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The General Manager,  
Queanbeyan-Palerang Regional Council,  
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QUEANBEYAN NSW 2620

20 February 2018

Dear Sir/Madam,

**Application to Modify DA-100-2012 Pursuant to Section 96(2)**  
**Minor Internal Alterations to Approved Seniors Living Development at**  
**No.111 Campbell Street, 18 George Street and No.50 Canberra Avenue, Queanbeyan**

**1. Introduction and Background**

This correspondence accompanies an application to modify Development Consent DA100-2012/B pursuant to Section 96(2) of the *Environmental Planning and Assessment Act 1979* for the property at No.111 Campbell Street, No. 18 George Street and No.50 Canberra Avenue, Queanbeyan within the ownership of Warrigal.

Development Consent DA-100/2012, which was originally issued on 9 November 2012, granted consent to the "Demolition of existing aged care facility, five independent living units and three detached garages, construction of new 125 bed aged care facility (Housing for aged or disabled people)." On 13 November 2013 Council granted consent to DA 100-2012/A, which endorsed amendment the layout of the basement, carparking, courtyards, rooms, fire stairs and landscaping. Consent was granted to a further modification (DA 100-2012/B) on 28 July 2017 with this modification endorsing relocation of the roof level plantrooms, incorporation of a pitched roof, and other minor changes.

Warrigal are now seeking to submit a further section 96(2) amendment to incorporate 8 additional resident suites and to reduce the number of resident rooms from 125 to 124. The additional rooms will result in an increase in the building area of 138m<sup>2</sup>, with minimal changes to setbacks.

A further modification to the approved development is now sought, pursuant to section 96(2) of the Environmental Planning and Assessment (EPA) Act, 1979 to incorporate eight (8) additional resident suites and to reduce the number of resident rooms from 125 to 124 rooms, thereby increasing the overall number of rooms from 125 to 132. The additional rooms will result in an increase in the building area of 138m<sup>2</sup>. This change in configuration will be accommodated principally within the existing approved building footprint, with minimal changes to setbacks or building height.

This correspondence addresses the key planning criteria relating to the modified components of the approved development.

## 2. Subject Site

The subject site comprises three allotments referenced as No.111 Campbell Street (Lot A DP 33538), No. 18 George Street (Lot 1 DP 774149) and No.50 Canberra Avenue, Queanbeyan (Lot 2 DP 739287), which has a combined area of 18,603m<sup>2</sup>. The proposed modification relates to the approved residential care facility, which is located in the eastern portion of the site. The overall site contains a state listed heritage item know as 'Kawaree'. Further, the site fronts and has approved vehicular access to Canberra Ave, which is a designated arterial road. The location of the subject site is shown in the aerial photo provided in **Figure 1**.



**Figure 1:** Aerial photo showing that part of the total site which is subject to the S96(2) modification (Source: <https://maps.six.nsw.gov.au/>)

## 3. Description of Proposed Modification and Associated Plans/Documents

This modification is accompanied by the following plans and documents which reflect the above proposed changes:

- Architectural Plans prepared by Hodges Shorten Architects Pty Ltd (Project No. 2431, Dwg 04, 05, 07, 08, 09, 10, 13 dated 17.01.18);
- Correspondence outlining changes to drawings dated 15.01.18 prepared by Hodges Shorten Architects.

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**Development Proposal**

The proposed changes are depicted on the architectural plans prepared by Hodges Shorten Architects) and are generally described as follows:

- 1. Introduction of 8 resident suites. These suites are designed to provide additional living space for residents but do not alter the function of these rooms. These rooms will feature a divided bedroom and living area, however, are not provided with a full kitchen or washing facilities and are therefore not defined as self contained dwellings.
- 2. Reduction in the number of residential 'studio style' rooms from 125 to 124 beds.
- 3. Therefore an overall increase in seniors accommodation from 125 to 132 rooms.
- 4. These changes are accommodated within the internal building area as follows:
  - a. Reduction in internal atrium area;
  - b. Reduction in internal terrace on first floor.
- 5. Slight reduction to some recessed portions of the building on the southern elevation. Drawing No. 2431.DA07 and Drawing No. 2431.DA08 demonstrate the changes to the recessed portions where setbacks have been reduced. The minimum setback at this southern elevation remains unchanged at 6.0m. Table 1 summarises the setbacks where changes are proposed only:
- 6. Rearrangement of the internal layout of communal areas and facilities within the ground floor and first floor to accommodate the additional rooms.
- 7. As a result of the above internal floor area alterations, the overall building floor area will increase by 138m<sup>2</sup>.
- 8. Minor adjustments in roof to align with walls and terraces below.
- 9. Minor adjustment to facade treatment and windows facing Canberra Avenue.
- 10. Adjustment to pedestrian ramp and stair along Canberra Avenue.
- 11. Adjustments to layout of external terraces along Canberra Avenue.
- 12. Addition of ground floor courtyard for Suite A23 screened by landscaping facing an internal road.
- 13. No change to the basement is proposed

**Table 1** over details the key quantitative modifications proposed.

**Table 1: Key Proposed Modifications to Approved Seniors Housing Development**

	As Approved DA-100-2012	Approved S96 Modification DA-100-2012/B	Proposed S96 Modification 2018
<b>Overall</b>			
<b>No. Rooms</b>	125 x 1 bed rooms	No change (125 x 1 bed rooms)	Increase to 132 rooms ie: 124 x 1 bed rooms; and 8 x 1 bed suites (3 at ground floor and 5 at first floor)
<b>Floor Space Ratio</b>	1:1	No change 1:1 (excluding basement)	Increased building area of 138m <sup>2</sup> . Total ACF Floor area of 6,734m <sup>2</sup> (excluding basement) - <i>calculated as per current LEP definition</i> . Remains consistent with approved 1:1 FSR for ACF.
<b>Max Height to Roof</b>	Max 8900mm (to parapet)	Max 9050mm (to eaves)	No change
<b>Carparking and Access</b>			
<b>Car Spaces</b>	Total 95 on the site (with 55 spaces in the basement)	No change (95 spaces on site, with 55 in basement)	No change (95 spaces, with 55 in basement)
	2 disabled spaces	No change (2 disabled spaces)	No change (2 disabled spaces)
<b>Access</b>	Driveway entry from west of building off Canberra Ave.	No change	No change
<b>Basement Level</b>			
<b>General</b>		329m <sup>2</sup> reduction in footprint	No change
<b>Finished Floor Level</b>	RL579.7 & 587.7	No change (RL579.7 & 587.7)	No change (RL579.7 & 587.7)
<b>Rear Setbacks</b>	Min 3.8m to northern boundary.	Minor change - minimum setback of 2.8m.	No change
<b>Front Setback</b>	Minimum front setback of 5.5m to Canberra Ave	No reduction other than fire stair, with a setback of 5.2m.	No change
<b>Ground Floor Level</b>			
<b>Finished Floor Level</b>	RL582.7	No change (RL 582.7)	No change
<b>Rear Setbacks</b>	Min 3.8m to northern boundary.	Minor changes - generally 3.8m.	No change
<b>Front Setback</b>	Minimum front setback of 5.5m to Canberra Ave	No reduction with the exception of minor reduction in setback of 'recessed' areas (from 9.2m to 7.5m) and fire stair.	No reduction (min 6.0m) with the exception of minor reduction in setback of 'recessed' areas (Refer table 3 for details of recessed setbacks).
<b>First Floor Levels</b>			
<b>Finished Floor Level</b>	RL 585.9	Increased by 200mm to RL 586.1	No change RL 586.1
<b>Ceiling Level</b>	RL 588.9	Reduced by 100mm to RL 588.8.	No change RL 588.8
<b>Rear Setbacks</b>	Min 3.8m to northern boundary.	Minor changes with a min setback of 3.8m.	No change
<b>Front Setback</b>	Minimum front setback of 7.5m to Canberra Ave	No reduction (min 6.0m) with the exception of minor reduction in setback of 'recessed' areas (from 9.2m to 7.5m).	No reduction (min 6.0m) with the exception of minor reduction in setback of 'recessed' areas (Refer table 3 for details of recessed setbacks).
<b>Roof Level</b>			
<b>Plant Rooms</b>	3 plant rooms	1 open screened plant area	No change

#### **4. Section 96(2) of the Environmental Planning and Assessment Act 1979**

This application seeks modification of Development Consent DA-100/2012/A pursuant to Section 96(2) of the Environmental Planning and Assessment Act 1979 which states:

##### (2) Other modifications

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1) and (1A) do not apply to such a modification.

#### **Substantially the Same Development Test: Quantitative and Qualitative Comparison/Threshold of Proposed Modification and Associated Impacts**

Guidance on the assessment of whether a proposed modification of an approved development is found in *Moto Projects (No. 2) Pty Limited v North Sydney Council* [1999] NSWLEC 280; (1999) 106 LGERA 298, where, at paras 55 and 56, Bignold J described the process for consideration of proposed modification of development as follows:

*"55. The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is "essentially or materially" the same as the (currently) approved development.*

*56. The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted)."*

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It is clear from *Moto* that there are two elements to be determined, they are a qualitative and a quantitative assessment of whether the modified development would be one that is *substantially the same development* as that originally approved.

In this respect it is noted that Council has endorsed the construction of 'seniors housing' on the site in issuing DA-100/2012. The proposed modification does not seek to alter the use carried out on the site (the construction of a new aged care facility contained within 1 building) and varies the approved internal building footprint to only a minor degree. The overall bulk and scale of the development will be comparable to the approved development and the changes to the building provide improved design outcomes as a result of accommodating a more functional internal arrangement through greater diversity in living arrangement for residents.

The following fundamental components of the development are unaltered or altered to only a minor degree as a result of the proposed S96(2) modification from that which was approved pursuant to DA-100/2012:

- Minor increase in the number of rooms within the building from 125 to 132;
- Minor change to the existing building footprint with no change to the general positioning of buildings on the site. This minor change to the building footprint is limited to recessed portions of the building where the minimum 6.0m setback to Canberra Avenue remaining unchanged;
- No change to the number of buildings on the site;
- No change to the overall building height;
- Minor changes to the roof to align with rearranged floor and terrace layout below;
- No change to the number of parking spaces, disabled spaces, access location or waste collection arrangements.

Having considered the quantitative and qualitative changes, it is considered that the proposed modified development will be 'essentially or materially' the same as the development approved by DA-100/2012. The use of the site for seniors living development, in the form of a residential care facility comprising a single building will remain unchanged. The proposed amendments to the internal configuration and external components of the building and the minor alteration to the building footprint and number of rooms do not alter the essential or material nature of the approved development. Therefore, it is clear that the consideration of '*substantially the same development*' test, required by Section 96(2)(a) is passed. There is no legal impediment to Council determining the proposed section 96(2) modification application.

### **Conditions Imposed**

Section 96(2) of the EP&A Act requires that Council must consider any objection to the modification where consultation with the relevant Minister, public authority or approval body as detailed in the clause is required in relation to the consent or in accordance with the general terms of the approval. This will be determined by Council in its assessment of the application for the proposed modification. The consent is an 'Integrated' consent which contains the General terms of Approval from the NSW Office of Environment and Heritage (heritage Council) and therefore re-referral will be required to be undertaken by Council.

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### **Matters Referred to in Section 79C (1)**

Section 96 of the EP&A Act requires that Council must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application. These matters are discussed in **Section 5-9** of this modification request and will be further considered by Council in its assessment of the proposed modification.

## **5. Relevant Provisions of Environmental Planning and Assessment Act, 1979**

### **Section 91A of EPA Act - Integrated development**

Integrated development is development (not being State significant development or complying development) that, in order for it to be carried out, requires development consent and one or more of the approvals from certain State legislation, as listed in Section 91 of the EPA Act, 1979. The proposed modification, as with the original development consent, is classified as 'Integrated Development' as it contains an item of environmental heritage (state listed). Referrals to the NSW Office of Environment and Heritage is therefore required.

## **6. State Environmental Planning Policies (SEPPs)**

### **SEPP (Infrastructure) 2007**

Clause 101 relates to 'Development with frontage to classified road' and subclause (2)(a) requires vehicular access to a road other than the classified road. Clause 101 (2)(c) requires the consent authority to be satisfied that the development *"is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road."* The proposed modification to the building does not make any changes to the access arrangements for the subject site, will not increase the traffic movements from the approved development consent and will not result in an increase in amenity impacts to residents as a result of traffic noise. There will be no reduction in the 6.0m setback to Canberra Ave to resident rooms. This Clause is therefore considered to be satisfied.

### **SEPP (Housing for Seniors or People with a Disability)- 'SEPP Seniors'**

The SEPP applies to the modification, being for the purposes of amending the existing consent in relation to a 125 bed residential aged care facility (seniors housing).

In this Policy, seniors housing is *'residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of:*

- (a) a residential care facility, or*
  - (b) a hostel, or*
  - (c) a group of self-contained dwellings, or*
  - (d) a combination of these,*
- but does not include a hospital.*

The Seniors Living SEPP applies to the proposed development as the land is zoned R2 Low Density Residential and Seniors Housing is permissible with consent on land within this zone. The subject building is most appropriately defined as a 'residential care facility' which is:

*"residential accommodation for seniors or people with a disability that includes:*

- (a) meals and cleaning services, and*

- (b) personal care or nursing care, or both, and
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility."

The manner in which the proposed development addresses the requirements of Chapter 3 (Development for Seniors housing) of the SEPP is addressed in Table 2.

**Table 2: Compliance with Chapter 3: Development for Seniors**

Clause	Issue	Key Design Principle/Criteria	Proposed	Compliance
<b>Part 1A - Site Compatibility Certificates</b>				
<b>24</b>	<b>Site Compatibility Certificates</b>	Residents must have access to certain facilities (namely shops, banks, recreation facilities, general medical practitioner).	Development Consent D100/2012 was not the subject of a Site Compatibility Certificate, nor does the modification require such.	No change
<b>Part 2 - Site Related requirements</b>				
<b>26</b>	<b>Location and Access to Facilities</b>	Access required to facilities (namely shops, banks, recreation facilities, general medical practitioner) by written evidence. Access to be at required gradient and within 400m or by transport service at required frequency.	No change to the access by residents to services and facilities.	No change
<b>28</b>	<b>Water and Sewer</b>	Written evidence of connection to a reticulated water system and adequate facilities for removal or disposal of sewage.	No change to servicing requirements.	No change
<b>Part 3 - Design Requirements</b>				
<b>33</b>	<b>Neighbourhood Amenity and streetscape</b>	Address current character and proximity to heritage items. Setbacks to reduce bulk and overshadowing. Heights compatible in scale with adjacent development. Front building setback in sympathy with existing building line. Planting in sympathy with existing and retain major trees.	The external appearance of the building is changing only to a minor degree. Landscaping species and tree removal will be unaltered as a result of the modification. There will be no change to the height of the building, with a pitched roof previously approved under DA 100-2012/B. The front setback to Canberra Ave will not reduce below the approved 6m.	Addressed
<b>34</b>	<b>Visual and Acoustic Privacy</b>	Consider the visual and acoustic privacy of neighbours. Locate bedrooms of new dwellings away from driveways, parking areas and paths.	The positioning of the building is unaltered. The terraces adjacent to Canberra Ave will be maintained, with comparative setbacks to the front property boundary. Room A24 and A25 will utilise the approved terrace space adjacent to Canberra Ave for private open space purposes, however such terraces will provide comparative setbacks to the approved terraces and will also feature landscaping to provide screening. Room A23 will feature a courtyard facing an internal road, however this will be screened with the use of landscaping. The addition of 7 beds will not significantly increase the intensity of the site of an existing approved 125 bed facility.	Addressed



35	<b>Solar Access and Design for Climate</b>	Adequate sunlight required to main living areas and private open space of neighbours. Locate windows of living and dining areas north.	Overshadowing of neighbours is not anticipated to increase as there will be no change to the positioning or height of the building.	Addressed
36	<b>Stormwater</b>	Minimise hard surface to address stormwater runoff on adjoining properties. Include on-site stormwater detention or re-use.	No change to stormwater arrangements.	No change
37	<b>Crime Prevention</b>	Facilitate observation of dwelling entry from inside dwelling and allow observation public areas. Provide locked shared areas.	New resident suites will allow for additional surveillance over Canberra Ave.	Addressed
38	<b>Accessibility</b>	Provide obvious and safe pedestrian links from the site to services/transport and parking.	No change to access to services outside of site and to carparking at the basement level.	No change
39	<b>Waste Management</b>	Provided waste facilities that maximise recycling.	Waste will continue to be stored at the basement level and collected from the eastern driveway	No change
<b>Part 4: Development Standards to be Complied With</b>				
40	<b>Site size</b>	Minimum site area = 1,000m <sup>2</sup>	Total site area of 18,603m <sup>2</sup> , with the sites containing the ACF estimated to have an area of 7001m <sup>2</sup> .	No change
	<b>Site frontage</b>	Minimum 20m frontage at building line.	Frontage to Canberra Ave of approx. 140m and 60m to Campbell Street.	No change
	<b>Height in zones where residential flat buildings are not permitted</b>	<ul style="list-style-type: none"> <li>All buildings - 8m or less;</li> <li>Buildings adjacent to boundary - max 2 storeys;</li> <li>Buildings located in rear 25% of site - max. 1 storey in height.</li> </ul>	Residential flat buildings are not permissible in the R2 Low Density zone which now applies to the site. However, the height of the building is unchanged from that approved pursuant to DA 100-2012/B and remains at a maximum of 9.75m.	No change
<b>Part 7: Development Standards that Cannot be Used as Grounds to Refuse Consent</b>				
47	<b>Heritage Affected Land</b>	This Part does not apply to development on land to which an interim heritage order or listing on the State Heritage Register under the Heritage Act 1977 applies.	The overall site referenced in DA100-2012/B contains a heritage item of State Significance (18 George Street) known as a "Dwelling, part of complex known as 'Kawaree'" (I24).	Part 7 does not apply

## 7. Queanbeyan Local Environmental Plan 2012

The subject site is zoned R2 Low Density Residential under Queanbeyan Local Environmental Plan (QLEP) 2012. 'Seniors housing' is permitted with development consent within the R2 zone. The proposed modification will not alter the ability of the development to comply with the relevant objectives of the R2 zone. The manner in which the proposed development conforms to the key provisions of the QLEP 2012 is provided below where relevant.

### Clause 4.3 Building Height

An 8.5m maximum height limit applies to the site under QLEP 2012. However clause 5(3) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 ('Seniors Living SEPP') states "If this Policy is inconsistent with any other environmental planning instrument, made before or after this Policy, this Policy prevails to the extent of the inconsistency". Clause 40 limits the height of buildings in zones where residential flat buildings are not permissible. However, variation to Clause 40, to allow a maximum

height of 9.75m to the ridge, was granted through the issuing of DA100-2012/B. The current S96 application does not seek to vary the approved building height.

#### Clause 4.4 Floor Space Ratio(FSR)

There is no maximum permissible FSR for this site according to the QLEP 2012 Floor Space Ratio Map. The clause is therefore not relevant.

Clause 38 of Part 7 of SEPP Seniors Housing specifies that a residential care facility cannot be approved *"if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less"*. It is noted that this clause is not directly applicable to the proposed development as clause 38 specifies that Part 7 does not apply to development on land which contains a heritage item listed on the State Heritage Register. As the overall site (which is referenced in DA100-2012/B) contains the state listed 'Kawaree', Council has discretion to refuse a development application even if the 1:1 FSR is met. Conversely, given the absence of an FSR in the LEP and in SEPP Seniors, Council has discretion to determine an appropriate FSR for the site, having regard to built form, streetscape and amenity considerations.

It is noted that Council has, through the issuing of DA 100-2012/B, confirmed its intention that the aged care facility (ACF) should adhere to the 1:1 FSR referenced in the SEPP. The proposed modification will increase the ACF area by 138m<sup>2</sup> in order to provide the additional suites. This additional building area will increase the overall GFA of the ACF to 6,734m<sup>2</sup>, calculated in accordance with the definition of GFA under QLEP 2012. This will result in an FSR which remains consistent with the approved 1:1 FSR, and which provides an FSR of 0.61:1 on the overall site as demonstrated in Table 3 below:

<b>Table 3: Schedule of GFA Calculations</b>	
<b>ACF</b>	
Ground Floor Area	3,422m <sup>2</sup>
First Floor Area	3,312m <sup>2</sup>
Total ACF Floor Area (Excl. Basement)	6,734m <sup>2</sup>
Total ACF Site Area	7001m <sup>2</sup>
<b>Total ACF FSR</b>	<b>0.96:1</b>
<b>ILU</b>	
Total ILU Floor Area	4,618m <sup>2</sup>
<b>Combined Site</b>	
Total Building Floor Area	11,352m <sup>2</sup>
Total Site Area	18,603
Combined FSR	0.61:1

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#### Clause 5.10 Heritage Conservation

The site is located wholly within the Queanbeyan Conservation Area and is also part of the overall site which contains a state heritage item being Item No.124 as identified on the Heritage Map associated with QLEP 2012 as "Dwelling, part of complex known as "Kawaree", No.18 George Street, Queanbeyan, Lot 1, DP 774149"

The item is a late-Victorian period building having State heritage significance. This building is used as the community centre for the seniors living complex. This part of the site is not proposed to be redeveloped and the existing structures are intended to be retained. A discussion of potential heritage impacts was contained in the Heritage Assessment prepared by NBR Architecture dated 16.12.16, the outcomes of which are unchanged as part of this modification.

#### **8. Queanbeyan Development Control Plan 2012**

The development control plan which applied at the time of assessment of DA-100/2012 was Queanbeyan Development Control Plan (DCP) No.56. The proposed modifications now requires assessment under Queanbeyan DCP 2012 which came into effect on 12 December 2012. The applicability of the following relevant chapters of QDCP 2012 are addressed below.

**Part A All Zones** - This part of the DCP provides Council's controls regarding site related facilities. In this respect it is noted that there is no change to the number of carparking spaces, access location, waste collection arrangements, no anticipated additional overshadowing impact and the landscaping will generally be unaltered.

Clause 2.2.6 requires that Residential Care Facilities provide 1 car parking space per 4 beds. As the overall number of beds is increasing by 7, this clause is relevant. In contrast the Seniors Housing SEPP requires the provision of 1 parking space for each 10 beds (noting that as the overall site contains the state listed 'Kawaree', Council has discretion to refuse a development application even if this parking requirement is met).

There are no changes to staff numbers and therefore the car parking requirements for the number of beds only is relevant, whereby the additional 7 beds requires 0.7 spaces under the SEPP and 2 spaces under the DCP. As per the Traffic Report prepared by Bob Nairn, which was an approved document pertaining to DA-100-2012, a total of 89 car parking spaces are required in accordance with DA-100-2012/B. A total of 95 spaces are provided across both the Independent Living Units and Residential Care Facility. A surplus of 6 spaces are therefore provided (based on the SEPP requirement) and as such, the additional car spaces required pursuant to SEPP Seniors Housing or QDCP 2012 can be accommodated within the 95 spaces already approved on the site.

**Part 3a - Urban Residential Development** – This DCP Chapter applies to allotments zoned for residential purposes under QLEP 2012 and therefore applies. However, there are no specific provisions relating to Seniors Housing.

**Part 3c - Dual Occupancy, Multi Dwelling Housing and Residential Flat Building** – This DCP Chapter only applies to land zoned R3, R4, B3 or B4 and therefore does not apply to the subject site. Further, this section of the DCP identifies that the site is located in "Precinct 5 Kawaree Gardens Retirement Village Canberra Avenue". Whilst a maximum height of two storeys (7.5m) is recommended for this site it is noted that there is no change to the approved building height.

**Part 4 - Heritage and Conservation** – This DCP Chapter applies to the subject site, as it is located within a Heritage Conservation Area and also includes a state listed heritage item. The proposed modification does not impact on the integrity of the heritage items and conservation area which has been addressed in previous correspondence in relation to DA-100-2012 and later modifications.

## **9. The Likely Impacts of the Development (Section 79C of the EP&A Act 1979)**

### **Building Form, Siting, Overshadowing and Amenity Impacts**

The building maintains its approved positioning, with only minor changes to the internal building area and will therefore have little impact upon the building form, siting and streetscape presentation. Building materials and facade treatments will remain unchanged.

The proposed amendments will also have minimal impact on overshadowing, privacy and amenity upon neighbouring residents and residents within the approved Independent Living Units on the site. Private open space associated with the additional ground level suites will utilise the approved terrace space adjacent to Canberra Ave, with the inclusion of only one additional balcony (for Unit A23) adjacent to the internal access road.

### **Building Scale:**

The overall building height will remain unchanged at 9.75m to the top of the ridge. This modification as such does not seek to alter the overall building height and will have minor impact. The proposed modification will increase the building area by 138m<sup>2</sup> in order to provide the additional suites, which results in a minor overall change having regard to the approved floor area of the buildings, which are in excess of 11,000m<sup>2</sup>.

### **Building Setbacks:**

The proposed alterations will not result in a reduction in the overall setback of the building, which will remain at a minimum of 6.0m to Canberra Ave. There will only be minor reduction in setback of 'recessed' areas as shown in Table 4:

**Table 4:** Summary of Changes to Front Setbacks to Canberra Ave

Southern Elevation				
Ground floor	Room	DA-100-2012	Room	Proposed Modification
	Interview Room	7.5m	Room A25	6.9m
	Library	7.5m	Communal	6.9m
	Private Dining	7.5m	Private Dining	6.9m
First Floor	Room	DA-100-2012	Room	Proposed Modification
	Stair well	10.5m	D34	6.9m
	Sitting	7.5m	D32	6.9m
	Dining	7.5m	E33/E34	6.9m

### **Heritage Impact**

There will be any adverse impact on heritage values of 'Kawaree' as a result of the modification as the modification relates to the RCF, which is located in the eastern part of the site, separated from this heritage item by ILUs.

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### **Access, Parking and Servicing**

The modified development will maintain the approved number of carparking spaces (at 95), providing a surplus of 6 spaces, despite the increase in the number of units. Further, the development will continue to utilise the western driveway from Canberra Ave to access the basement parking. Waste collection will continue to occur in the designated storage area in the eastern section of the basement and garage collection will continue to utilise the eastern access from Canberra Ave.

### **Site Suitability**

The site is identified as flood affected in Council's records, however the floor levels of the basement and ground floor are unaltered as a result of the proposed modification. Council has acknowledged that the site is suitable for the proposed development in the issuing of Development Consent 100-2012 and this level of site suitability is unchanged as a result of the modification.

### **Conclusion**

Overall, the development is essentially the same development and the modifications sought incorporate greater diversity in seniors accommodation to meet the needs of future occupants. The proposed amendments will not adversely impact on the desired built form outcomes, streetscape integration, privacy or overshadowing. On this basis, the modified development is considered to be an appropriate outcome and Council's approval for this modification under Section 96(2) of the EPA Act is sought.

Yours Faithfully,



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Elaine Treglown

Director

TCG Planning