operation for the proposed uses and demonstrate how this achieves the outcomes under AO2 / PO2 of the Specialised centre code.

Item 3.1(d)

In response to Item 3.1(d), the Applicant confirms no fuel burning and/or power generators are proposed to be used.

#### **4. Stormwater**

- 4.1 *The existing car park is a low point which drains east through the site via underground pipes and an overland flow path.*  
*Provide additional information to address the following and to demonstrate compliance with AO1 / PO1 of the Stormwater code is required to address the following:*
- a. *Provide details of existing and proposed stormwater infrastructure and include calculations to demonstrate that the development does not result in adverse discharge impacts;*
  - b. *Demonstrate that the location of the proposed development does not block the existing flow path and cause additional stormwater issues in the carpark or to the north of the site area;*
  - c. *Provide additional information to demonstrate the existing 750 mm diameter stormwater pipe has capacity for additional roof area run-off;*
  - d. *The existing stormwater pipe takes flows from the upslope catchment west of Royal Esplanade. Demonstrate that calculations include the external stormwater catchment and does not cause stormwater impacts to Royal Esplanade;*
  - e. *Provide a flow path through the site towards the east to mitigate any adverse stormwater impacts.*

**Response:**

Please refer to the **attached** Civil RFI Response prepared by Sparks & Partners which addresses the above items and includes an updated Stormwater Management Plan.

#### **5. Landscaping and Existing Vegetation**

- 5.1 *The proposal plans indicate landscaping outcomes across the site however further information regarding the existing and proposed landscaping is required to fully assess these outcomes against the relevant provisions of the Specialised centre code and Landscape works code.*  
*Provide a Landscape concept plan to address the following;*
- a. *Areas of deep planting (both existing and proposed) capable of supporting large subtropical shade trees including appropriate dimensions and total site area in accordance with AO31.1 / PO31 of the Specialised centre code*
  - b. *Demonstrate shade tree planting or retention of shade trees within the car parking area that support shading for pedestrians and improve the urban landscape amenity in accordance with AO32 / PO32 of the Specialised centre code*
  - c. *Details of a planting palette that details the selected plant species including planting densities and stock sizes in accordance with AO7 / PO7 of the Landscape works code;*
  - d. *Detail how the proposal will achieve water sensitive design measures as outlined in AO12 / PO12 of the Landscape work code;*
  - e. *Provide confirmation from qualified Arborist that the proposed extent of works within the nominal root zone of the retained tree near the 'Existing Timber Deck' will not impact the health and long-term viability of this tree.*



**Response:**

Please refer to the **attached** Landscape Concept Plan prepared by Place Design Group which addresses Item 5.1 and includes a response to each of the performance outcomes / acceptable outcomes raised above. The outcomes are broadly summarised below.

Item 5.1(a)

Compliance with AO31.1 / PO31 of the Specialised centre code is achieved through the provision of deep planting areas throughout the site, including at the front of the buildings and proposed carpark deck. The design has also allowed for the retention of the existing large fig tree on the water's edge to the east of the site, as well as the retention of established trees on the northern site boundary.

Item 5.1(b)

Compliance with AO32 / PO32 of the Specialised centre code is achieved through the inclusion of deep planting around the carpark boundaries. Further, the inclusion of the carpark deck will provide additional shade for pedestrian movement through the carpark.

Item 5.1(c)

Compliance with AO7 / PO7 of the Landscape works code is demonstrated through the planting selection shown on the Landscape Concept Plan.

Item 5.1(d)

Compliance with AO12 / PO12 of the Landscape work code is achieved through subsoil drainage to new planting areas which connect to stormwater and drainage layers to plant pots or podium planting containers. Irrigation for new planted areas will first use rainwater collected onsite before using mains water. Pervious areas will also offer passive drainage opportunities and reduce stormwater runoff.

Item 5.1(e)

Please refer to the **attached** Arborist Report prepared by Green by Nature which confirms proposed extent of works within the nominal root zone of the retained tree near the 'Existing Timber Deck' will not impact the health and long-term viability of this tree.

**6. Environmentally Relevant Activity**

*6.1 The subject site contains an existing Environmentally Relevant Activity (ERA) 49 approval. Based on the information submitted, it is unclear whether the proposed development is consistent with the current ERA, or whether the proposal represents an intensification of the approved ERA activities.*

- a. Please provide further information clarifying whether the proposed development results in any intensification of the approved ERA 49 activity on the site.*

**Response:**

In response to Council's request, the Applicant confirms this development is intended to operate under the existing Environmental Authority (A006509623) over the Site and will not intensify the approved ERA.

**7. Stormwater Quality**

*7.1 A Stormwater Quality Management Plan has been submitted however, the associated MUSIC model file has not been submitted.*



a. *Submit a digital copy of the MUSIC modelling file*

**Response:**

In response to Council's request, please refer to the **attached** Civil Engineering RFI Response which includes a digital copy of the MUSIC modelling file.

**8. Pedestrian Accessibility**

8.1 *The proposal plans do not demonstrate a designated pedestrian pathway that links the proposed uses with the streetscape. Further to this, it is unclear how the development supports pedestrian movement along the water's edge.*

- a. *Provide amended plans which demonstrate a pedestrian path connection that links the proposed uses on site to the streetscape in accordance with AO27.3 / PO27 of the Specialised centre code*
- b. *Provide amended plans clearly showing the pedestrian access along the waterfront in accordance with AO47 / PO47 of the Specialised centre code.*

**Response:**

Item 8.1(a)

In response to Council's request, please refer to the **attached** Revised Architectural Plans which demonstrate a pedestrian connection to Royal Esplanade in accordance with AO27.3 / PO27 of the Specialised centre code.

Item 8.1(b)

In response to Item 8.1(b), it is firstly noted AO47/PO47 relate to public access and publicly accessible areas. In this instance, the entire development area is held under a private lease between DTMR and the Applicant, who therefore has a right to occupy the entire premises including the foreshore. The lease terms have been reviewed and do not require the tenant to provide public pedestrian access along the water's edge.

Notwithstanding, the Revised Architectural Plans show pedestrian access to the waterfront is available for visitors to the site by way of the proposed deck / tiled area around the commercial buildings. No pedestrian access is proposed around the industrial tenancies and boat stackers due to potential conflict between vehicle and equipment / machinery and pedestrians, which could have significant safety risks.

The deck / tiled area, combined with the connection to Royal Esplanade detailed in response to Item 8.1(b) above, provides a legible pedestrian route within the site that connects the proposed uses to the marina without traversing the operationally constrained areas of the water's edge.

On that basis, it is considered the sufficient pedestrian access is provided around the building to satisfy the intent of PO47 of the Specialised centre code.

**Summary of Changes**

In considering Council's information request and responding to the matters raised, some changes have been made to the development application. The changes can be summarized as follows:

**Land use allocation**



- The upper level bistro has been renamed from “Club” to “Food and drink outlet” (Item 1.1). The office associated with the Club has also been renamed to “Office” to more appropriately reflect the intent for that space.
- The “shop” tenancies have been further refined to “Shop” or “Shop/Office” or “Port service” to better reflect the intent for future tenants (Item 1.2);
- The “Port service” use is proposed to be included over the “Marine industry” tenancies for completeness only to remove ambiguity noting the similarities in those land use definitions.

It is also noted there has been a slight increase in gross floor area (only +2m<sup>2</sup>) which can be attributed to a rounding error on the plans previously submitted. The GFA has been updated on the proposal plans accordingly.

**Carparking and refuse**

- A single level carparking deck has been introduced to accommodate additional carparking demand (Item 2.1). This will result in an overall provision of 148 carparking spaces, generally consistent with the existing arrangements. The carparking layout at ground level has been amended accordingly to allow for the new ramp to the upper level of the carpark and relocate the PWD spaces.
- Refuse has been relocated to the southern side of the existing boat stackers in accordance with the existing arrangements.

**Building materials**

- There have also been some minor tweaks to the proposed building materials in response to the evolution of the design.

**Assessment Benchmarks**

It is noted the changes outlined above do not introduce any additional assessment benchmarks to the application, beyond what already forms part of the assessment. Some commentary is provided in respect of the proposed changes and the relevant code outcomes as follows.

PO6 of the Specialised centre code (complementary uses)

As identified in response to Items 1.1 and 1.2 above, the proposed Office/Shop tenancies will include marina-related tenancies which would satisfy PO6/AO6.

The proposed Food and drink outlets are considered to satisfy PO6/PO6 on the basis that:

- The tenancies have been designed and located in a manner which will serve persons visiting the marina precinct, including boat owners, vessel users, marina staff, and patrons of the maritime facilities.
- The physical integration of the tenancies within the mixed use marina-focused development is such that they are not independently accessible from a public street or from areas outside the marina. Access to the tenancies is achieved via the internal circulation of the site, reinforcing its operational dependence on the primary marina use.
- The tenancies are relatively small-scale, at less than 300m<sup>2</sup> GFA each and as such are not anticipated to attract significant patronage independent of the marina activities.
- The tenancies provide distinct offerings, with substantially different operating hours and as such are not anticipated to generate cumulative patronage of a scale or character that would attract visitors independent of the marina activities, compete with or compromise the commercial role and function of nearby centre activities, or give rise to amenity impacts inconsistent with the operational nature of the marina precinct.

For these reasons, it is considered the proposed complementary uses satisfy PO6.

PO28 of the Specialised centre code (carparking)

It is noted the proposed carpark deck is in front of the building which may warrant further consideration against AO28.3 and AO28.6. Overall, it is considered the proposal complies with these provisions and satisfies PO28 on the basis that:

- The carparking deck has been designed to incorporate significant landscaping along the street frontage to minimize visual impacts and provide screening to the adjacent dwellings. This is detailed in the Landscape Concept Plan.
- The deck is located within an existing carpark area and is therefore consistent with community expectations for where carparking would be located on this site.
- The deck is a single level only and less than the height of the proposed buildings, and well below the height of the existing boat stackers.
- The ramp is located internally to the site and away from the street.

PO29 of the Specialised centre code (refuse)

Whilst the refuse area has been relocated, it is still within the private lease area and will be unobtrusive, and located away from sensitive uses to minimize potential for amenity impacts. On that basis, compliance with PO29 is achieved.

AO46 of the Specialised centre code (complementary office)

The proposed development complies with AO46 which prescribes a maximum of 250m<sup>2</sup> GFA for offices in the Marina zone precinct. The total of all proposed office tenancies are within this maximum and all tenants will be complementary to the marina activities as outlined in response to Item 1.1 and 1.2 above.

AO14.1-AO14.2 of the Transport, access, parking and servicing code (car parking)

It is acknowledged the proposed changes include changes to land uses which have different carparking rates under the TAPS PSP. However, as demonstrated in response to Item 2.1 above, the proposed development provides for a number of car parking spaces on site equalling the sum of the maximum design peak parking demand for the individual uses at any point in time in compliance with AO14.1 of the TAPS Code.

Further, the proposal is for a mixed use development which provides for shared carparking across all land uses in compliance with AO14.2 of the TAPS Code.

## **Assessment of Changes and Effect on Development Assessment Process**

It is considered all proposed changes are either made in direct response to Council's information request under section 26.1(b) of the DA Rules or are consistent with the definition of a "minor change" under Schedule 2 of the Planning Act. On this basis, in accordance with section 26.1 of the DA Rules and section 52(4) of the Planning Act, the development assessment process should not stop.

A response to the "minor change" criteria is set out below with regard to the definition under Schedule 2 of the Planning Act.

**Minor change** means a change that

- (a) for a development application—
  - (ii) does not result in substantially different development; and

**N/A - Refer Table 1 below.**

- (ii) if the application, including the change, were made when the change is made—would not cause—



(A) the inclusion of prohibited development in the application; or

**N/A - the changes would not introduce prohibited development.**

(B) referral to a referral agency if there were no referral agencies for the development application; or

**N/A - the only referral agency was Energex (who did not have any requirements) and the changes would not introduce any new referrals.**

(C) referral to extra referral agencies; or

**N/A - the change would not introduce any new referrals.**

(D) a referral agency, in assessing the application under section 55(2), to assess the application against, or have regard to, a matter, other than a matter the referral agency must have assessed the application against, or had regard to, when the application was made; or

**N/A - the only referral agency was Energex and the change would not introduce any new assessment matters, particularly since Energex’s easements are located entirely away from the proposed development area and the changes are not proposing to extend the development footprint to be within any of the easement area/s.**

(E) public notification if public notification was not required for the development application; or

**N/A - the only change which has resulted in public notification being required was the amendment of the bistro to be “Food and drink outlet” instead of “Club” which was in direct response to Item 1.1(b) of Council’s information request. Therefore, this change does not form part of the changes which are being assessed against the minor change criteria. It is noted the other proposed changes would not result in public notification being required.**

<b>TABLE 1: SUBSTANTIALLY DIFFERENT DEVELOPMENT ASSESSMENT</b>	
<b>Guideline Criteria</b>	<b>Comment</b>
Involves a new use	Please refer to the further detail after this table.
Results in the application applying to a new parcel of land	No new land parcels are proposed to be introduced. The application remains over Lot 686 on SP172860.
Dramatically changes the built form in terms of scale, bulk and appearance	<p>The changes do not dramatically change the built form in terms of scale, bulk and appearance noting the overall positioning of the buildings, building height and gross floor area remains materially the same.</p> <p>The introduction of the deck carpark is considered to be ancillary, visually recessive, and consistent with the established built form hierarchy on the site. In particular:</p> <ul style="list-style-type: none"> <li>▪ The carpark is a single level and lower than the maximum height proposed as part of the new buildings which are up to 2 storeys. It is also significantly lower than the existing 4-storey dry stacker.</li> <li>▪ It is within the footprint of the existing at-grade carpark and will be an open-air structure with limited visual mass compared to an enclosed building.</li> </ul>



**TABLE 1: SUBSTANTIALLY DIFFERENT DEVELOPMENT ASSESSMENT**

Guideline Criteria	Comment
	<ul style="list-style-type: none"> <li>▪ It will be entirely screened by the existing landscaping along the street frontage as detailed on the Landscape Concept Plan.</li> </ul>
Changes the ability of the proposed development to operate as intended	The changes would not impact on the ability of the development to operate as intended. The site will continue to operate as a marina with complementary activities as intended by the development application and consistent with the intent of the Marina zone precinct of the Specialised centre zone.
Removes a component that is integral to the operation of the development	The changes would not remove any components which are integral to the operation of the development. The development remains for mixed use activities and associated carparking which directly support the marina.
Significantly impacts on traffic flow and the transport network, such as increasing traffic to the site.	<p>The changes would not significantly impact on traffic flow and the transport network, such as increasing traffic to the site, particularly noting:</p> <ul style="list-style-type: none"> <li>▪ The GFA is materially the same as lodged (except for +2m<sup>2</sup> rounding error).</li> <li>▪ The proposed carparking provision has been demonstrated to be suitable for the site as per the Traffic Impact Assessment.</li> <li>▪ In respect to the uses proposed to be introduced to the application, there is no prescribed carparking rate for a Port service use, and Office uses have a lower carparking rate than Shops. As such, these uses would not introduce any additional demand.</li> </ul> <p>The proposed deck will increase the overall provision of carparking on the Site compared to the existing Site circumstances and the development application as lodged.</p>
Introduces new impacts or increased the severity of known impacts	<p>It is not considered that the changes would introduce any new impacts or the severity of known impacts.</p> <p>Impacts associated with the introduction of the Office and/or Port service use have been assessed as part of the uses originally proposed and the new single level carpark is not anticipated to have any adverse impacts for the reasons stated earlier in this table.</p> <p>The carpark deck will be entirely located within the Site and screened by landscaping to minimise impacts to the street and adjacent properties. The proposed arrangement will provide an increase in carparking availability compared to the application as made. It is also noted there is substantial vegetation adjacent the site which would provide screening to the adjacent residential properties.</p>
Removes an incentive or offset component that would have balanced impact of the development	No incentives or offset components formed part of the development application.
Impacts on infrastructure provision	The changes would not impact on the delivery of any infrastructure. The site will be appropriately serviced as



**TABLE 1: SUBSTANTIALLY DIFFERENT DEVELOPMENT ASSESSMENT**

Guideline Criteria	Comment
	required. No LGIP items have been identified on the site which would be impacted by the changes.

Involves a new use

The Applicant submits the inclusion of “Port service” and “Office” uses has arisen through responding to the matters raised by Council, however for the avoidance of doubt also submits the following information for Council’s consideration.

First, it is noted the criteria in schedule 1(4) of the DA Rules relate to matters where a change “may” be considered substantially different. The use of the term “may” is relevant and indicates the listed circumstances do not automatically result in a change being considered substantially different. Rather, they identify situations that *could* indicate a substantially different development depending on the specific context.

**Office**

It is considered the inclusion of the “Office” use would not result in a substantially different development given the following key facts and circumstances:

- The use does not involve alterations to the land, built form or other matters which could cause the development to be considered “substantially different”.
- The use is proposed to be introduced in a space already noted as Office, or to provide flexibility within Shop tenancies which were already proposed in the application.
- This use is anticipated in the zone and is accepted development, subject to compliance within an existing building. As such, hypothetically speaking, after a development approval was issued, there is potential for this use to establish on the Site without requiring any further development approval.
- The inclusion of this use does not introduce any additional assessment benchmarks to the application beyond what has already been triggered by other uses included in the development application. In particular:
  - the Specialised centre code, Specialised centre zone code and any relevant prescribed secondary codes which are identified as being relevant to the use under Table 5.5.26—Specialised centre zone are also relevant to the Shop use; and
  - the Coastal hazard overlay code groups Class 5 and 6 buildings in the same category.
- It is noted AO46 of the Specialised centre code is an acceptable outcome that would become relevant to the assessment. AO46 prescribes “Development of an office is complementary to the marina activities and has a maximum gross floor area of 250m<sup>2</sup>”. Noting the total of all offices is within 250m<sup>2</sup> GFA and will be complementary to the marina activities (as per the response to Item 1.2 above), compliance with AO46 is achieved.

**Port service**

It is considered the addition of the “Port service” use would not result in a substantially different development given the following key facts and circumstances:

- The use does not involve alterations to the land, built form or other matters which could cause the development to be considered “substantially different”.
- The inclusion of this use in the application is for completeness and to remove ambiguity. It does not introduce any new activities beyond what is already either already established on the site or reasonably anticipated under the development application as made.
- It is noted Port service is code assessable and supported in the Marina zone precinct. The primary assessment benchmarks for this use as set out in *Table 5.5.26 - Specialised centre zone* of City Plan 2014 have already been assessed (Industry code, Specialised centre code).



The inclusion of this use would not introduce any new assessment benchmarks to the application.

For these reasons, it is considered the addition of the "Office" or "Port service" uses would not result in the development being "substantially different" to the development application as made.

Overall, it is considered these changes are either made in direct response to Council's information request under section 26.1(b) of the DA Rules or have been demonstrated to be consistent with the definition of "minor change" under Schedule 2 of the Planning Act. On this basis, in accordance with section 26.1 of the DA Rules and section 52(4) of the Planning Act, the development assessment process should not stop.

## **Conclusion**

We advise that this constitutes a full response to Council's information Request under section 13.2(a) of the DA Rules, ending the applicant's response period under Part 3.

Noting the reallocation of the bistro to "Food and drink outlet" will result in an overall gross floor area of more than 250m<sup>2</sup> of Food and drink outlet in the development application, it is understood the development application will be subject to impact assessment and public notification. It is also understood an amended Confirmation Notice is required under section 26.2(a)(i) of the DA Rules.

Should Council require any further clarification please do not hesitate to contact the undersigned on 0458 458 485 or via email [cevans@willowtp.com.au](mailto:cevans@willowtp.com.au).

Yours faithfully,



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