

ASSESSMENT REPORT

Panel Reference	2017HCC012DA
DA Number	521/2017
LGA	MidCoast
Proposed Modification	<ul style="list-style-type: none"> • Modifications to development staging (stages 2, 3 and 4) • Alterations to the basement, ground, ground level floor plans • Removal of hotel use and the provision of retail space and seniors housing
Street Address	34-36 West Street, Forster NSW
Applicant/Owner	Enyoc Pty Ltd (Applicant) Midcoast Council (Owner) Evermore Supported Living Communities Pty Ltd (Owner)
Lodgment Date	16 March 2022
Submissions	The modification application has been publicly exhibited. No submissions have been received.
Integrated development	Not applicable
Referrals	Due to the nature and extent of the modification, no external referrals have been undertaken. The modification application has been referred internally to Council's water services, water quality and engineering sections.
Recommendation	Approval of the modified proposal in full subject to conditions
Regional Development Criteria Schedule 7 of SEPP (State and Regional Development 2011)	Council related development over \$5 million General development over \$30 million
List Of All Relevant s4.55 (2) Matters	<ul style="list-style-type: none"> • Substantially the same development • Consultation with the relevant Minister, public authority or approval body • Notification of the application in accordance with the relevant legislation and development control plans
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Provision of environmental planning instruments, regulations and Development control plans • the suitability of the site for the development • The public interest
List Of All Documents Submitted With This Report For The Panel's Consideration	<ul style="list-style-type: none"> • Statement of Environmental Effects dated by Tailored Planning Solutions Pty Ltd dated March 2023 • Landscape Concept Plans by 02LA Pty Ltd dated 7 December 2021 • Crime Prevention through Environmental Design Assessment by Tailored Planning Solutions Pty Ltd dated March 2023 • Waste Management Plan by Tailored Planning Solutions Pty Ltd dated March 2023 • ADG compliance Table by TVS Architects dated 27 February 2023 • Proposed Modified Plans by TVS Architects dated 16 March 2023 • Economic Impact Advice by MacroPlan Holdings Pty Ltd dated March 2023 • Elevations Comparison Plans by TVS Architects dated 16 March 2023 • Floor Plans Comparison TVS Architects dated 16 March 2023 • Traffic Impact Assessment by Bitzios Consulting dated 27 March 2023

	<ul style="list-style-type: none"> • BASIX Certificate dated 22 February 2023 • SEPP 65 Design Verification Statement by TVS Architects dated 24 February 2022 • Stormwater Drainage Quality Control Measures by Coastplan Consulting dated 11 February 2022
Clause 4.6 request/s	The application to modify consent includes a variation to the building height as specified in the <i>Great Lakes Local Environmental Plan 2014</i> (LEP). A request pursuant to clause 4.6 of the LEP has been submitted in support of the variation.
Report Prepared By	Monteath & Powys Pty Ltd Itto Vukeni (Senior Planner), Lachlan Sims (Principal Planner)
Report Date	30 June 2023

Summary of s4.55 matters
Have all recommendations in relation to relevant s4.55 matters been summarised in the Executive Summary of the assessment report? Yes

Legislative clauses requiring consent authority satisfaction
Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied with a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report? Yes

Clause 4.6 Exceptions to development standards
If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? Yes

Special Infrastructure Contributions
Does the DA require Special Infrastructure Contributions conditions (S7.24)? No

EXECUTIVE SUMMARY

On 16 March 2022, Enyoc Pty Ltd (the Applicant) lodged an application (MOD 2022/0062) to modify the consent granted to DA 521/207 for a mixed-use development at 34-36 West Street, Forster. The application was prepared and lodged on behalf of the Applicant by Tailored Planning Solutions Pty Ltd. It sought to modify the existing Development Approval to allow for the following:

- Revised development stages 2, 3 and 4.
- Alterations to the basement, ground, and ground level floor plans.
- Removal of the hotel, childcare, cinema, and nightclub uses from the development floor plan; and
- Provision of retail space, seniors' residences and car parking in place of the above use removed from the floor plan.

Development Application 521/2017 for Mixed-use was originally lodged with Council for consent by Enyoc Pty Ltd on 15 May 2017. Based on the information accompanying the lodged application, concurrence agency referral and public notification was required for the application. Fourteen (14) submissions were received by the council including two (2) in support and twelve (12) against the development. On 20 September 2017, the Hunter and Central Coast Joint Regional Planning Panel resolved to approve the development under the provisions for 'Regional Development' pursuant to Part 4 of the *State Environmental Planning Policy (State and Regional Development) 2011* as applicable at the time of consent. Subsequent to the development consent, several Modification Application approvals have been issued over the subject site.

In reviewing the proposal against the statutory planning provisions applying to the site and the development as well as against the parameters of the original assessment, the proposed modification to DA 521/2017 is considered to be compliant. As such, the recommendation is to approve MOD 2022/0062 in full. The recommendation is supported by a statement of reasons and is subject to reasonable and relevant conditions.

1. INTRODUCTION

The Applicant, Enyoc Pty Ltd, lodged an application to modify the existing development consent for DA 521/2017 for a Mixed-use development at 34-36 West Street, Forster NSW 2428, on land formally described as Lots 1-6 in DP 1270306. Tailored Planning Solutions Pty Ltd prepared the application on behalf of the Applicant which was lodged on 16 March 2022 and is referenced by Midcoast Council as MOD2022/0062. This Planning Report seeks to overview the modification application against the Statutory Planning provisions applying to the development and the relevant matters considered in the original assessment of the application and to make a recommendation on the proposal.

2. SITE DESCRIPTION

The site can be located along West and Lake Street in the northern portion of Forster and on the southern edge of the Forster Town Centre. It is identified within the Forster City Centre Precinct pursuant to the *Greater Lakes Development Control Plan 2014* (DCP). **Figure 1** provides an aerial photograph to depict the site and the regional context.



Figure 1: Subject Site (Source: Six Maps, 2023)

The site is identified as Lots 1-6 in DP 1270306 and is located at 34-36 West Street, Forster NSW 2428. It occupies a large corner allotment, irregular in shape with 12,144m² of total site area and contains principal road frontages to West Street (47m), Middle Street (121m) and Lake Street (124m). Access to the site can be obtained from the principal road frontages.

Commercial buildings, motel accommodations, and small, medium to multi-storey dwelling developments surround the site. The first stage of the development approved in DA 521/2017 has been constructed on the site at its eastern end and comprises some of the basement car parking, commercial and community uses at Ground Level and Level 1 and residential uses (Building A) on Levels 2-7. Further, the site is contained within the MU1 Mixed Use zone following the *Greater Lakes Local Environmental Plan 2014* (LEP). **Figure 2** provides an extract to depict the three sites subject to the modification application.



Figure 2: Site (Source: Metro Map, 2023)

3. BACKGROUND

3.1 DA APPROVAL HISTORY

On 29 March 2017, the council lodged a Planning Proposal for a Gateway Determination to amend the *Great Lakes Local Environmental Plan 2014* over a landmark development site to facilitate the development of the Forster Civic Precinct project. The Planning Proposal was determined and approved by the delegate of the Minister for Planning on 6 April 2017.

Subsequent to the Gateway Determination, Development Application 521/2017 for Mixed-use was lodged over 34-36 West Street, Forster NSW 2428 by the Applicant, Enyoc Pty Ltd, on 15 May 2017. Concurrence Agency referral was required for the proposal based on the information accompanying the lodged application. Namely to Roads and Maritime Services, Essential Energy, Department of Primary Industries, Water NSW, MidCoast Water and NSW Police who approved the development subject to conditions. The concurrence agency did not object to the proposal subject to conditions.

Public Notification was also required for the application in which Fourteen (14) submissions were received by the council and included two (2) in support and twelve (12) against the development. In reviewing the application against the relevant assessment benchmarking applying to the site, the Hunter and Central Coast Joint Regional Planning Panel resolved to approve the proposal for Mixed-use on 20 September 2017 subject to reasonable and relevant conditions. The existing consent

is for a Mixed-use development containing a range of uses which include civic/community, commercial, residential and tourist.

In receipt of the Notice of Determination, the Applicant lodged multiple subsequent applications to modify the Development Consent. The modification applications lodged and approved over the site to date are summarized in **Table 1**.

Table 1: Section 4.55 Modifications Approved

SECTION 4.55 MODIFICATIONS LODGED AND APPROVED		
REFERENCE	MODIFICATIONS SOUGHT	APPROVAL DATE
Modification A	<ul style="list-style-type: none"> Corrected a minor miscalculation of the S7.11 contributions relating to the non-commercial component of the development (Condition 8). Enabled a stratum subdivision to occur of stage 1A prior to physically connecting water, sewer and electricity infrastructure (Condition No. 92). Altered the timing of the requirement for a Notice of Arrangement from Essential Energy to occur prior to the finalisation of the provision of services (Condition No. 93). Reduced the maintenance period for the street bio-retention pods from a five (5) year maintenance period to a one (1) year maintenance period consistent with other civil works requirements (Condition No. 95). Reduced the maintenance period for the bioretention stormwater devices to be installed in the public road (Condition No. 8). <p>Advisory note: No modifications were made to the approved plans.</p>	18/04/2018
Modification B	<p>Altered construction times to allow limited construction activities to occur on Saturdays and Sundays from 9 am to 4 pm (Condition No.62).</p> <p>Advisory note: No modifications were made to the approved plans.</p>	26/06/2019
Modification C	<ul style="list-style-type: none"> Altered the approved staging to include sub-staging within stage 1 (Condition No. 2) as follows: <ul style="list-style-type: none"> Stage 1 a - Stage 1 basement carpark and ground floor/transfer slab. Stage 1 b - Ground level public buildings (library communal rooms) and restaurant space on levels 1 and 2. Stage 1 c - Seniors Housing over levels above. Stage 2 – Remainder of Basement and mezzanine car park under Buildings B & C, ground level restaurants/café 1 & 2, ground level public domain and services space, Supermarket and Gymnasium, Seniors Housing units in Building B, public domain/road works to Middle Street adjacent to the development site and West Street. Stage 3 – Seniors Housing Tower C. Stage 4 – Hotel, Serviced Apartments, Public domain / completion of Middle Street roadworks. Altered the timing of S7.11 contributions to be paid in accordance with the modified sub-stages in Stage 1 (Condition No. 8). <p>Advisory note: No modifications were made to the approved plans.</p>	22/11/2018
Modification D	<p>Altered the staging of the payment of the damage bond, in line with the sub-staging of Stage 1 (Condition No. 18).</p> <p>Advisory note: No modifications were made to the approved plans.</p>	18/12/2018
Modification E	<p>Altered the staging of construction (Condition No. 1, 2, 3) as well as the timing for payment of contributions in accordance with the modified staging</p>	11/04/2020

SECTION 4.55 MODIFICATIONS LODGED AND APPROVED		
REFERENCE	MODIFICATIONS SOUGHT	APPROVAL DATE
	<p>(Condition No. 8). This modification also included the expansion of the civic space over approved restaurant 4 and reallocation of space in the civic area to provide a customer service centre.</p> <p>Modifications were made to the following plans:</p> <ul style="list-style-type: none"> • Development Statistics 5490.09 (2) TVS Architects 17 Feb 2020 • Staging Plan 5490.18 (2) TVS Architects 17 Feb 2020 • Ground Floor Plan 5490.24 (3) TVS Architects 17 March 2020 • Level 1 Floor Plan 5490.25 (2) TVS Architects 17 March 2020 • Level 2 Floor/Roof Plan (Stage 1) 5490.86 TVS Architects 17 Feb 2020 • South & West Elevation (Stage1) 5490.88(1) TVS Architects 29 May 2019 • North & East Elevation (Stage 1) 5490.87(1) TVS Architects 29 May 2019 • Library zone plan Ground 5490.80 (2) TVS Architects 17 Feb 2020 • Library Zone plan level 1 5490.81 (2) TVS Architects 17 Feb 2020 	
Modification F	Altered the timing and amount of the construction bond (Condition No. 18).	31/03/2021
Modification 2021/0041	<p>Amended the stratum subdivision plans for stage 1 to create:</p> <ul style="list-style-type: none"> • Lot 1 - Council owned facilities (library, community centre, etc.). • Lot 2 - For the residential tower. • Lot 3 - Stage 1 retail (restaurant). • Lot 4 - Stage 1 first floor residents' facility (or commercial space as modified). • Lot 5 - Residue in Stage 1 structure. • Lot 6 - Residue in Stages 2, 3 and 4. • Common Area over plaza areas and access driveways in Stage 1. • Part lots in basement parking area for: <ul style="list-style-type: none"> ◦ Lot 1 - Council parking spaces and service areas; ◦ Lot 2 - Parking and services for the residential tower; and ◦ Lot 3 - Parking designation and services for the Stage 1 retail. <p>Condition 90 was amended to require suitable easements and rights of carriageway related to the stratum subdivision. The approved Stratum Staging Plans were replaced with a Plan of Subdivision of Lots 11,12 and 13 in Deposited Plan 47987.</p>	24/2/2021
Modification 2021/0018	<p>The modification related to the residential units in Building A, changes to Level 1 commercial space and alterations to staging so that Stage 4 reverted back to Stage 1C. The change also included minor changes to Building B associated with additional communal open space. The approved changes were:</p> <ul style="list-style-type: none"> • Change of units from seniors housing to regular residential apartments in Building A. • An additional storey (Level 7) to Building A containing three (3) penthouse units. • Strata subdivision of the apartments in Building A. • Conversion of previous residents' club to commercial space. • Extension of communal outdoor resident facilities at Level 3. • Alterations to restaurant area. • Minor alterations to the basement layout and provision of additional ancillary resident and commercial space. • Alterations to Level 2 parking area to provide additional resident parking. • Addition to a temporary garbage collection area. • Alterations to staging. 	2/8/2021
Modification 2023/0036	<p>The application to modify the consent relates to the timing of civil works in the adjoining public roads especially as they relate to Stage 1. The proposal seeks to delay relevant works in Lake Street to Stage 2 to avoid potential damage to new works that may be caused by ongoing construction activities.</p>	15/5/2023

The current approved plans for the proposed Mixed-use development are attached in **Appendix A**.

3.2 PROPOSED MODIFICATION

The current modification application (MOD2022/0062) was prepared and lodged on behalf of the Applicant, Enyoc Pty Ltd, by Tailored Planning Solutions Pty Ltd on 16 March 2022. As per the lodged application material, the Applicant proposes the following modifications to the development consent including the associated approval documents for Buildings B, C and D (Stages 2, 3, and 4):

- Modifications of the basement and upper-level parking areas because of changed parking demand resulting from the conditions of the Development Consent which sought to remove the cinema, childcare centre and nightclub uses from the approved development.
- Rearrangement of the commercial layout at the Ground Level including removal of the gym, childcare, cinema and nightclub uses. The amended plans also consolidate the previously approved restaurant/café uses in Stage 2 to a single 629m² space and an increase of the supermarket floor space to 1000m².
- Use of space within the building that once allocated for cinema, childcare centre, nightclub uses etc., as seniors housing and associated uses.
- Removal of the hotel in Stage 4 and replacement with retail space at ground level and seniors housing, associated parking, and communal areas at Level 1 and above.
- Creation of amended communal spaces within the approved seniors housing area.
- Alterations to waste management areas for Stages 2, 3 and 4, as well as for garbage collection for the entire site.
- Amendments to Staging Arrangements to reflect the modifications proposed to approved development plans.

Following the lodged application material, **Table 2** summarises the changes proposed to the approved units and uses across Buildings B, C and D.

Table 2: Changes to the Approved Development Plans

CHANGES PROPOSED TO THE APPROVED DEVELOPMENT – MOD 2022/0062			
BUILDING	LEVEL	APPROVED DEVELOPMENT	MODIFICATION 2022/0062
N/A	Basement 2	Parking, nightclub space (use not approved), servicing	Level removed from proposal
N/A	LG/Basement 1	Parking, services, hotel, nightclub space (use not approved)	Minor changes to basement footprint, reconfiguration of former hotel/nightclub space to include more parking
B	G	Restaurants, supermarket, entry lobby	Minor changes to external building configuration and internal layout, uses unchanged
C	G	Supermarket, cinema entry (use not approved), residential lobby, gym, loading bays	Minor changes to building footprint and reconfiguration of approved uses (supermarket/retail)

CHANGES PROPOSED TO THE APPROVED DEVELOPMENT – MOD 2022/0062			
BUILDING	LEVEL	APPROVED DEVELOPMENT	MODIFICATION 2022/0062
D	G	Retail space, childcare centre (use not approved), nightclub entry (use not approved), access and servicing	Minor changes to built form extent/footprint, use changed to retail and residential/seniors' access lobby
B	1	Car parking, servicing, access lobby, seniors' housing sales unit	Seniors' housing common lounge, services, car parking
C	1	Car parking, servicing	Minor changes to building footprint (interconnection of parking area through buildings B, C and D)
D	1	Hotel – restaurant, lounge, function rooms, pool, services	Minor changes to building footprint (interconnection of parking area through buildings B, C and D)
B	2	3 seniors' units, car parking, services	Minor changes to building extent, Evermore (seniors') management office, 4 seniors' units, car parking, services
C	2	Car parking and services	Minor changes to building extent/footprint (interconnection of parking area through buildings B, C and D)
D	2	Hotel	Minor changes to building extent/footprint (interconnection of parking area through buildings B, C and D), 4 seniors' units, seniors' wellness centre/hydrotherapy pool
B	3	7 seniors' units, residential pool and common open space (connected to Building A), cinema (use not approved)	Minor changes to building exterior, 7 seniors' units, residential pool and common open space (connected to Building A), seniors' dining area (in previous cinema space)
C	3	Residential pool and common open space (connected to Building A), cinema (use not approved)	Minor changes to building exterior, 3 seniors' units, residential pool and common open space (connected to Building A), seniors' dining area and private facilities (in previous cinema space), building extent reconfigured for interconnection with Building D
D	3	Hotel	Minor changes to building exterior/extent, 7 seniors' units

CHANGES PROPOSED TO THE APPROVED DEVELOPMENT – MOD 2022/0062			
BUILDING	LEVEL	APPROVED DEVELOPMENT	MODIFICATION 2022/0062
B	4	7 seniors' units, cinema (use not approved)	Minor changes to building exterior/extent, 7 seniors' units, seniors' roof terrace
C	4	Residential rooftop open space (connected to Building A), cinema (use not approved)	4 seniors' units, seniors' roof terrace
D	4	Hotel	Minor changes to building extent/exterior, 7 seniors' units
B	5	7 seniors' units, seniors' communal recreation facilities	Minor changes to building extent/exterior, 7 seniors' units
C	5	5 seniors' units, seniors' communal recreation facilities, seniors' roof terrace	Reduced building footprint/extent, 7 seniors' units, communal facilities removed (relocated to lower levels)
D	5	Hotel	Minor changes to building extent/exterior, 7 seniors' units
B	6	8 seniors' units, seniors' rooftop pool	Minor changes to building extent/exterior, 7 seniors' units
C	6	6 seniors' units	Minor changes to building extent/exterior, 7 seniors' units
D	6	Hotel	Minor changes to building extent/exterior, 7 seniors' units
B	7	8 seniors' units	Minor changes to building extent/exterior, 7 seniors' units
C	7	6 seniors' units	Minor changes to building extent/exterior, 7 seniors' units
D	7	Hotel	Minor changes to building extent/exterior, 7 seniors' units
B	8	8 seniors' units	Minor changes to building extent/exterior, 7 seniors' units
C	8	6 seniors' units	Minor changes to building extent/exterior, 7 seniors' units
D	8	Roof	Minor changes to building extent/exterior (roof)
B	9	8 seniors' units	Minor changes to building extent/exterior, 7 seniors' units
C	9	6 seniors' units	Minor changes to building extent/exterior, 7 seniors' units

Table 3 outlines the existing approved development stages and the other modifications proposed.

Table 3: Changes to the Approved Development Staging

SECTION 4.55 MODIFICATIONS LODGED AND APPROVED			
STAGING APPROVED	APPROVED DEVELOPMENT STAGING	STAGING PROPOSED	MODIFICATION 2022/0062
Stage 1a	<ul style="list-style-type: none"> Basement carpark and transfer slab 	Stage 1a	<ul style="list-style-type: none"> Basement carpark and transfer slab
Stage 1b	<ul style="list-style-type: none"> Library Visitor centre Community centre Community lounge Council Customer Service Centre Community plaza Community gardens Restaurant/café Commercial floor space Bike parking and end of trip facilities 	Stage 1b	<ul style="list-style-type: none"> Library Visitor centre Community centre Community lounge Council Customer Service Centre Community plaza Community gardens Restaurant/café Commercial floor space Bike parking and end of trip facilities
Stage 1c	<ul style="list-style-type: none"> 53 apartments 3 penthouses Lower common terrace for residents Stage 1 resident parking Lake Street road improvements 	Stage 1c	<ul style="list-style-type: none"> 53 apartments 3 penthouses Lower common terrace for residents Stage 1 resident parking Lake Street road improvements
Stage 2	<ul style="list-style-type: none"> Supermarket Retail shops Restaurants/cafes (2) Remainder of basement parking (128 spaces) 59 seniors living units Penthouses (x2) Stage 2 resident parking (149 spaces) Pedestrian plaza (West Street frontage) Service road access and driveways 	Stage 2a	<ul style="list-style-type: none"> Supermarket Retail space Restaurant Remainder of basement parking (77 spaces) Level 1 and 2 resident parking (247 spaces) Pedestrian plaza (West Street frontage) Service road access and driveways
Stage 3	<ul style="list-style-type: none"> 29 seniors units Penthouses (x2) Upper level resident terraces and common facilities 	Stage 2b	<ul style="list-style-type: none"> Residents club 64 seniors living units
Stage 4	<ul style="list-style-type: none"> Gymnasium Hotel Serviced apartments Middle Street improvements 	Stage 3	<ul style="list-style-type: none"> 43 seniors living units 2 penthouses Communal areas (dining Room, theatre, bowling green, vegetable gardens, etc.)
		Stage 4	<ul style="list-style-type: none"> 35 seniors living units Wellness Centre (Hydrotherapy pool, spa, sauna, treatment/Yoga rooms and change areas.) <p>Additional height proposed on Building D (Vaulted roof which exceeds LEP development standard provisions for finished building height)</p>

The proposed modification plans which seek to modify the existing development approval are contained in **Appendix B**.

3.3 APPLICANT'S REASONS FOR MODIFICATION

As per the lodgement material, the original application for development consent sought approval for Mixed-use including cinema, nightclub and childcare centre uses. However, the cinema, nightclub and childcare centre components were not approved as part of the original consent and a condition (Condition No. 4) requires the removal of these uses from the plans prior to the issue of any construction certificate. Following the Applicant's response, the floor spaces intended for the proposed uses were not allocated for any other use and the current modification (MOD 2022/0062) seeks to alter the development to make use of the vacant areas within the building and to create appropriate uses within the development.

3.4 CONDITIONS OF CONSENT TO BE MODIFIED

Modification application MOD 2022/0062 seeks consent for the change to the following conditions of the development consent.

- Condition 1. Approved Documentation
- Condition 2. Staging of Development
- Condition 4. Ambit of Consent and separate application required for non-approved uses and/or differing uses and/or fit-outs
- Condition 8. Section 7.11 Contributions
- Condition 11. Waste Areas
- Condition 12a. Vehicle Parking and Access
- Condition 12b. Parking Allocation
- Condition 14. Bicycle parking
- Condition 22. Stormwater Quality Management Concept and Treatment Measures
- Condition 101. Hours of operation
- Condition 103. Ground Level Food and Drink Patrons

Specifically, the changes required to the conditions of the development consent are discussed in greater detail in **Table 4**.

Table 4: Changes to the Conditions of Development Consent

CONDITION	CHANGES REQUIRED
1. Approved Documentation	The table of approved plans and documentation will need to be revised and updated to reference the amended design.
2. Staging of Development	The table of staging in this condition will need to be updated to reflect the land use changes in the modified proposal.
4. Ambit of Consent and separate application required for non-approved uses	This condition becomes redundant as a result of the modification application and is recommended for deletion.
8. Section 7.11 Contributions	It is recommended Council review the contribution calculations and adjust these to reflect the changes and reconfigured land uses in the modified proposal.
11. Waste Areas	Waste requirements in this condition will need to be adjusted and updated to reflect the reconfigured land uses in the modified proposal.
12a. Vehicle Parking and Access	This condition will need to be adjusted to reflect the modified proposal.
12b. Parking Allocation	Car parking requirements in this condition will need to be adjusted to reflect the modified proposal.
14. Bicycle parking	Bicycle parking requirements in this condition will need to be adjusted to reflect the modified proposal.
22. Stormwater Quality Management Concept and Treatment measures	This condition will require adjustments to reflect the changes in the modified proposal.
101. Hours of operation	This condition will need to be adjusted to reflect the adjustments to approved uses.
103. Ground Level Food and Drink Patrons	This condition will need to be adjusted to reflect the consolidated restaurant/café premises in Stage 2 and its increased floor area.

Details of the conditions to be amended and recommended changes are provided in **Appendix C**.

4. PLANNING ASSESSMENT

4.1 STATE LEGISLATION

4.1.1 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Section 4.5 Designation of consent authority

In light of Section 4.5 of the Act, the original development was categorised as regional significant development pursuant to Schedule 6 of the *State Environmental Planning Policy (Planning Systems) 2021*. As such, the regional planning panel is the designated consent authority for the Other Modifications application following Section 4.5.

Section 4.55 Modification of consents—generally

Section 4.55 of the *Environmental Planning & Assessment Act 1979* includes provisions relating to the modification of Development Consents. The proposal to modify the existing consent triggers Section 4.55 (2) of the Act for Other Modifications. It is to be reviewed against the relevant provisions to ensure consistency with the existing approval, any referral response issued for the development and the matters prescribed in other statutory planning instruments applying to the site and to the development.

Table 5 outlines matters for consideration under Section 4.55 (2) for Other Modifications and the proposal complies with the relevant provisions.

Table 5: Section 4.55(2) – Modification of consents—generally

4.55(2) MODIFICATIONS INVOLVING MINIMAL ENVIRONMENTAL IMPACT	
(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—	
PROVISION	ASSESSMENT
(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	Complies. The proposed modification is deemed substantially the same development as the original proposal including subsequent modification approvals as follows: <ul style="list-style-type: none"> • The modification has been triggered by the conditions of the development consent which require the removal of the Cinema, Childcare and Nightclub uses. • The proposal does not include any new uses on the site and is consistent with the definition of a Mixed-use development as per the original and current modified development consent. • The proposed modification is deemed consistent with the Statement of Reasons for the original development approval.

4.55(2) MODIFICATIONS INVOLVING MINIMAL ENVIRONMENTAL IMPACT

(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—

PROVISION	ASSESSMENT
	<ul style="list-style-type: none"> • The changes proposed under the modification application relate primarily to internal and external facade alterations of parts of the development identified as Stages 2, 3 and 4. With exceptions to the removal of the Lower/Basement 2 (drawing: 5490.22 (6)), the Other Modifications proposed do not seek additions or removal to the number of storeys approved. • No major additions are proposed to the approved building footprint and façade except where required to compensate for the reduction or removal of parts of the main building form. • The proposed reduction and removal of the main building form and hotel use are not considered to be that which relates to an integral component that underpinned the original and current modified development consent. • If the proposal was to be withdrawn and relogged as a new Development Application, the level of the assessment would not change from the original assessment and additional new conditions would not be required to minimise the proposal’s impact. <p>Overall, the modification is considered ‘substantially the same development’ for which the consent was originally granted and modified, which was triggered by the conditions of the development consent which sought the removal of the Cinema, Childcare and Nightclub uses.</p>
<p><i>(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) 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</i></p>	<p>Complies. Referral agencies did not object to the proposed development, apart from the NSW Police who raised objections to the nightclub associated with the use. The nightclub is being removed from the development as per the condition of consent. As such, the modifications proposed are not considered to contravene the conditions issued by the Regional Planning Panel (approval body) and the Concurrence Agency response provided by Roads and Maritime Services, Essential Energy, Department of Primary Industries, Water NSW, MidCoast Water and NSW. Provided that the works are conducted as per the conditions of consent including the relevant standards referenced.</p>
<p><i>(c) it has notified the application in accordance with—</i></p> <p><i>(i) the regulations, if the regulations so require, or</i></p> <p><i>(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</i></p>	<p>Following the Public Notification Policy, the modification application is to be notified.</p>

4.55(2) MODIFICATIONS INVOLVING MINIMAL ENVIRONMENTAL IMPACT

(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—

PROVISION	ASSESSMENT
<p>(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.</p> <p>Subsections (1) and (1A) do not apply to such a modification.</p>	<p>Any submissions received against the proposed modification will be considered and the Applicant will be offered an opportunity to respond to the submissions received by the Council.</p>

Overall, the Proposal has been considered against the relevant provisions of section 4.55 (2) of the Act. In this regard, the changes proposed are considered to comply with the relevant matters for consideration.

Section 4.55 (3) prescribes the matters for consideration by consent authorities in determining an application for modification of consent under Section 4.55. The application for modification of consent is also to be reviewed against the matters referred to in Section 4.15(1) of the Act and the reasons given by the consent authority for the grant of the consent that is sought to be modified as per Section 4.55 (3).

Section 4.15(1) Matters for Consideration – general

In light of Section 4.55 (3), **Table 6** is used to review the proposal against the matters referred to in Section 4.15 (1) to outline compliance and any non-compliance.

Table 6: Section 4.15(1) – Matters for Consideration

4.15 – MATTERS FOR CONSIDERATION—GENERAL	
<i>In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—</i>	
PROVISION	ASSESSMENT
<i>Section 4.15(1)(a)(i) – any environmental planning instrument</i>	Planning Instruments have been addressed in Section 6 of this report.
<i>Section 4.15(1)(a)(ii) – any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority that apply to the land to which the development application relates (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)</i>	There are no proposed instruments applicable to the modification application.
<i>Section 4.15(1)(a)(iii) – any development control plan that apply to the land to which the development application relates</i>	The <i>Great Lakes Development Control Plan 2014</i> provisions are addressed in Section 6 of this report. Overall, the proposed modification is generally consistent with the relevant provisions of the DCP.
<i>Section 4.15(1)(a)(iiia) – any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 that apply to the land to which the development application relates</i>	It is noted that the Applicant has entered into an agreement with the Council to deliver the proposed Mixed-use development over the site. However, the arrangement is not associated with a registered Planning agreement.

4.15 – MATTERS FOR CONSIDERATION—GENERAL

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—

PROVISION	ASSESSMENT
<i>Section 4.15(1)(a)(iv) – the regulations that apply to the land to which the development application relates (to the extent that they prescribe matters for the purposes of this paragraph)</i>	Matters of relevance are not raised concerning the proposed modification and are further discussed below.
<i>Section 4.15(1)(b) – the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality</i>	The likely impacts associated with the proposed development have been addressed in Section 7.
<i>Section 4.15(1)(c) – the suitability of the site for the development</i>	The suitability has been addressed in Section 8.
<i>Section 4.15(1)(d) – any submissions made in accordance with this Act or the regulations.</i>	Submissions raised against the original development are discussed in Section 9 as they related to the proposed development.
<i>Section 4.15(1)(e) – the public interest.</i>	The Public Interest has been addressed below in Section 10.

Overall, the proposed modification is deemed to comply with the matters for consideration outlined in Section 4.15(1).

As per Section 4.55 (3), the consent authority is to also consider the Statement of Reasons given by the consent authority for the grant of the consent to be modified. In this regard, the Panel’s Determination and Statement of Reasons was issued on 20 September 2017 and is included in **Appendix C. Table 7** below compares the reasons for the original approval with the potential impacts of the proposed modifications:

Table 7: Section 4.55 (3) – Statement of Reasons

REASON PROVIDED	COMPARISON AGAINST PROPOSED MODIFICATION
<i>...the Panel generally agreed with the environmental assessment and the balance of considerations in the assessment report, and in particular, noting the urban design consideration as part of the assessment of the application and design modification in response to these...</i>	Complies. The modifications proposed are generally consistent with the approved building footprint and most of the changes sought relate to development staging and internal floor and elevation plans. Additionally, the Applicant provided a SEPP 65 Design Verification Statement issued by TVS Architects as part of the lodgement material for the design of the building. Overall, it is considered that the Other Modifications sought do not unduly impact the environmental assessment and the design consideration of the approved development.
<i>...the proposal is permissible in the B4 Mixed-use Zone, is consistent with the B4 zone objectives and is within the allowed building height and floor space ratio applying to the site and the proposal...</i>	Consistent. The modification proposed does not introduce any new land uses to the site. It seeks to remove the Childcare Centre, Nightclub and Cinema uses from the development proposed in line with the condition of consent. The Applicant has indicated that the removal of these uses has resulted in shifts in vision to ensure the project remains economically viable. As such, the hotel use was also removed from the development and seniors housing dwellings are proposed to replace these vacant spaces. Nonetheless, the proposal remains permissible within the zone and it is considered that the proposed modifications are within the parameters of the original assessment as it does not seek to introduce new uses to the premises.

<p><i>...the proposal will be a transformative project and economic driver for Forster, combining community facilities with seniors' housing and other accommodation in an accessible location and with supporting facilities that will serve people using the community facilities, future residents and the surrounding areas. While there was support for the general mix of uses, the Panel did not support the child care centre, nightclub or cinema component being approved as part of the Application...</i></p>	<p>In support of the modification application, the Applicant provided Economic Impact Advice prepared by Macro Plan Holdings Pty Ltd to satisfy the social and economic impacts associated with the modified proposal. The findings of the report are summarised as follows:</p> <ul style="list-style-type: none"> • there is a strong and growing tourism industry within Forster and the MidCoast, a significant portion of the accommodation is satisfied by non-hotel options. • people between the ages of 40-54 are identified as the key categories of growth. • the amended proposal provides less direct employment by comparison, but much more population-driven spending which is more desirable in poorer economic conditions. • The approved and amended proposal provides the same level of contribution to the community infrastructure, apart from space allocated to the community facilities in the amended design. • The economic benefits provided by both proposals are similar. • The amended proposal was more likely to generate sustainable long-term economic outcomes. • The amended design was deemed the preferred option in terms of net community benefit. <p>It is therefore considered that the modified proposal is consistent with the following Statement of Reasons for a transformative project and economic driver for Forster</p>
<p><i>...the proposal is consistent with the planning controls applying to the site...</i></p>	<p>As discussed, a proposal for Mixed-use is permissible within the zone and the Other Modifications proposed are to be reviewed in the following sections.</p>

4.1.2 OTHER LEGISLATION

Consideration was afforded to other legislation, including legislation concerning whether the proposal is integrated development. Integrated development is a development that, to be carried out, requires development consent and one or more of the following approvals:

- Biodiversity Conservation Act 2016
- Coal Mine Subsidence Compensation Act 2017
- Fisheries Management Act 1994
- Heritage Act 1977
- National Parks and Wildlife 1974
- Protection of the Environment Operations Act 1997
- Roads Act 1993
- Rural Fires Act 1997
- Water Management Act 2000

Biodiversity Conservation Act 2016

The original development was assessed against the *Biodiversity Conservation Act 2016*. Additional impacts are not proposed, and the modification is within the parameters of the original biodiversity assessment.

Coal Mine Subsidence Compensation Act 2017

Assessment against the *Coal Mine Subsidence Compensation Act 2017* is not required in this regard. The subject site is not mapped as containing a Mine Subsidence following the Planning Portal interactive map.

Fisheries Management Act 1994

The *Fisheries Management Act 1994* is not an applicable assessment benchmark as the site is not mapped as containing fishery resources of the state.

Heritage Act 1977

The site does not contain and does not adjoin any heritage items. The proposed modification will not affect heritage values.

National Parks and Wildlife 1974

The modification proposed is not affected by matters prescribed within this Act.

Protection of the Environment Operations Act 1997

The modification proposed is not affected by matters prescribed within this Act.

Roads Act 1993

The modification proposed is not affected by matters prescribed within this Act.

Rural Fires Act 1997

The subject site is not mapped as containing bushfire hazards pursuant to the Planning Portal interactive map. In this regard, assessment against the *Rural Fires Act 1997* is not required.

Water Management Act 2000

The Other Modifications proposed do not relate to a development located within 40 metres of a waterfront. As such the proposal is considered to comply with the *Water Management Act 2000* and referral is not triggered to the Office of Water.

4.1.3 STATE ENVIRONMENTAL PLANNING POLICIES

Applicable State, Regional and Local Environmental Planning Instruments and Policies are detailed hereunder. Where not explicitly detailed, it is considered those instruments or policies are not relevant to the proposal.

State Environmental Planning Policy (Planning Systems) 2021

Part 2.4 Regionally significant development

The modification application relates to development specified within Schedule 6 and as such declared to be a regionally significant development for the purpose of the Act.

Part 4 Concurrences and Consents

Schedule 6 provides the relevant provisions for regionally significant development. The original application was categorised Regionally Significant Development and was approved by the Hunter and Central Coast Joint Regional Planning Panel (HCCJRPP) on 20 September 2017. The modification proposed does not impact the development’s regional significance. As such and following Schedule 6, the Other Modifications application is to be determined by the Regional Planning Panel.

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Chapter 3 Diverse Housing, Part 5 Housing for seniors and people with a disability

Division 1 Land to which Part applies

The subject site is identified as land to which these provisions apply as it is located within the B4 Mixed-use Zone/MU1 Mixed-use. Additionally, the site is not identified as land to which Part 5 does not generally apply under Section 80.

Division 3 Development standards

The relevant development standards for seniors housing are addressed in **Table 8** below.

Table 8: Development Standards – Seniors Housing

State Environmental Planning Policy (Housing) 2021	
<i>Chapter 3 Diverse housing - Part 5 Housing for seniors and people with a disability</i>	
PROVISION	ASSESSMENT
<i>Division 1 Land to which Part applies 79 Land to which Part applies This Part applies to land in the following zones— ...(e4) Zone MU1 Mixed Use, ... Zone B4 Mixed Use</i>	The subject site is identified as land to which Part 5 for housing for seniors and people with a disability applies as it is located within the B4 Mixed-use Zone/MU1 Mixed-use.
<i>81 Seniors housing permitted with consent Development for the purposes of seniors housing may be carried out with development consent— (a) on land to which this Part applies, or (b) on land on which development for the purposes of seniors housing is permitted under another environmental planning instrument.</i>	Complies. The development consent to be modified is for Mixed-Uses containing a range of uses including seniors housing.

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PROVISION	ASSESSMENT
<i>Division 3 Development standards</i>	
<i>84 Development standards—general</i>	
<i>(1) This section applies to development for the purposes of seniors housing involving the erection of a building.</i>	Complies. The application seeks to modify an existing consent for a Mixed-use development that includes seniors housing yet to be erected.
<i>(2) Development consent must not be granted for development to which this section applies unless—</i> <i>(a) the site area of the development is at least 1,000m², and</i> <i>(b) the frontage of the site area of the development is at least 20m measured at the building line, and</i> <i>(c) for development on land in a residential zone where residential flat buildings are not permitted—</i> <i>(i) the development will not result in a building with a height of more than 9.5m, excluding servicing equipment on the roof of the building, and</i> <i>(ii) if the roof of the building contains servicing equipment resulting in the building having a height of more than 9.5m—the servicing equipment complies with subsection (3), and</i> <i>(iii) if the development results in a building with more than 2 storeys—the additional storeys are set back within planes that project at an angle of 45 degrees inwards from all side and rear boundaries of the site.</i>	Complies. The site has a combined total land area of approximately 12,144m ² and 112.7 metres of road frontage to West Street and 43.82-metre frontage to Middle Street and 118.85 (combined) metres to Lake Street.
<i>(3) The servicing equipment must—</i> <i>(a) be fully integrated into the design of the roof or contained and suitably screened from view from public places, and</i> <i>(b) be limited to an area of no more than 20% of the surface area of the roof, and</i> <i>(c) not result in the building having a height of more than 11.5m.</i>	Complies. Servicing equipment is suitably contained and screened from public view as per the original consent.
<i>(4) Subsection (2)(a) and (b) do not apply to development the subject of a development application made by the following—</i> <i>(a) the Aboriginal Housing Office or the Land and Housing Corporation,</i> <i>(b) another social housing provider.</i>	Not applicable in this regard. The application is not made by the Aboriginal Housing Office or the Land and Housing Corporation and does not relate to social housing.
<i>85 Development standards for hostels and independent living units</i>	
<i>(1) Development consent must not be granted for development for the purposes of a hostel or an independent living unit unless the hostel or independent living unit complies with the relevant standards specified in Schedule 4.</i>	Complies. The modification proposed does not seek alterations to the wheelchair access for approved development. Further, the proposed modification can comply with the relevant provisions detailed under section 85 for independent living units as indicated by the Applicant.
<i>(2) An independent living unit, or part of an independent living unit, located above the ground floor in a multi-storey building need not comply with the requirements in Schedule 4, sections 2, 7–13 and 15–20 if the development application is made by, or by a person jointly with, a social housing provider.</i>	Not applicable. The Development Application is not made by a person jointly with a social housing provider
<i>88 Restrictions on occupation of seniors housing</i>	
<i>(1) Development permitted under this Part may be carried out for the accommodation of only the following—</i> <i>(a) seniors or people who have a disability,</i> <i>(b) people who live in the same household with seniors or people who have a disability,</i>	Complies. Existing consent conditions require the registration of a restriction on the title for the seniors housing units.

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PROVISION	ASSESSMENT
<i>(c) staff employed to assist in the administration and provision of services to housing provided under this Part.</i>	
<i>(2) Development consent must not be granted under this Part unless the consent authority is satisfied that only the kinds of people referred to in subsection (1) will occupy accommodation to which the development relates.</i>	Not applicable. The existing development consent is subject to conditions restricting the use of the approved seniors housing. This condition will continue to apply to the modified development.
<i>Division 4 Site-related requirements</i>	
<i>93 Location and access to facilities and services— independent living units</i>	Complies. The modification proposed seek to remove and replace the approved hotel use with additional seniors residential units. Additionally, the amended development proposes outdoor recreation. Overall, it is considered that the amended design does not compromise the adequacy of access to facilities and services and is generally consistent with the existing approval.
<i>94 Location and access to facilities and services— residential care facilities</i>	Complies, as above.
<i>95 Water and sewer</i>	Complies. No changes are required or proposed regarding connections to reticulated water and sewer infrastructure.
<i>96 Bush fire prone land</i>	Not applicable, the site is not bushfire-prone land.
<i>Division 5 Design requirements</i>	
<i>98 Design of seniors housing</i> <i>A consent authority must not consent to development for the purposes of seniors housing unless the consent authority is satisfied that the design of the seniors housing demonstrates adequate consideration has been given to the principles set out in Division 6.</i>	Noted, the proposal is to be reviewed against Division 6.
<i>Division 6 Design principles</i>	
<i>99 Neighbourhood amenity and streetscape</i> <i>Seniors housing should be designed to—</i> <i>(a) recognise the operational, functional and economic requirements of residential care facilities, which typically require a different building shape from other residential accommodation, and</i>	Complies. The modification proposed does not unduly alter the amenity and streetscape from the approved development. The additional seniors housing proposed is considered to maintain the operation, function and economy of residential care facilities as per the existing approval and the site is not associated with other residential accommodations. Except for the penthouses proposed which feature a different building shape to the seniors' housing.
<i>(b) recognise the desirable elements of—</i> <i>(i) the location's current character, or</i> <i>(ii) for precincts undergoing a transition—the future character of the location so new buildings contribute to the quality and identity of the area, and</i>	Complies. The proposed modification involves minor changes to the approved built form but generally maintains the integral components of the approved Mixed-use development and remains within the approved building footprint and envelope.
<i>(c) complement heritage conservation areas and heritage items in the area, and</i>	Complies. The site is not within a heritage conservation area and does not adjoin heritage items.
<i>(d) maintain reasonable neighbourhood amenity and appropriate residential character by—</i> <i>(i) providing building setbacks to reduce bulk and overshadowing, and</i> <i>(ii) using building form and siting that relates to the site's land form, and</i> <i>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent buildings, and</i> <i>(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and</i>	Complies. As per the amended site plan, the proposed building setback is generally consistent with the existing approval. Except for proposed Building B which proposes a reduced front boundary setback by approximately 3.50 metres along West Street on the outermost project of the roof form. Nonetheless, the modified design is not considered to undermine the neighbourhood amenity and residential character. The reduced setback is triggered by the roof form and the building setback back is generally consistent with the existing approval. Whilst it is noted that the reduced setback contributes to shadow addition from the

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PROVISION	ASSESSMENT
	existing approval on the adjoining property west of the premises (northern aspect) as per the amended Shadow Diagram plans for Building B. It also contributes to reducing overshadowing on the neighbouring building west of the premises. Overall, the potency of the overshadow is not considered to impact the Neighbourhood amenity and streetscape unduly as the amended design results in greater overshadow reduction in comparison to the existing approval.
<i>(e) set back the front building on the site generally in line with the existing building line, and</i>	Complies. The amendments proposed generally retain the approved building setback, with the exception of proposed Building B which proposes a reduced front setback to West Street.
<i>(f) include plants reasonably similar to other plants in the street, and</i>	Complies. The application includes a landscape concept plan which demonstrates planting along the street frontages.
<i>(g) retain, wherever reasonable, significant trees, and</i>	Complies. Significant trees are retained where reasonable
<i>(h) prevent the construction of a building in a riparian zone.</i>	Complies. The site is not in a riparian zone.
<i>100 Visual and acoustic privacy Seniors housing should be designed to consider the visual and acoustic privacy of adjacent neighbours and residents by— (a) using appropriate site planning, including considering the location and design of windows and balconies, the use of screening devices and landscaping, and (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</i>	Complies. The modified proposal is considered to retain the original site planning consideration and the location of windows, windows and balconies are generally consistent with the existing approval. As per the application material, screened devices are retained, and landscaping plans are provided which demonstrate adequate planting. Additionally, the bedrooms proposed are generally consistent with the existing approval. Building construction requirements incorporating noise attenuation is required in current consent conditions.
<i>101 Solar access and design for climate The design of seniors housing should— (a) for development involving the erection of a new building—provide residents of the building with adequate daylight in a way that does not adversely impact the amount of daylight in neighbouring buildings, and (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation, solar heating and lighting by locating the windows of living and dining areas in a northerly direction.</i>	Complies. As per the Applicant’s proposed plans, the modified development is considered to maintain the solar access and design elements to achieve a climate-responsive design. Specifically, the proposed Mixed-use building has north, south, east and west elevations which enables daylight capture throughout different times of the day. Additionally, the main living areas are arranged along the north, south, east and west building elevations and include the provision of windows and openings. The lodgement material also included landscaping plans which intend to provide privacy and shade, soften the building façade and obscure the rear walls of building B and C
<i>102 Stormwater The design of seniors housing should aim to— (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and (b) include, where practical, on-site stormwater detention or re-use for second quality water uses.</i>	Complies. As per the amended onsite stormwater management report, the modified proposal results in improvements in stormwater outcomes based on the additional stormwater reuse proposed. Worsening outcomes are not proposed by the development.
<i>103 Crime prevention Seniors housing should— (a) be designed in accordance with environmental design principles relating to crime prevention, and</i>	Complies. The applicant has submitted an updated Crime Prevention Through Environmental Design Assessment to support the modified proposal. The proposal was considered against the Safer by Design

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PROVISION	ASSESSMENT
<p>(b) provide personal property security for residents and visitors, and</p> <p>(c) encourage crime prevention by—</p> <p>(i) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins the area, driveway or street, and</p> <p>(ii) providing shared entries, if required, that serve a small number of dwellings and that are able to be locked, and</p> <p>(iii) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</p>	<p>guidelines prepared by the NSW Police relating to surveillance, territorial reinforcement, and access control. The assessment demonstrated that the amended design results in increased active and passive surveillance by onsite employees, patrons, apartment residents and proximity to the police station. Additionally, the assessment demonstrated that the amended design delineates the proposed uses and defines public, private and commercial areas. Similarly, the assessment showed that the amended development separates access for uses. Residential access is defined and segregated from community and commercial uses.</p>
<p>104 Accessibility Seniors housing should—</p> <p>(a) have obvious and safe pedestrian links from the site that provide access to transport services or local facilities, and</p> <p>(b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.</p>	<p>Complies. The amended design does not propose significant changes to the approved access for the site and development.</p>
<p>105 Waste management Seniors housing should include waste facilities that maximise recycling by the provision of appropriate facilities.</p>	<p>Complies. The application includes an amended Waste Management Plan and Justification to demonstrate adequate waste management provisions for the amended development in line with the condition of development consent and the Development Control Plan.</p>
<p><i>Division 7 Non-discretionary development standards</i></p>	
<p>106 Interrelationship of Division with design principles in Division 6 Nothing in this Division permits the granting of consent to development under this Part if the consent authority is satisfied that the design of the seniors housing does not demonstrate that adequate consideration has been given to the principles set out in Division 6.</p>	<p>Complies. As demonstrated above, the proposal complies with relevant provisions under Division 6.</p>
<p>107 Non-discretionary development standards for hostels and residential care facilities—the Act, s 4.15</p>	<p>Not applicable in this regard, the proposed amended development is for Mixed-use and includes seniors residential units. Further, the site is associated with a Planning Proposal approval.</p>
<p><i>Schedule 4 Standards concerning accessibility and usability for hostels and independent living units</i></p>	
<p>Part 1 Standards applying to hostels and independent living units</p> <p>1 Application of standards in this Part The standards set out in this Part apply to any seniors housing that consists of hostels or independent living units.</p>	<p>Acknowledged</p>
<p>2 Siting standards</p>	<p>Complies – no changes are not proposed to the siting standards</p>
<p>3 Security</p>	<p>Complies. A revised Crime Prevention Through Environmental Design assessment has been provided in support of the modified proposal with recommendations to ensure security.</p>
<p>4 Letterboxes</p>	<p>Complies - no changes are proposed to letterboxes</p>
<p>5 Private car accommodation</p>	<p>Complies. Adequate car parking is to be provided in accordance with the relevant standards.</p>
<p>6 Accessible entry</p>	<p>Can comply with access entry requirements</p>
<p>7 Interior: general</p>	<p>Can comply with the interior requirement</p>

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PROVISION	ASSESSMENT
8 Bedroom	Complies. The submitted plans demonstrate the provision of wardrobes and clear areas for beds. Electrical and telecommunications outlet requirements can also be achieved.
9 Bathroom	Complies. The proposed seniors housing dwellings are located within a single-storey and the bathrooms are to be provided in accordance with the relevant standards for seniors housing.
10 Toilet	Complies. The plans illustrate the provision of at least one (1) toilet for each senior housing unit.
11 Surface finishes	It is considered that the amended development can comply with the requirements for surface finishes
12 Door hardware	It is considered that the amended development can comply with the requirements for door hardware
13 Ancillary items	It is considered that the amended development can comply with the requirements for ancillary items
Part 2 Additional standards for independent living units 14 Application of standards in this Part The standards set out in this Part apply in addition to the standards set out in Part 1 to any seniors housing consisting of independent living units.	Noted
15 Living room and dining room	It is considered that the amended development can comply with the requirements for living rooms and dining rooms.
16 Kitchen	It is considered that the amended development can comply with the requirements for kitchens
17 Access to kitchen, main bedroom, bathroom and toilet	Complies. Living areas, kitchen, main bedroom, bathroom and toilet are located on the entry-level.
18 Lifts in multi-storey buildings	Complies. The amended development includes lifts and is to comply with the relevant standards.
19 Laundry	It is considered that the amended development can comply with the requirements for laundry rooms.
20 Storage for linen	It is considered that amended development can comply with the requirements for storage for linen through the provision of wardrobes and laundry areas which can also facilitate cabinets.
21 Garbage	Complies. The Applicant has indicated that each residential tower is to be provided with garbage chutes to convey garbage and recycling to bulk bins within the garbage rooms which can be located within the basement areas.

State Environmental Planning Policy (Resilience and Hazards) 2021

In reviewing the proposed modification against the relevant provisions of SEPP (Resilience and Hazards) 2021, the development is considered to comply. As mentioned above, the amendments proposed relate to the approved building floor and elevation plans. Changes are not proposed outside of the approved building footprint as per the plans proposed by the Applicant. Subsequently, the modification proposed is not considered to introduce new impacts which have the propensity to impact the coastal environment area and the works are within the parameters of the original assessment and approval.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Schedule 3 of *SEPP (Transport and Infrastructure) 2021* relates to traffic-generating development which is to be referred to Transport for New South Wales (TfNSW). The original development triggered concurrence agency referral TfNSW who did not object to the proposed proposal subject to conditions. Upon review, the proposed modification is deemed generally consistent with the original development referred to TfNSW and does not seek to introduce new uses which have the propensity to generate additional traffic demands than that considered in the original concurrence agency referral as demonstrated by the Traffic Impact Assessment report prepared by Bitzios Consulting.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The modification proposed has been reviewed against the *SEPP (Biodiversity and Conservation) 2021*. Upon review, the modification proposed complies with the relevant provisions of the policy. The modifications relate to the approved development and additional impacts are not proposed on biodiversity and conservation as the works are generally contained within the approved building footprint.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

As part of the lodgement material, the Applicant has provided BASIX Certificate prepared by Building Sustainability Assessments (reference: 810706M_03) for the modified Mixed-used development. Subsequently, the Other Modifications proposed are considered to comply with the *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*.

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development

The modification application is supported by an updated SEPP 65 Design Verification Statement and assessment against the apartment design guidelines. Overall, the amended design is not considered to undermine the design considerations of the existing development approval and the modified proposal is generally consistent with the apartment design guidelines.

4.2 REGIONAL ENVIRONMENTAL PLANS

4.2.1 HUNTER REGIONAL PLAN 2041

The Hunter Regional Plan 2041 is a 20-year blueprint for the future of the Hunter region. In reviewing the proposal against the plan, the development is considered to comply with the plan as follows:

- The proposal is anticipated to generate employment from construction through to the operation of the Mixed-uses approved over the site. Also,

the development is considered to contribute to diversifying the local economy.

- Foster is located within a regionally significant growth area; the proposal contributes to the growth by delivering a development that satisfies the long-term needs of the community.
- The proposed development contributes to improving the amenity of the locality through design elements that recognize the coastal character.

Overall, the proposed development is considered to comply with the Hunter Regional Plan 2041 and contributes to the region’s growth.

4.3 LOCAL ENVIRONMENTAL PLANS

4.3.1 GREAT LAKES LOCAL ENVIRONMENTAL PLAN (LEP) 2014

The modification application has been reviewed against the relevant provisions of the *Great Lakes Local Environmental Plan (LEP) 2014* to ensure compliance as detailed in **Table 9** below.

Table 9: Great Lakes Local Environmental Plan (LEP) 2014

SECTION	PROVISION	STATEMENT OF COMPLIANCE
<i>Part 1</i>	<i>Preliminary</i>	
1.2	<p><i>Aims of Plan:</i></p> <p><i>(1) This Plan aims to make local environmental planning provisions for land in that part of the Mid-Coast local government area to which this Plan applies (in this Plan referred to as Great Lakes) in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.</i></p> <p><i>(2) The particular aims of this Plan are as follows—</i></p> <p><i>(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,</i></p> <p><i>(a) to facilitate the orderly and sustainable economic development of land,</i></p> <p><i>(b) to promote the health and well being of the population,</i></p> <p><i>(c) to protect and enhance environmental, scenic and landscape assets,</i></p> <p><i>(d) to facilitate cultural activities that will benefit the community,</i></p> <p><i>(e) to promote the equitable provision of services and facilities for the community,</i></p> <p><i>(f) to ensure that development does not create unreasonable or uneconomic demands for the provision or extension of public amenities or services,</i></p> <p><i>(g) to promote public transport patronage and encourage walking and cycling,</i></p>	<p>The proposed modification is considered to maintain compliance with the aim of the Local Environmental Plan on the following grounds:</p> <ul style="list-style-type: none"> • The uses proposed as part of the Mixed-use development are permitted under the zone. • An economic impact statement was provided which deemed the amended proposal is more preferable in delivering net economic outcome to the locality. • The amended proposal includes community uses that promote positive health and well-being through the provision of social activities. • Additional environmental impacts are not proposed by the amended as the modifications proposed generally relate to the internal and external floor plan. • The Mixed-use development is considered to promote public transport patronage and encourage walking through the provision of mixed uses therein and within proximity to the Forster town centre. • Additional impacts are not proposed on servicing by the amended design.

SECTION	PROVISION	STATEMENT OF COMPLIANCE
	<p>(h) to ensure that development has regard to the capability of the land so that the risk of degradation is minimised,</p> <p>(i) to minimise land use conflict,</p> <p>(j) to ensure that development meets any local water quality objectives adopted by Council in relation to groundwater, rivers, estuaries, wetlands and other waterbodies,</p> <p>(k) to protect, enhance and provide for the long-term management of native biodiversity, including habitat linkages, threatened species populations and endangered ecological communities, and to identify and protect biodiversity links or corridors throughout the landscape.</p>	
Part 2	Permitted or Prohibited Development	
2.3	<p><i>Zone Objectives and Land Use Tables</i> The is zoned E2 commercial centre. Development to be assessed against current zoning:</p> <ul style="list-style-type: none"> To strengthen the role of the commercial centre as the centre of business, retail, community and cultural activity. To encourage investment in commercial development that generates employment opportunities and economic growth. To encourage development that has a high level of accessibility and amenity, particularly for pedestrians. To enable residential development only if it is consistent with the Council's strategic planning for residential development in the area. To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces. To enable a range of residential accommodation and tourist and visitor accommodation to be located above commercial uses. 	<p>The subject site is within land zoned as E2 commercial centre. The site was rezoned on 9 June 2023 being formerly zoned B4/MU1 Mixed Use. The original development application and all subsequent modifications have been assessed with the site being in the Mixed Use Zone.</p> <p>Notwithstanding the above, the modified proposal is consistent with the objectives of the E2 Commercial Centre zone. The modified proposal essentially reconfigures the existing approved uses on the site and seeks approval for amendments and adjustments to the built form to accommodate these approved uses.</p> <p>The modification application does not affect the compliance of the development with the current and previous zone provisions or its consistency with the zone objectives.</p>
Part 4	Principal Development Standards	
4.3	<p><i>Height of Buildings.</i> (1) The objectives of this clause are as follows— (a) to ensure that the scale of proposed buildings is compatible with the existing environmental character and the desired future urban character of the locality,</p>	<p>The modification application includes changes to the built form of Building D which will exceed the maximum building height by 0.5m.</p> <p>The site is subject to two different maximum building heights: 33m for the front part of the site (facing Lake Street) and 26m for the rear part of</p>

SECTION	PROVISION	STATEMENT OF COMPLIANCE
	<p><i>(b) to encourage residential development that is consistent with AS 4299–1995, Adaptable housing.</i></p> <p><i>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</i></p> <p><i>(2A) Despite subclause (2), the height of a building may exceed the maximum height shown for the land on the Height of Buildings Map by 10% if the land is in Zone R3 Medium Density Residential, Zone R4 High Density Residential, Zone E1 Local Centre or Zone MU1 Mixed Use and the consent authority is satisfied that—</i></p> <p><i>(a) internal lift access will be provided to all levels in the building, and</i></p> <p><i>(b) the design of the building is consistent with AS 4299–1995, Adaptable housing.</i></p>	<p>the site (adjacent to West Street and Middle Street).</p> <p>At the lower part of the site (adjacent to Middle Street), the amended building design for Building D proposes a building height that exceeds the LEP maximum by 0.5m or 1.7%.</p> <p>The applicant has submitted a written request under clause 4.6 as part of the lodgement materials to vary the maximum building height provisions.</p>
4.4	<p><i>Floor space ratio.</i></p> <p><i>(1) The objectives of this clause are as follows—</i></p> <p><i>(a) to ensure that the scale of proposed buildings is compatible with the existing environmental character and the desired future urban character of the locality,</i></p> <p><i>(b) to encourage a diversity of development on land in Zone E1 Local Centre, Zone E2 Commercial Centre, Zone E3 Productivity Support or Zone MU1 Mixed Use, which is unlikely to prejudice the supply of retail or business floor space in those zones,</i></p> <p><i>(c) to permit a floor space ratio that will provide a transition in built form and land use intensity,</i></p> <p><i>(d) to encourage residential development that is consistent with AS 4299–1995, Adaptable housing.</i></p> <p><i>(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.</i></p>	<p>The Floor Space Ratio Map specifies a maximum floor space ratio of 3:1 for the site. The amended development in the modification application has a floor space ratio of 2.66 which complies with this requirement.</p>
4.6	<p><i>Exceptions to development standards.</i></p> <p><i>(1) The objectives of this clause are as follows—</i></p> <p><i>(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,</i></p> <p><i>(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i></p> <p><i>(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.</i></p> <p><i>(3) Development consent must not be granted for development that contravenes</i></p>	<p>The request to vary the maximum building height provisions for the site is in line with clause 4.6 (1) (a) and (b). As such, the modification proposal complies.</p> <p>The proposed development is not expressly excluded from the operation of clause 4.6. Further, the site is associated with an existing development consent for mixed-use and the current modification application seeks to amend that approval.</p> <p>The applicant has provided a written request as part of the lodgement material supporting the</p>

SECTION	PROVISION	STATEMENT OF COMPLIANCE
	<p><i>a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—</i></p> <p><i>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</i></p> <p><i>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</i></p>	<p>modification application to justify the contravention of the development standard. In reviewing the request to vary the maximum building height provision for the site, the proposal is considered to comply with the objectives of clause 4.6. The exceedance in the maximum building height is triggered by a small portion of the roof form when viewed from Middle and West Street. However, when reviewed against the existing approval, the amended design results in reductions to the building scale and the future urban character envisaged for the locality which complies with the objectives detailed under clause 4.3. The information submitted by the applicant to address the variation to the standard adequately demonstrates that compliance with the building height standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard.</p>
	<p><i>(4) Development consent must not be granted for development that contravenes a development standard unless—</i></p> <p><i>(a) the consent authority is satisfied that—</i></p> <p><i>(i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and</i></p> <p><i>(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</i></p> <p><i>(b) the concurrence of the Planning Secretary has been obtained.</i></p>	<p>The applicant’s written request under clause 4.6 has addressed the matters for consideration in subclause 3. The consent authority can be satisfied that approving the proposed variation to the development standard will not be contrary to the public interest given that the development achieves compliance with the objectives of the zone. The additional building height proposed will not be incompatible with the existing and desired future character of the locality and results in minor building elements exceeding the prescribed building height over part of the site by 500mm (being 1.7% of the numeric building height of 26m). In accordance with directions provided by the Department of Planning and Environment (refer to Planning Circular PS 20-002, issued 5 May 2020), the Planning Secretary’s concurrence is assumed for any development application comprising regionally significant development determined by the Hunter and Central Coast Regional Panel. Subsequently, the proposal is deemed to comply with subclause (4).</p>
	<p><i>(5) In deciding whether to grant concurrence, the Planning Secretary must consider—</i></p> <p><i>(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and</i></p> <p><i>(b) the public benefit of maintaining the development standard, and</i></p> <p><i>(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.</i></p>	<p>It is noted that the current modification application is to be determined by the Regional Planning Panel. The grant of a variation is not considered to conflict with matters of state and regional environmental planning significance and the development remains in the public interest. Further, the amended floor plan can be adapted if required. As such, the amended design is considered to comply with the objective of this clause and the exceedance in maximum building height is minor.</p>
Part 5	<i>Miscellaneous Provisions</i>	
5.21	<i>Flood planning</i>	Flood planning considerations have been addressed as part of the original development application. The modifications do not propose additional flood impacts.
Part 7	<i>Additional Local Provisions</i>	
7.1	<i>Acid Sulfate soils.</i>	The site is mapped as containing ‘Class 3 and 4’ Acid Sulphate Soils. Acid Sulphate Soil

SECTION	PROVISION	STATEMENT OF COMPLIANCE
	<i>Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</i>	considerations were addressed as part of the original application and the amendments proposed do result in any seek additional impacts or increased risk.
7.2	<i>Land Earthworks.</i>	Land Earthworks considerations were addressed as part of the original application and the amendments proposed do not seek additional impacts.
7.4	<i>Coastal risk planning</i>	Coastal risk planning considerations were addressed as part of the original application and the amendments proposed do not seek additional impacts.
7.5	<i>Stormwater management</i>	An amended stormwater management statement was provided as part of the lodgement material which showed a non-worsening outcome for stormwater management and improved pollutant removal effectiveness.
7.13	<i>Active street frontages</i>	Complies, the modifications proposed do not seek to remove active street frontage components associated with the existing development approval.
7.21	<i>Essential services</i>	Complies, the proposal does not seek to amend the service arrangement for the site and the approved development

4.4 DEVELOPMENT CONTROL PLANS

4.4.1 GREAT LAKES DEVELOPMENT CONTROL PLAN (DCP) 2014

3 - Character Statements

The Great Lakes Development Control Plan (DCP) 2014 provides development controls for various forms of development in the former Great Lakes Local Government Area. An assessment of the proposed modifications against the DCP provisions is provided.

Part 3 Section 3.1 of the *Great Lakes Development Control Plan 2013* provides additional character statements for Foster and Tuncurry. The modification proposed maintains the character envisaged for the locality as per the original approval. Specifically, the amended development provides additional seniors housing which contributes to the diversity and availability of housing types within the locality.

Section 3.4 of the DCP overviews that: *Mixed-use developments are encouraged as it provides for a variety of uses and activities, adding vibrancy and life to the streets. Mixed-use development promotes a mix of uses within urban areas and challenges conventional planning practices which segregated land into individual uses. Mixed-use developments integrate uses either horizontally with different uses adjacent to each other or vertically with different uses stacked within the same building.* The modification proposed is considered to comply by retaining the Mixed-use components of the development which promote a mix of uses vertically. It is considered that only minor amendments are being undertaken to facilitate changes in the approved building floor plan. As such, the proposal complies with Section 3.4 of the DCP.

4 - Environmental Considerations

4.1 Ecological Impacts

Section 4.1 provides matters for consideration to mitigate environmental impacts associated with a development proposal. In reviewing the modification proposed to the existing approval, the development is not anticipated to introduce new impacts to the ecology of the site. The changes proposed relate to the approved floor plan and elevation plans. Major extensions are not proposed to the approved development footprint nor do the amendments result in the removal of any significant vegetation on the subject premises. Therefore, the proposal is deemed to comply with Section 4.1 pertaining to ecological impacts.

4.2 Flooding

Section 4.2 provides building controls for new buildings within flood-prone land. Flood considerations have been addressed as part of the original Development Approval. Further, the proposal does not seek to extend the approved development footprint into the flood-affected areas. Overall, the modified proposal is considered to comply with the relevant provisions of Part 4 of the DCP in its entirety.

6 - Residential Apartment Buildings, Mixed Use Development and Business Premises

Part 6, section 6.1 of the DCP provides general controls for building designs for Mixed-use development. It is considered that building design considerations addressed as part of the original development approval are maintained by the proposal. The modified development is not considered to remove the integral design elements of the approved development as the contextual elements which influenced the original development have remained consistent with the amended proposal including façade treatments. Additionally, a SEPP 65 Verification Statement has been provided by the Architect as part of the lodgement material. Overall, the development is considered substantially the same as the existing approval and compliant with Section 6.1.

The modified proposal has been reviewed against sections 6.8.2, in this regard the proposal is considered to comply. Maximum floor plate requirements have been addressed as part of the original development approval and the amended design maintains the approved floor plate. As per the lodgement material, significant impacts are not proposed by the Applicant. Therefore, the proposal complies with Section 6.8.2.

Section 6.10.2 provides setback requirements for Mixed-use development within Foster and Tuncurry. As demonstrated above, the building setback of the amended design is generally consistent with the existing approval except for Building B which includes a reduced setback of the roof form. Nonetheless, the amended setback proposed is considered to comply with the objectives for Mixed-use developments. As such, the proposal is considered to comply with section 6.10.2.

Section 6.11 of the DCP provides controls for ground levels. The amended design is considered to comply with section 6.11 through the provision of Supermarket, Retail and communal spaces comprised of a Library and community plaza within the ground floor plan.

Section 6.12 of the DCP provides the requirements for Mixed-use development in coastal town centres and the requirements for street frontage heights. As discussed, the amended proposal is generally consistent with the approved height provisions excluding amended Building D which proposes to exceed the maximum building height provisions for the site. Notwithstanding the above, the Applicant has provided a written request to vary the LEP maximum building height provisions and the proposal is considered to comply with the alternative provisions to vary the DCP requirements.

6.1 General Building Design

Section 6.1 of the DCP provides the general building design requirements for Residential Apartment Buildings, Mixed Use Development and Business Premises. It is considered that the general building design requirements have been addressed as part of the original development approval. As the Applicant proposed plans, the modification proposed does not seek to alter the integral building design elements of the approved development. Subsequently, the modified proposal is considered to comply with Section 6.1 of the DCP.

6.2 Pedestrian Amenity

Section 6.2 relates to Pedestrian Amenity. It is considered that site permeability considerations have been addressed as part of the original development approval. The modification proposed generally maintains the pedestrian movement areas.

9 – Subdivision

Part 9 of the DCP provides controls for subdivisions proposal. It is noted the subject site is associated with a subsequent strata/stratum subdivision approval. In reviewing the Applicants response along with the lodgement material, it is considered that the modified development can maintain the existing strata/stratum subdivision approved with the development. Subsequently, it is considered that the modified development maintains compliance with the relevant provisions of Part 9 of the DCP for subdivisions.

10 - Car Parking, Access, Alternative and Active Transport

Section 10.3.1.2 provide the controls for Car Parking Rates for residential apartment buildings and residential components of Mixed-use Development Control. As per the lodged application material, a total of 198 car parking spaces were required for the dwelling component as part of the original approval and 218 were provided by the development. In contrast, 217 spaces are required for the modified design and 253 car parking spaces are provided as per the lodged application material. Therefore, the development is considered to comply with Section 10.3.1.2.

Section 10.3.1.3 overviews the car parking controls for all development excluding residential components. In this regard, the lodged application material demonstrates compliance with the minimum car parking provisions. As per the application material, a total of 260 parking spaces were required for the commercial areas as part of the existing approval in which 294 parking spaces were provided by the Applicant. The modified design requires 260 parking spaces, and the Applicant proposes to provide 260 parking spaces as per the lodgement material. Subsequently, the development is considered to comply with Section 10.3.1.3 of the DCP.

Section 10.3.2.2 of the DCP provides controls relating to residential apartment buildings, Mixed-use developments and business premises. In reviewing the modified design against the relevant controls, the proposal is considered to comply as the location of the car parking areas in relation to the building setback is generally consistent with the approved development. The application material does illustrate changes to the finished materials for building and pedestrian access and the modifications proposed are not considered to impinge on landscaping and deep soil zone as demonstrated by the landscaping plans. Overall, the modified development is considered to comply with Part 10 of the DCP pertaining to car parking, access, and alternative and active transport.

Section 10.4 of the DCP pertains to alternatives and active transport. The lodge application material illustrates the provision of 181 bicycle bays which is greater than 53 bays under the existing approval but fails to meet the DCP requirements by 28 spaces. Considering the uses proposed, the bicycle rates provided are deemed appropriate.

12 - Tree and Vegetation Preservation

Section 12.4 provides the controls for vegetation management. As per the application material, the modification proposed does not seek to remove any onsite vegetation. Therefore, the proposal is considered to comply with Section 12 of the DCP.

14 - Waste Management

Sections 14.2.2 (1) and (2) provide waste management controls for all other developments. As per the lodgement material, the Applicant has an amended Waste Management Plan. The amended waste management plan has indicated

Tower	Dwellings	General Waste (80L/dwelling)	Recycling 40L/dwelling	Communal Area	Communal Waste	Communal Recycling
B	52	4160L	2080L	720m ²	4800L	1500L
C	38	3040L	1520L	-	-	-
D	39	3120L	1560L	240m ²	1008	100L

- The above estimates are based on general residential dwellings and are considered conservative given the lower occupancy of seniors housing dwellings.

applicant are shown below:

The total waste volumes and storage areas proposed by the applicant for each garbage room are summarised below:

Tower	Total Garbage Storage	Total recycling Storage	Bins Required
B	8,960L (8.96m ³)	3,580L (3.58m ³)	Garbage 3 x 3m ³ Recycling 3 x 1.5m ³
C	3,040L (3.04m ³)	1,520L (1.52m ³)	Garbage 1 x 3m ³ Recycling 1 x 1.5m ³
D	4,128L (4.13m ³)	1,660L (1.66m ³)	Garbage 2 x 3m ³ Recycling 2 x 1.5m ³

It has been indicated by the Applicant that bins will be towed from the relevant garbage rooms to be collected on a weekly basis or more frequently if required by a contractor.

Further, the Applicant provided a Traffic Assessment as part of the lodgement material which reviewed the access by service vehicles. The swept path plans indicate that an MRV vehicle 8.80m in length and 2.50 metres in width can enter and exit the waste storage and collection area within the ground floor in a forward gear. Subsequently, the modified proposal is considered to comply with Sections 14.2.2 (1) and (2).

Section 14.2.2 provides additional controls for commercial and Mixed-use developments as follows: *(1) Commercial, Industrial and Mixed-use development must be designed to maximise resource recovery through waste avoidance, source separation and recycling and to ensure appropriate well-designed storage and collection facilities are accessible to occupants and service providers. (2) Industrial development waste products may be hazardous and require compliance with established laws/protocols that are additional to this section.*

As demonstrated above, the modified proposal is considered to comply with the above requirements. The Applicant proposes measures for construction waste management and two bins have been provided for general and recycled waste. As discussed above, garbage chutes will convey garbage and recycling waste to the bulk bins located in the basement which are to be removed by service vehicles.

Section 14.3.3 provides controls for the Garbage Chutes design. In reviewing the application material, the modified proposal does not indicate changes to the garbage chute design. However, it is noted that the garbage collection rooms have been amended to ensure the proposed changes. Nonetheless, it is considered that the amended design can comply with Section 14.3.3 for Garbage Chutes design.

Additionally, Section 14.3.3 provides additional controls for garbage chute service room design and management. The modified development is considered to comply with these requirements. Waste storage areas remain in the basement, the Applicant has indicated that a contractor is to be engaged for the removal of onsite waste and the application material is not considered to suggest significant changes to approved service rooms and their management apart from the changes resulting from the amended design.

Section 14.3.4 provides Waste and Recycling Storage Areas Design Controls for Commercial and Mixed-use developments. Upon review of the application material and response provide above, the modified proposal is considered to comply with the relevant provisions of Section 14.3.4. The modified development provides waste/recycling storage areas, including their location, bin provisions, size, and service vehicle access in accordance with Section 14.3.4 and following the existing consent.

Section 14.3.6 Waste of the DCP provides controls for Recycling Storage Room. The modified development can comply with the controls for waste Waste/Recycling Storage Rooms. As per the proposed plans, storage rooms are integrated with the development and located within the basement. The location of the rooms is considered to minimise adverse impacts due to being located within the basement and adequate in size to contain the waste generated by the approved uses on site.

16 - Site Specific Development Controls

16.12.2 Development Controls

Section 16.12.2 provides site Specific Development Controls applying to the site to shape future landuse planning development. In reviewing the modified plans against the relevant provisions of Section 16.12.2, the proposed development is considered to comply with the Site-Specific Development Controls. Specifically, the modified development maintains the development concept, site permeability, street address, and building setback (apart from the minor reduction discussed previously) considerations of the existing development approval.

5. ENVIRONMENTAL IMPACTS

5.1 CONTEXT AND SETTING

In reviewing the modified development plans, the proposal is not considered to introduce new environmental impacts as the changes relate to the internal and elevation plans. Whilst reductions and additions are proposed to the approved build form, it is considered that these modifications are largely contained within the approved building footprint and envelope. Further, the modification proposed maintains the approved Mixed-use nature of the development.

Whilst the amended design results in the exceedance of the maximum building height provisions by an additional 0.5 metres for Building D, the minor additional building height has been demonstrated to be minor and consistent with the objectives of the relevant controls.

The modification also includes changes to the landuse mix and internal configuration of the built form, largely resulting from the requirement to remove certain uses from the development as required in consent conditions. The removal of these uses has required the redesign and reconfiguration of the built form and as a result, a revision to the configuration of the landuses proposed. The development now includes a greater proportion of seniors housing and reconfigured commercial uses on the lower levels. These changes are considered appropriate in the context of the development approved and in the general context of the site and its location within/adjacent to the Forster business district.

5.2 PRIVACY

Privacy considerations are addressed as part of the existing approval and maintained by the modification proposed. The modified proposal generally maintains the approved build setback apart from Building B which proposes a reduced setback of the roof form. Nonetheless, the reduced setback has been demonstrated to comply with the relevant controls as it is not considered to compromise the privacy of the adjoining residents.

5.3 OVERSHADOWING

As part of the modified proposal, the Applicant provided shadow diagrams that showed the impact of additional shadows cast during winter and summer seasons. In reviewing the amended shadow diagrams, the modified development is not considered to impact the residential areas beyond the shadow cast consideration of the original approval as the impacts are generally consistent with the approved development.

5.3 VISUAL IMPACT

Visual impact consideration has been addressed as part of the original development approval. Apart from the variation proposed to the maximum building height which has been justified and demonstrated to be acceptable, the modified development is considered to maintain the visual treatments of the approved development. Additional visual impacts are not proposed by the modified development.

5.4 ACCESS, PARKING AND TRAFFIC

The modified development satisfies the minimum requirements for onsite car parking as demonstrated above. Changes are not proposed to the approved access arrangement for the site and the approved development. Further, the applicant provided an amended Traffic Impact Assessment plan prepared by Bitzios Consulting as part of the lodgement material which demonstrates lower peak hour trip generation for the modified proposal. Swept path analysis was also included as part of the TIA which showed that the largest vehicles accessing the site can enter and exit in a forward gear.

5.5 WASTE MANAGEMENT

Waste management requirements have been discussed above and the modified proposal demonstrated compliance with the DCP controls pertaining to waste management.

5.6 LANDSCAPING

Revised landscape concept plans have been provided by the Applicant as part of the response to the Council's request for further information. The plans demonstrate the provision of landscaping including its type at relevant building levels. The revised landscaping plans submitted demonstrate an appropriate level of landscaping can be incorporated into the modified development proposal.

5.7 SOCIAL AND ECONOMIC

Potential impacts of the proposed removal of the hotel use from the development and the reconfiguration of other approved uses on the site have been considered. The Social and Economic Impact Assessment provided as part of the lodgement material demonstrates that the amended proposal provides the same level of contribution to the community infrastructure as the development that was originally approved, apart from space allocated to the community facilities in the amended design. Further, the economic benefits provided by both proposals were similar. However, the amended proposal was deemed more likely to generate sustainable long-term economic outcomes through the provision of more senior housing dwellings. Overall, the amended design was deemed the preferred option in terms of net community benefit based on the findings of the report.

6. SITE SUITABILITY

The site is associated with a Change of Use approval for a Mixed-use development including civic/community, commercial, residential, tourist and strata/stratum subdivisions. Given the existing approval, it is considered that site suitability considerations have been addressed as part of the Change of Use Development Approval. The modification proposed including the reconfiguration of approved land uses on the site and the minor alterations to the approved built form are not considered to negatively affect the suitability of the site for development.

7. SUBMISSIONS

It is noted that the original application triggered public notification in which Fourteen (14) submissions were received during the notification period. Including two (2) in support and twelve (12) against the development. The proposed modification is not considered to undermine the matters raised in the submissions.

The application to modify the consent was exhibited in accordance with Council's Community Participation Plan from 5 September 2022 to 18 October 2022. Submissions were not received against the application.

8. PUBLIC INTEREST

The original development application was assessed and determined by the Hunter and Central Coast Regional Planning Panel and considered in the public interest with approval granted. The original development proposal included a mix of commercial and entertainment-related uses such as a childcare centre, nightclub and cinema which were not approved by the Panel in the original determination. This modification application removes those uses from the design of the development with a reconfiguration of the approved uses and minor alterations to the approved built form. The development changes in the proposed modification are considered to be generally in accordance with the uses and built form approved on the site and are in the public interest.

9. REFERRALS

As discussed, the original development application triggered concurrence agency referral to the following agencies:

- Natural Resources Access Regulator (NRAR)
- Water NSW
- Transport for NSW (TfNSW) (formerly Roads & Maritime Services)
- Water NSW
- Transport for NSW
- Natural Resources Regulator (NRAR)
- NSW Police
- Essential Energy

The concurrence agencies did not object to the Mixed-use development subject to conditions and that the works are to be undertaken as per the Applicant's proposed plans. Upon review, the modification proposed is not considered to undermine the matters raised in the concurrence agency responses and the cinema, nightclub and childcare centre uses have been removed from the development floor plan as per the concerns raised by NSW police.

External referrals were not required for the modification application.

The modification application was referred internally to Council's water services (formerly MidCoast water), water quality and engineering sections with the following responses provided.

9.1 WATER QUALITY

In reviewing the water quality of the proposed modification, the modified development results in improved water quality outcomes due to introduced water use for an additional 200 units within the development and included an additional 74 toilets within the proposed commercial development. Whilst a MUSIC model was not reviewed as part of the assessment, the modification is considered low risk for water quality impacts and as such further assessment or materials were not deemed necessary.

9.2 WATER SERVICES

Objections or issues regarding water services were not raised against the proposed modified development. The existing conditions were deemed suitable for water services matters.

9.3 ENGINEERING

Following a review of the submitted information, the previous request for information and a site inspection the following engineering commentary was provided regarding the proposed modification to the approved development at 4 Lake Street, Forster.

The proposal removes the approved hotel use and previously proposed but not approved cinema, nightclub and child care uses while also making amendments to the residential layout and commercial components of the development. Subsequently, changes have been made to the upper basement level and podium levels and removing the lower basement level. An extract from the SEE is included below:

Altering basement parking areas

This change is required as a result of conditions that removed significant areas of the building use and changed parking requirements, etc. The proposed parking areas are still contained within the development footprint and make no change to the bulk or scale of the proposal. The parking provided is substantially the same as the approved development which required changes as a result of removal of the cinema, nightclub and child care centre.

The parking numbers have been assessed against the current requirements of the Great Lakes DCP with further detail of the changes included below as referenced in the SEE provided dated March 2023:

Use	Approved Parking Requirements	Modified Parking Requirements
Library	45 spaces	45 spaces
Community Centre	20 spaces	20 spaces
Customer Service Centre	4 spaces	4 spaces
Visitor/Tourist Centre	9 spaces	9 spaces
Restaurant	38 spaces	27 spaces
Retail/Supermarket	47 spaces	90 spaces
Gym	13 spaces	-
Business Centre	3 spaces	-
Hotel/Serviced Apartments	61 spaces	-
Commercial Floor Area	14 spaces	21 spaces
Residential	6 spaces	44 spaces
Total	260 spaces	260 spaces
Provided	294 spaces	260 spaces

Dwelling/parking type	Approved Parking Requirements	Modified Parking Requirements
2 bed Seniors	47 spaces	65 spaces
3 bed Seniors	59 spaces	63 spaces
1 bed Apartments	5 spaces	5 spaces
2 bed Apartments	30 spaces	30 spaces
3+ bed Apartments	45 spaces	42 spaces
Visitor spaces	12 spaces	12 spaces
Total	198 spaces	217 spaces
Provided	218 spaces	253 spaces

The changes result in a reduction of parking spaces, however, compliance with the DCP requirements is still achieved. It is noted that the parking provided exceeds the minimum required as part of the original determination and changes to Condition 12b are therefore supported and adjusted as below:

12b. Parking Allocation

Car parking spaces shall be allocated as follows:

Community / civic uses: minimum 78 spaces required; ~~110~~ **128**
 Residential (Seniors Housing) component: minimum ~~110~~ spaces required;
 Residential apartment component: minimum ~~92~~ spaces required, including 13 spaces for residential visitor parking; **89**
~~Hotel / serviced apartments: minimum 81 spaces required;~~
 Commercial / retail uses: minimum 150 spaces required (excluding the 22 space parking shortfall)*

***Note:** parking shortfall for stage 2 commercial uses has been addressed in condition 8 and requires a development contribution.

Residential visitor parking shall not be subdivided, leased or controlled by or on behalf of any particular unit owner or resident.

Reason: To ensure suitable parking is available

MOD2021/0018 – MODIFIED 02 August 2021)

10. RECOMMENDATION

The application to modify consent has been reviewed against the statutory planning provisions applying to the site and the development at both the State and Local levels. Additionally, the modification proposal has also been reviewed against the statement of reasons for the original approval as well as the matters raised in the concurrence agency responses and the public submissions. Upon this review, the recommendation is to approve the modification application in full. The recommendation is supported by the statement of reasons and is subject to the conditions of the development consent:

- The modification proposed is deemed substantially the same development as the original proposal including subsequent modification approvals as the changes proposed are generally contained within the approved building footprint and envelope.
- The modified proposal maintains the Mixed-use nature of the approved development and does not seek to introduce any new uses that were not envisaged for the site as part of the original development approval.
- The changes proposed do not undermine the matters raised in the concurrence agency response and the public submissions.
- The modification application has been triggered by the conditions of the development consent which require the removal of the Cinema, Childcare and Nightclub uses proposed by the Applicant which needed to be filled due to voids in the floor plan.
- If the proposal was to be withdrawn and relodged as a new Development Application, the level of the assessment would not change from the original assessment and additional new conditions would not be required to minimise the proposal's impact.

The following conditions of development consent are required to be amended to reflect the proposed modification and the reconfigured uses on the site. Details of the changes required are outlined above and specified in **Appendix C**.

- Condition 1 – Modified to reference amended plans.
- Condition 2 – Modified to reference amended staging.
- Condition 4 – Reworded due to removal of Childcare Centre, Nightclub and Cinemas uses.
- Condition 8 – Modified in line with revised staging.
- Condition 11 – Modified to suit amended waste management.
- Condition 12a – Modified to reflect changed parking numbers.
- Condition 12b – Modified to reflect changed parking numbers.
- Condition 14 – Modified to reflect the changed bicycle parking numbers.
- Condition 22 – Modified to include amended stormwater calculation.
- Condition 101 – Modified to reflect gymnasium removed from the approved use.

APPENDIX A – CURRENT APPROVED PLANS

APPENDIX B – MODIFICATION PLANS

APPENDIX C – MODIFIED CONDITION OF CONSENT

MODIFIED CONDITION OF CONSENT

Recommended changes to current consent conditions are provided below. Deleted content is shown with ~~strike through~~ while added content is shown **bolded**.

1. Approved Documentation

The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No / Supporting Document	Reference Version	Prepared by	Dated
Traffic Report	±	MRCagney Pty Ltd	6 April 2017
Traffic Impact Assessment	P5418.002R	Bitzios Consulting	27 Mar 2022
Site Waste Minimisation Plan		TVS Architects	Undated
Waste Management Plan	-	Tailored Planning Solutions Pty Ltd	Mar 2023
Site Survey	6714	Degotardi, Smith & Partners	13 Nov 2000
Stormwater Strategy Plans	S01, S02 issue 1	Coastplan Group	Mar 2017
Stormwater Drainage Quality Control Report	16148 issue 1	Coastplan Group	Mar 2017
Civic Precinct - Proposed Project Modification Stormwater Drainage Quality Control Measures	16148	Coastplan Group	11 Feb 2022
SEPP 65 Statement	—	TVS Architects	3 Apr 2017
SEPP 65 Design Verification Statement	-	TVS Architects	24 Feb 2022
Statement of Environmental Effects	16104	Coastplan Group	May 2021
Statement of Environmental Effects	16104	Tailored Planning Solutions Pty Ltd	March 2023
Landscape Concept Plans	SD001B, 10B, 100B, 110B, 150B, 160B, 170A, 190A, 200B, 300B, 500B, 600B, 800B, 801B, 900B, 901B, 902B, 903B, 950A, 951A, 952A		3 Apr 2017
Landscape Concept Plans	293-SD100C 293-SD110C 293-SD190B 293-SD200C 293-SD300C	02LA	7 Dec 2021

Plan No / Supporting Document	Reference Version	Prepared by	Dated
	293-SD700A		
Geotechnical Report	RGS01471.1-AB	Regional Solutions Geotech	31 Jan 2016
Ecological Assessment	116013_REO-001 Rev O	East Coast Environmental	31 Mar 2017
Cultural Heritage Report		Yettica Cultural Consulting Service	Undated
Economic Impact Advice	-	MacroPlan Holdings Pty Ltd	March 2023
Crime Prevention Through Environmental Design Report	16104	Coastplan Group	March 2017
Crime Prevention through Environmental Design Assessment	16104	Tailored Planning Solutions Pty Ltd	March 2023
Safer by Design Evaluation	Letter	NSW Police Force	14 Jul 2017
Arborist Report		TLC Tree Solutions	25 Mar 2017
Acoustic Report	M17612.01	Matric Thornton	29 Mar 2017
Basix Certificate	810706M_02		9 May 2017
BASIX Certificate	810706M_03	Planning, Industry & Environment	22 Feb 2022
NATHERS certificate	001467690	Building Sustainability Assessments	26 April 2021
Access Report	AN17-208250 Rev 01	Philip Chun	30 Mar 2017
Plan of Subdivision of Lots 11, 12 and 13 in Deposited Plan 47987	Revision 6	Phillip John Chamberlain	30 April 2021
Water NSW response	Letter	Water NSW	Undated
Survey Plan	5490.82 (1)	TVS Architects	3 April 2017
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Location Plan	18032 SP-01 Sheet 1 of 14	Phillip John Chamberlain	Undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Basement Level	18032 SP-01 Sheet 2 of 14	Phillip John Chamberlain	Undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Ground Floor	18032 SP-01 Sheet 3 of 14	Phillip John Chamberlain	Undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Level 1	18032 SP-01 Sheet 4 of 14	Phillip John Chamberlain	Undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Level 1	18032 SP-01 Sheet 5 of 14	Phillip John Chamberlain	Undated
Plan of subdivision of proposed Lot 2 in DP 1270306	18032 SP-01 Sheet 6 of 14	Phillip John Chamberlain	Undated

Plan No / Supporting Document	Reference Version	Prepared by	Dated
(unregistered) Level 2			
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Level 2	18032 SP-01 Sheet 7 of 14	Phillip John Chamberlain	Undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Level 3	18032 SP-01 Sheet 8 of 14	Phillip John Chamberlain	Undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Level 3	18032 SP-01 Sheet 9 of 14	Phillip John Chamberlain	Undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Level 3	18032 SP-01 Sheet 9 of 14	Phillip John Chamberlain	Undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Level 4	18032 SP-01 Sheet 10 of 14	Phillip John Chamberlain	Undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Level 5	18032 SP-01 Sheet 11 of 14	Phillip John Chamberlain	Undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Level 6	18032 SP-01 Sheet 12 of 14	Phillip John Chamberlain	Undated
Plan of subdivision of proposed Lot 2 in DP 1270306 (unregistered) Level 7	18032 SP-01 Sheet 13 of 14	Phillip John Chamberlain	Undated
Roof	18032 SP-01 Sheet 13 of 14	Phillip John Chamberlain	Undated
Architectural Plans			
Cover Sheet	5490.01 (4)	TVS Architects	11 May 2021
Development Statistics	5490.09 (5)	TVS Architects	11 May 2021
Location Plan	5490.10 (1)	TVS Architects	3 Apr 2017
Site Context Diagram	5490.11 (1)	TVS Architects	3 Apr 2017
ESD Strategies	5490.12 (3)	TVS Architects	11 May 2021
Communal Open Space	5490.16 (3)	TVS Architects	11 May 2021
Waste Management Plan	5490.17 (3)	TVS Architects	11 May 2021
Staging Plan	5490.18 (4)	TVS Architects	11 May 2021
Site Plan	5490.21 (3)	TVS Architects	11 May 2021
Lower Basement 2 Plan	5490.22 (3)	TVS Architects	11 May 2021
Upper Basement 1 Plan	5490.23 (2)	TVS Architects	11 May 2021
Ground Floor Plan	5490.24 (5)	TVS Architects	11 May 2021
Level 1 Floor Plan	5490.25 (4)	TVS Architects	11 May 2021

Plan No / Supporting Document	Reference Version	Prepared by	Dated
Level 2 Floor Plan	5490.26 (3)	TVS Architects	11 May 2021
Level 3 Floor Plan	5490.27 (5)	TVS Architects	11 May 2021
Level 4 Floor Plan	5490.28 (7)	TVS Architects	11 May 2021
Level 5 Floor Plan	5490.29 (6)	TVS Architects	11 May 2021
Level 6 Floor Plan	5490.30 (6)	TVS Architects	11 May 2021
Level 7 Floor Plan	5490.31 (4)	TVS Architects	11 May 2021
Level 8&9 Floor Plan	5490.32 (3)	TVS Architects	11 May 2021
Level 10 Floor Plan	5490.33 (2)	TVS Architects	11 May 2021
Roof Plan	5490.34 (3)	TVS Architects	11 May 2021
Typical Unit Plans stage 2 & 3	5490.40 (5)	TVS Architects	11 May 2021
Typical Unit Plans stage 2 & 3 mirrored	5490.40a (2)	TVS Architects	11 May 2021
Typical Unit Plans— Stage 1 only	5490.40b (1)	TVS Architects	11 May 2021
Typical Unit Plans— Stage 1 only mirrored	5490.40c (1)	TVS Architects	11 May 2021
Typical Unit Plans	5490.41 (1)	TVS Architects	11 May 2021
Typical Unit Plans mirrored	5490.41 (1)	TVS Architects	3 Apr 2017
Typical Unit Plan	5490.42 (1)	TVS Architects	3 Apr 2017
Typical Unit Plan mirrored	5490.42 (1)	TVS Architects	3 Apr 2017
Typical Unit Plans	5490.43 (1)	TVS Architects	3 Apr 2017
Typical Unit Plans mirrored	5490.43 (1)	TVS Architects	3 Apr 2017
Penthouse Unit Plans Stage 1	5490.44 (1)	TVS Architects	11 May 2021
Penthouse Unit Plans Stage 1	5490.45 (1)	TVS Architects	11 May 2021
Elevations (N & E)	5490.50 (5)	TVS Architects	11 May 2021
Elevations (S & W)	5490.51 (4)	TVS Architects	11 May 2021
Elevations (sectional)	5490.52 (5)	TVS Architects	11 May 2021
Elevations (sectional)	5490.53 (4)	TVS Architects	11 May 2021
Site Sections	5490.60 (3)	TVS Architects	11 May 2021
Materials and Finishes	5490.70 (1)	TVS Architects	3 Apr 2017
Materials and Finishes	5490.71 (3)	TVS Architects	11 May 2021
Materials and Finishes	5490.72 (3)	TVS Architects	11 May 2021
Library zone plan Ground	5490.80 (2)	TVS Architects	17 Feb 2020
Library Zone plan level 1	5490.81 (2)	TVS Architects	17 Feb 2020
Survey Plan	5490.82 (1)	TVS Architects	3 Apr 2017
Coversheet	5490.01 (5)	TVS Architects	16 Mar 2023
Perspective Views	5490.02 (4)	TVS Architects	16 Mar 2023
Perspective Views	5490.03	TVS Architects	16 Mar 2023
Perspective Views	5490.04 (4)	TVS Architects	16 Mar 2023
Perspective Views	5490.05 (4)	TVS Architects	16 Mar 2023

Plan No / Supporting Document	Reference Version	Prepared by	Dated
Perspective Views	5490.06 (4)	TVS Architects	16 Mar 2023
Perspective Views	5490.07 (3)	TVS Architects	16 Mar 2023
Perspective Views	5490.07a (2)	TVS Architects	16 Mar 2023
Design Intent	5490.08 (3)	TVS Architects	16 Mar 2023
Development Statistics	5490.09 (6)	TVS Architects	16 Mar 2023
Site Context Diagram	5490.11 (2)	TVS Architects	16 Mar 2023
ESD Strategies	5490.12 (4)	TVS Architects	16 Mar 2023
Shadow Diagrams	5490.13 (4)	TVS Architects	16 Mar 2023
Shadow Diagrams	5490.13a (2)	TVS Architects	16 Mar 2023
Shadow Diagrams	5490.13b (2)	TVS Architects	16 Mar 2023
Shadow Diagrams	5490.13c (2)	TVS Architects	16 Mar 2023
Shadow Diagrams	5490.13d (2)	TVS Architects	16 Mar 2023
Shadow Diagrams	5490.13e (2)	TVS Architects	16 Mar 2023
Sun Penetration Design Study For Sunshading	5490.14 (4)	TVS Architects	16 Mar 2023
Sun Penetration Design Study For Sunshading	5490.15 (3)	TVS Architects	16 Mar 2023
Communal Open Space Diagrams	5490.16 (4)	TVS Architects	16 Mar 2023
Waste Management Plan	5490.17 (4)	TVS Architects	16 Mar 2023
Staging Plan	5490.18 (5)	TVS Architects	16 Mar 2023
Site Plan	5490.21 (4)	TVS Architects	16 Mar 2023
Lower Basement 2 Plan	5490.22 (6)	TVS Architects	16 Mar 2023
Upper Basement 1 Plan	5490.23 (6)	TVS Architects	16 Mar 2023
Ground Floor Plan	5490.24 (8)	TVS Architects	16 Mar 2023
Level 1 Floor Plan	5490.25 (6)	TVS Architects	16 Mar 2023
Level 2 Floor Plan	5490.26 (6)	TVS Architects	16 Mar 2023
Level 3 Floor Plan	5490.27 (10)	TVS Architects	16 Mar 2023
Level 4 Floor Plan	5490.28 (10)	TVS Architects	16 Mar 2023
Level 5 Floor Plan	5490.29 (9)	TVS Architects	16 Mar 2023
Level 6 Floor Plan	5490.30 (9)	TVS Architects	16 Mar 2023
Level 7 Floor Plan	5490.31 (9)	TVS Architects	16 Mar 2023
Level 8 Floor Plan	5490.32 (9)	TVS Architects	16 Mar 2023
Level 9 Floor Plan	5490.32a (3)	TVS Architects	16 Mar 2023
Level 10 Floor Plan	5490.33 (6)	TVS Architects	16 Mar 2023
Roof Plan	5490.34	TVS Architects	16 Mar 2023
Typical Unit Plans – Stage 2, 3 & 4	5490.40 (7)	TVS Architects	16 Mar 2023
Typical Unit Plans – Stage 2 & 3 Mirrored	5490.40a (3)	TVS Architects	16 Mar 2023

Plan No / Supporting Document	Reference Version	Prepared by	Dated
Typical Unit Plans – Stage 1 Only	5490.40b (1)	TVS Architects	16 Mar 2023
Typical Unit Plans – Stage 1 Only, Mirrored	5490.40c (1)	TVS Architects	16 Mar 2023
Typical Unit Plans – Stage 2	5490.40d (1)	TVS Architects	16 Mar 2023
Adaptable Unit Layouts	5490.40e (1)	TVS Architects	16 Mar 2023
Adaptable Unit Layouts	5490.40f (1)	TVS Architects	16 Mar 2023
Adaptable Unit Layouts	5490.40g (1)	TVS Architects	16 Mar 2023
Penthouse Unit Plans – Stage 1	5490.44 (1)	TVS Architects	16 Mar 2023
Penthouse Unit Plans – Stage 1	5490.45 (1)	TVS Architects	16 Mar 2023
Penthouse Unit Plan – C1001	5490.46 (1)	TVS Architects	16 Mar 2023
Penthouse Unit Plan – C1002	5490.47 (1)	TVS Architects	16 Mar 2023
Elevations	5490.50 (7)	TVS Architects	16 Mar 2023
Elevations	5490.51 (6)	TVS Architects	16 Mar 2023
Elevations	5490.51 (7)	TVS Architects	16 Mar 2023
Elevations	5490.53 (6)	TVS Architects	16 Mar 2023
Site Sections	5490.60 (5)	TVS Architects	16 Mar 2023
Materials & Finishes	5490.70 (3)	TVS Architects	16 Mar 2023
Materials & Finishes	5490.71 (4)	TVS Architects	16 Mar 2023
Materials and Finishes	5490.72 (4)	TVS Architects	16 Mar 2023
Survey Plan	5490.82 (2)	TVS Architects	16 Mar 2023

In the event of any inconsistency between the conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

~~In accordance with Condition 4 the proposed childcare centre, nightclub and cinema are not approved under this consent.~~

Reason: To ensure compliance.
 (DA-521/2017/E – MODIFIED 11 April 2020)
 (MOD2021/0041 - MODIFIED 19 May 2021)
 (MOD2021/0018 – MODIFIED 02 August 2021)
(MOD2022/0062 – MODIFIED [DATE])

2. Staging of Development

The development is to be undertaken in accordance with the approved 'staging plan' as generally described by the following:

Stage 1 a
Basement carpark and transfer slab (164 spaces)
Stage 1 b
Library Visitor centre Community centre Community lounge Council customer service centre Community plaza Community gardens Restaurant/café (1) Bike parking and end of trip facilities Commercial floor space
Stage 1 c
53 residential apartments 3 penthouses Lower common terrace for residents Stage 1 resident parking (80 spaces) Lake Street road improvements
Stage 2A
Corridor/lobbies (enclosed) Supermarket Retail Office Resident's Club Restaurant / Cafe
2B
60 Seniors Units Corridor/lobbies (enclosed)
Stage 3
45 Seniors Units Penthouses (x2) Corridor/lobbies (enclosed) Resident's Club
Stage 4
39 Seniors Units Corridor/lobbies (enclosed)

The development is to provide for a total of 513 carparking spaces. Note that development contributions are required for the shortfall of 22 car parking spaces in Stage 2 as referred to in condition 8.

Reason: In the interests of consistency.
(DA-521/2017/C – MODIFIED 22 November 2018)
(DA-521/2017/E - MODIFIED 11 APRIL 2020)
(MOD2021/0018 – MODIFIED 02 August 2021)
(MOD2022/0062 – MODIFIED [DATE])

4. Ambit of Consent and separate application required for non-approved uses and/or differing uses and/or fit-outs

This consent does not include approval for the childcare centre, nightclub or cinemas. These components of the application are to be removed from the plans prior to the issue of any construction certificate. The uses allocated to these spaces are to be considered as follows and subject to separate development consent:

Original Proposal (unapproved)	Likely Future Use	Gross Floor Area (m2)
Cinemas	Commercial office / business premises	1809
Childcare Centre	Retail	289
Nightclub	Hotel storage and back of house	817

Separate development consent shall be obtained for any use and/or fitout of any tenancy that differs from that approved under this development consent, unless such work or use is exempt development **or has approval as complying development.**

Reason: To ensure compliance with the terms of this consent.
(MOD2021/0018 – MODIFIED 02 August 2021)
(MOD2022/0062 – MODIFIED [DATE])

8. Section 7.11 Contributions

MidCoast will provide updated contribution conditions.

11. Waste Areas

Prior to the release of the Construction Certificate for each described Development Stage, the Certifying Authority is to be satisfied that the plans are amended to ensure the following:

Residential Units: Each waste disposal chute service area is to be designed to have capacity for at least 3 x 3 cubic metre garbage bulk bins and 3 x 1.50 cubic metre recycling bulk bins.

The access refuse collection point on Middle Street is to be increased to accommodate at least 24m² of bulk waste storage area.

~~**Hotel:** The hotel refuse area is to be increased to at least 9m² in area.~~

Ground Level Commercial: The refuse area is to be enlarged to 22m².

Public accessible open space: Adequate dual garbage / recycling litter bins are to be placed throughout the publicly accessible areas of the development in consultation with Council's Waste Services Section.

Street level bin enclosure: The bin enclosure on Middle Street is to be amended to ensure it can accommodate a least 3 x 3 metre and 3 x 1.50 metre bulk bins.

Collection Vehicles Access: Clearance heights at contractor refuse collection points are to be a minimum of 6.2 metres.

Reason: To ensure the development can provide adequate facilities in perpetuity and in the interests of public health.

(MOD2022/0062 – MODIFIED [DATE])

12a. Vehicle Parking and Access

Prior to the issue of a Construction Certificate for each relevant stage, plans and specifications detailing access, parking and manoeuvring on the site must be submitted to and approved by the Certifying Authority. Vehicular access, parking and manoeuvring must be in accordance with Australian Standards AS/NZS 2890.1 and AS 2890.2 in respect of the following items:

- k) Car park and driveway layout.
- ~~l) Taxi area at the Porte Cochere driveway.~~
- m) Pavement description (ie being concrete/ bitumen or a similar hard paved surface).
- n) Site conditions affecting the access.
- o) Suitable changes of gradient must be provided for along the critical path along each of the vehicle travel paths as recommended in:
 - AS 2890.1 for the vehicle;
 - AS 2890.2 Table 3.2 for all trucks that will access the development.
- p) Turning paths for vehicles entering/exiting the ramp and main traffic routes through the development site and carparks to comply with:
 - For cars - AS2890.1 table 2.2 and figures 2.8 and 2.9.
 - For trucks - AS2890.2 tables 3.1 and 3.2.
- q) Existing and design levels.
- r) Drainage (pipes, pits, on-site detention, etc.).
- s) Accessible car parking space/s designed in accordance with Australian Standard AS/NZS 2890.6: Parking facilities - Off-street parking for people with disabilities;
- t) Line-marking and signage.

The plan shall also identify the allocation of car parking spaces for the approved uses. ~~A total of 547 car parking spaces are to be allocated and provided within the development in general accordance with:~~

- ~~MidCoast Council's DCP 2014; and~~
- ~~SEPP (Housing for Seniors or People with a Disability) 2004 (where applicable).~~
-

~~The plan shall also identify the allocation of car parking spaces for residential uses.~~

Reason: To ensure suitable vehicular access and manoeuvrability is provided within the development.

(MOD2021/0018 – MODIFIED 02 August 2021)

(MOD2022/0062 – MODIFIED [DATE])

12b. Parking Allocation

Car parking spaces shall be allocated as follows:

Community / civic uses: minimum 78 spaces required;

Residential (Seniors Housing) component: minimum 217 spaces required;

~~Residential apartment component: minimum 92 spaces required, including 13 spaces for residential visitor parking;~~

~~Hotel / serviced apartments: minimum 61 spaces required;~~

Commercial / retail uses: minimum 260 spaces required

~~*Note: parking shortfall for stage 2 commercial uses has been addressed in condition 8 and requires a development contribution.~~

Residential visitor parking shall not be subdivided, leased or controlled by or on behalf of any particular unit owner or resident.

Reason: To ensure suitable parking is available
(MOD2021/0018 – MODIFIED 02 August 2021)
(MOD2022/0062 – MODIFIED [DATE])

14. Bicycle parking

Full details are to be provided in documentation for a Construction Certificate detailing how bicycle storage is to be provided within each stage as described below.

- a) Stage 1 - 1 x class 1 or class 2 bicycle enclosure for each residential unit, 8 x class 2 bicycle enclosure and 20 x class 3 bicycle rails.
- b) Stage 2 - 1 x class 1 or class 2 bicycle enclosure for each residential unit, 7 x class 2 bicycle enclosure and 23 x class 3 bicycle rails
- c) Stage 3 - 1 x class 1 or class 2 bicycle enclosure for each residential unit, 3 x class 2 bicycle enclosure and 3 x class 3 bicycle rails
- d) Stage 4 - 6 x class 2 bicycle enclosure & 5 x class 3 bicycle rails.

MIDCOAST COUNCIL TO DETERMINE APPROPRIATE BICYCLE PARKING RATES

The bicycle storage is to be designed and implemented in accordance with the Australian Standard AS/NZS 2890.3: Parking facilities - Bicycle parking facilities and Council's DCP 14.

Reason: To ensure the street car parking and the internal car and bicycle parking is constructed to suitable standard.

(MOD2022/0062 – MODIFIED [DATE])

22. Stormwater Quality Management Concept and Treatment measures

Prior to the issue of a Construction Certificate for stage 1, engineering plans and specifications for the stormwater management system, shall be submitted to and approved by the Certifying Authority. Engineering plans are to be designed in accordance with the approved Stormwater Strategy Plans (Drawing numbers S01 and S02 issue 1, prepared by Coastplan Group, March 2017), the approved Stormwater Drainage Quality Control Report (ref 16148 issue 1 prepared by Coastplan Group, March 2017) and any amendments contained within these conditions.

A 1ML rainwater tank is to collect 100% of the roof water and is to be plumbed into the laundry and toilets in all of the ~~proposed units, 74 toilets in the commercial units and all toilets in the hotel~~ **all of the residential and commercial units.**

A 10KL rainwater tank is to collect water from the elevated terrace between building A and B and connect to the 'bioretention area A' in the Southern Eastern corner of the development. The area between the Eastern boundary and building A drains to this bioretention area.

Bioretention areas B, C, D and E are to treat stormwater runoff from ground level areas.

The bioretention basins ~~must be in compliance with~~ **are to be provided generally in accordance with** the Stormwater Strategy Plans, the approved Stormwater Drainage Quality Control Report and meet the following criteria:

- a) Designed in accordance with Water by Design (2006), 'Water Sensitive Urban Design - Technical Design Guidelines for South East Queensland', South East Queensland Healthy Waterways Partnership.
- b) Consist of 500mm of sandy loam filter media consistent with WSUD Engineering Procedures (Melbourne Water, 2005) with minimum 200mm of depth for water detention, the top of the bioretention is to be finished a minimum of 50mm (freeboard) above the maximum water level.
- c) Sides and base must be lined with a HDPE impermeable liner or equivalent.
- d) Contain at least two species of plants selected from Great Lakes Councils Fact Sheet 15 'Local plant selection for raingardens, guidance for Water Sensitive Design DCP 54' dated 10 April 2014, planted at densities indicated in the fact sheet.
- e) Filter media shall be of uniform sandy loam texture and be consistent with the specifications contained in Adoption Guidelines for Stormwater Biofiltration Systems, Facility for Advancing Water Biofiltration, (Monash University, June 2009).
- f) Be located outside of the tree protection zone of trees that will be retained in the development

Reason: To ensure water quality requirements as contained in the Water Sensitive Design section of the Great Lakes Development Control Plan 2014 are met.

(MOD2022/0062 – MODIFIED [DATE])

101. Hours of operation

The permitted hours of operation for the proposed uses of the development must be restricted to within the hours specified below:

Use	Start Time	Finish Time
Supermarket	7:00am	10:00pm
Retail Shops	7:00am	10:00pm
Restaurants / Cafes	6:00am	10:00pm
Gymnasium	24 hour	24 hour

Any alteration to the above hours of operation will require the further consent of Council.

Reason: To protect the amenity of adjoining premises.

(MOD2022/0062 – MODIFIED [DATE])

103. Ground Level Food and Drink Patrons

Each ground level food and drink premises is to be restricted to providing a maximum number of customers / patrons as described below and is to include the designated outdoor areas. Each premise is to be provide seating for all customers.

Location	Number of Patrons
Restaurant / Café (1) North West corner	155
Restaurant / Café (2) North West corner adjacent Residential lobby	127
Restaurant / Café North West corner of Building B	MIDCOAST COUNCIL TO DETERMINE APPROPRIATE PATRON NUMBERS
Restaurant / Café (3) North East corner of Building B	259

Reason: In the interests of protecting public amenity, to reduce anti-social behaviour, to ensure compliance with Building Code of Australia with regard to amenities.

(MOD2021/0018 – MODIFIED 02 August 2021)

(MOD2022/0062 – MODIFIED [DATE])