CITY OF GOLDCOAST.

Application Information	
Application Number	OTH/2025/18
Property Address	37 Arthur Street MERMAID BEACH QLD 4218
Application Description	Other Change Application Impact Assessment Other Change to MIN/2024/478 - 37 Arthur Street, MERMAID BEACH QLD 4218
Application Type	Other Change
Lodgement Date	17/04/2025
Status	In Progress - On Public Notification
Appeal rights	Submitters who lodge a properly made submission have appeal rights against Council's decision for this application. The dates in which a submission is considered properly made for this development application are published on the public notification material (property sign, letter notification and newspaper advertisement) for this application. If you require any further information about this application, you can visit Development.i and enter in the property address or application reference number.

Contact Details	
Submitter	Garry Jensen
Email Address	assetcrac@yahoo.com.au
Residential or Business Address Details	40 Tamborine Street, Mermaid Beach, QLD, 4218, Australia

Submitter Acknowledgements	
Time of Lodgement	15/06/2026 18:48
Submitter agrees to the terms and conditions	Accepted
Submitters contact details displayed during assessment phase?	Yes
Customer declaration	Accepted
Number of attachments	1
Submission Arthur Street Garry Jensen.pdf	189.23 KB

Submission Details	
Support or Oppose or Other	Oppose
Grounds	1. Exceeding Building Height 2. Exceeding Residential Density 3. Inconsistencies with Planning Precedent

15 May 2026

Gold Coast City Council
Submission to OTH/2025/18
Lot 23 RP41194
37 Arthur Street, MERMAID BEACH QLD 4218

This submission is in relation to the proposed development application at 37 Arthur Street, Mermaid Beach, QLD 4218, properly known as Lot 23 RP41194. The proposed development application is seeking an other change application to an existing approval for a Material Change of Use for Apartments (4 units) over land at 37 & 37A Arthur Street (Council reference: OTH/2025/18). The site is currently improved by an approved freestanding dwelling.

The proposed development application is for another change seeking 6 residential units, the applicant seeks to implement the 50% building height uplift provision of the strategic framework to accommodate the proposed building height. It is noted that as part of the applicant's response to information request they have proposed a further minor change to the original application material to increase the number of apartments sought from 6 to 7.

Within the council information request, council officers address concerns with the proposed building height outlining that even when considering the provision of the 50% building height uplift as the site is mapped by the Building height overlay with a code compliant height of 2 storeys and 9m, this would represent 3 storeys and 13.5m. Council officers determine that the development therefore presents a non-compliance with the City Plan.
They also Note that if the development is not amended as per the above, officers do not intend on issuing a further advice and will resolve to deciding the application with the material at hand.

Through the applicants response they have still proposed a development that exceeds the 3 storey limit with the 50% uplift provided and therefor the application should be refused. This submission consists of 3 main items that are disputed with the proposed development;

1. Building Height
2. Residential Density
3. Planning Precedent

1. **Proposed Building Height**

As stated, the proposed development is seeking a building that exceeds the permitted building height overlay for the subject site (2 storeys and 9m). Within the minor change component of the information request response the applicant seeks to vary the building height from a proposed 5 storeys to 4 storeys, however this is still in exceedance of the permitted building height even when applying the 50% uplift provision.

The Applicant states that, in recent decisions, Council has recognised that the City Plan's 50% building height uplift provision should not be interpreted as restricting the number of storeys, provided the maximum permissible building height in metres is not exceeded. However it is noted that each application is to be assessed on its own merit and against the provisions of the Planning Scheme, the proposed building height is inconsistent with local character and it is considered that any changes to the way the planning scheme is interpreted is subject to a City Plan review, not through erosion of current City Plan requirements.

The applicant in their information request response provides examples in the 'locality' of similar instances that exceedance of the 50% uplift provision has been approved. However these examples provided differ in context from the proposed development, it is noted that the applications at 2265-2269 Gold Coast Highway and 122 Marines Parade are both in a different height overlay zone to the proposed development and are both of a scale and intensity different to the proposal.
The development at 6 Hilda Street differs from the proposal due to the unique site contour and not an increase for purely commercial intent such as in this proposed development, it is not considered that the increase above the permissible building height is not supported by the proposed examples.

In any instance that an application is seeking to employ the provisions of strategic framework section 3.3.2.1 (9), any increase must satisfy the strategic framework being items (a) to (i). And any sought increase in height to apply this 50% increase must satisfy ALL of the listed items.

An application seeking to utilise any uplift, also needs to demonstrate compliance with the achievement of the 9 specific criteria that enables any uplift. This we note from *Dajen Investments Pty Ltd & Anor v Council of the City of Gold Coast & Anor; Ruffin & others v City of Gold Coast & Anor [2023] QPEC 32* and *McLucas & Ors v Gold Coast City Council & Anor* [2022] QPEC 56 requires **ALL** of the criteria must be satisfied.

This case establishes the clear and unambiguous provision requiring all criteria are to be satisfied.

Council officers in the information request outline that the proposed development does not satisfy the applicable criteria in relation to;

• *reinforce local identity and sense of place*
• *provide a well-managed interface, relationship to and impact on nearby development, including the reasonable amenity expectations of nearby residents*
• *provide a varied, ordered and interesting local skyline*
• *deliberate and distinct built form contrast.*

The applicant in their information response has evaluated the proposed minor change against the uplift criteria, however the proposed development is still inconsistent with all of the above items raised in the information request.

As noted by council officers the development should be amended so that the building does not exceed the 50% increase above the mapped height (which in this instance is 3 storeys not 4 storeys as the applicant has sought with the revised plans). Council provided a statement that if the development is note amended as per the request the application would be decided as is, which is inconsistent with the City Plan and warrants refusal.

We also note the question of assessment of height, the uplift provision and the zone code where heights exceed the maximum uplift is addressed in *Bell Co Pty Ltd & Ors v Council of the City of Gold Coast & Anor* [2022] QPEC 32. This case dealt with a proposed beachfront building in Mermaid Beach that sought an increase in building height above that nominated on the Building Height Overlay Map and the maximum height as potentially available under the uplift provisions. The findings of which state;

'Where the exceedance is greater than 50%, City Plan admits no flexibility. An exceedance of this kind is not supported; it is inconsistent with City Plan.'

The case additionally and importantly states that;

'The significance attached to non-compliance with the building height overlay map is further reinforced by the MDRZC. As paragraphs [35] and [36] *(referring to the provisions of the Medium Density Residential zone code mentioning the building height overlay map)* ***above reveal, the maps, which provide a quantitative standard, are embedded at two levels of the code. First, in an overall outcome. Second, in a Performance outcome, which has no corresponding acceptable outcome.***

Exceedance of the height standard in this circumstance results in clear non-compliance with the MDRZC. That it is a matter of significance in the zone is confirmed by the absence of criteria that allows development departing from the prescribed height standard to secure support in the zone by alternative means. Once this is appreciated, it is not difficult to conclude that the MDRZC is conveying that building height in excess of that stated on the relevant overlay map is not anticipated in the zone.'

The Strategic Framework Section 3.3.2.1(10) states "increases in building height, beyond 50% above the *Building height overlay map*, are **not anticipated** in urban neighbourhoods"

2. **Residential Density**

The proposed development (in its revised form) seeks 7 residential units, it is noted that the subject site is located in the RD4 - Residential Overlay Area. The RD4 area permits up to 50 dwellings per net hectare which equates to 1 dwelling/200m². The subject site has an area of 527m², the proposed 7 dwelling units is well in exceedance of the permitted density which would allow for 2-3 dwellings on the subject site. The applicant states that due to the requested reduction in building height, the increase in number of residential units is required for commercial reasons to make the application feasible, however monetary feasibility is not a planning issue or a justification for inconsistency with the City Plan.

It is noted that the original proposed development was inconsistent with the residential density anticipated for the site, however the revised proposal further increases the inconsistency with the provision of the City Plan.

3. **Planning Precedent**

It is considered that the approval of the proposed development, considering the inconsistencies with the City Plan sets an undesirable precedent for the general character and future applications in the locality. The proposal has a previous approval that has already sought to utilise the strategic framework 50% uplift provision, this proposed development seeks to further increase the number of storeys from that approval.

The proposed development is inconsistent with the City Plan provisions for the site, especially in relation to building height and residential density, this is also inconsistent with the existing and anticipated character in the locality, the proposal seeks to amend an existing approved application that utilised the 50% uplift and further increase the number of storeys (beyond the permitted height with the uplift), there are a number of existing applications in the locality with the 50% uplift applied to reach 3 storeys, that could seek to utilise this application as precedence to add an additional storey.

4. Conclusion

The proposed development is a clear over height and over dense development of the site that is inconsistent with the provisions of the City Plan and in conflict with the strategic framework and relevant zone provisions. This conflict is inconsistent with reasonable expectations for development in the Mermaid Beach locality from adjoining residents and the larger community under the Planning Scheme.

The applicant seeks to justify the proposed development especially in regards to building height through a provision of the strategic framework that allows for an uplift on the building height. The provision s3.3.2.1(9) is a measured instrument in the scheme providing clear limits on any uplift in height and in meters and benchmarks that must be satisfied to enable any uplift.

As outlined, council officers outlined that the development should be amended so that the building does not exceed the 50% increase above the mapped height (which in this instance is 3 storeys not 4 storeys as the applicant has sought with the revised plans). The applicant failed to amend the application in accordance with the requirements and therefor should be refused.

There is an existing approval on the subject site which has utilised the strategic building height uplift and reached what is considered the maximum development of the site, the applicant is seeking to further amend the proposal to increase the number of storeys and number of units for purely commercial purposes.

The development as proposed is in clear conflict with the expectations and outcomes envisaged within the City Plan for orderly development and appropriate development of this property.

The application is not able to be changed or conditioned to avoid the conflict with the scheme. There are no other relevant matters which would enable the proposal to be approved.

Yours Sincerely,

Garry Jensen
40 Tamborine Street, Mermaid Beach 4218 QLD

Signature: Garry Jensen