

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSHCC-74
DA Number	MOD2021/0018
LGA	MidCoast
Proposed Modification	<p>The modifications primarily relate to the residential units in Building A (currently approved as Stage 4), changes to Level 1 commercial space and alterations to staging so that Stage 4 reverts back to Stage 1C. The change does include some minor changes in Building B associated with additional communal open space. The proposed changes are:</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 of a temporary garbage collection area. • Alterations to staging.
Street Address	34-36 West Street Forster 2428 Lots 11, 12 and 13 DP 47987
Applicant	Coastplan Group Pty Ltd
Owner	MidCoast Council
Date of DA lodgement	1 March 2021
Total Number of submissions	one
Number of unique objections	none
Recommendation	Approval
Regional Development Criteria Schedule 7 of SEPP (State and Regional Development 2011)	<p>Part 4 of <i>State Environmental Planning Policy (State and Regional Development) 2011</i> applies as the development is listed within Schedule 4A of the EP&A Act, being general development over \$20 million, as well as Council related development over \$5 million. The development has a capital investment value of \$80 million. Council is the landowner and is party to an agreement with the applicant / developer.</p>

List of all relevant s4.55(2) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • Environmental Planning and Assessment Regulation 2000 • State Environmental Planning Policy (Coastal Management) 2018 • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 • State Environmental Planning Policy (Infrastructure) 2007 • Great Lakes Local Environmental Plan 2014 • Great Lakes Development Control Plan 2014
List all documents submitted with this report for the Panel's consideration	<p>Attachment A – Draft Notice of Determination Attachment B – Approved Plan Set Attachment C – Plans of Proposed Modifications Attachment D - Statement of Environmental Effects Attachment E – Visual Impact Assessment Attachment F – BASIX and NATHERS certificates Attachment G – Design Verification Statement Attachment H – Adaptable Unit Layouts</p>
Report prepared by	Lisa Proctor, Consultant Town Planner on behalf of MidCoast Council
Report date	15 June 2021

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 about a particular matter been listed, and relevant recommendations summarized, 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?

Not applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

No

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

Report Author: Lisa Proctor, Consultant Town Planner on behalf of MidCoast Council
Date of Meeting: 15 July 2021

DETAILS

Date Received: 1 March 2021
Applicant: Coastplan Group Pty Ltd
Owners: MidCoast Council
Land: 34-36 West Street Forster
Lots 11, 12 and 13 DP 47987
Area: 12,153m²
Zoning: B4 – Mixed Use

EXECUTIVE SUMMARY

The development was approved on 20 September 2017 (DA-521/2017) by the Hunter Central Coast Joint Regional Planning Panel.

The approved development includes four towers over a multi-level podium base to accommodate:

- 139 self-contained seniors housing units;
- 4 penthouse residential apartments;
- 84 hotel suites;
- 18 serviced apartments;
- 841m² supermarket;
- 903m² gross floor area of restaurants and retail space; and
- community facilities comprising a new library, visitor information centre, flexible community spaces and a public car park.

MidCoast Council is the owner of the land and has entered into a partnership agreement with Enyoc Pty Ltd, a private developer, to deliver the project.

The modifications relate primarily to alterations to the residential component of Building A (currently Stage 4) and alterations to staging so that Stage 4 becomes Stage 1C. The alterations include some minor modifications to Building B to create additional communal open space.

The development, as modified, will remain substantially the same development for which consent was originally granted, prior to the approval of previous modifications. It is not proposed to introduce any new uses and although it is proposed to change the seniors housing in Building A to residential apartments, there will be 86 self-care seniors living units constructed in Buildings B and C, therefore seniors living will still be provided within the completed development.

The additional storey proposed for Building A is considered to be the most significant modification to the approved development, although it is not considered to radically change

the development as the use, built form and design intent will be maintained and the additional storey is unlikely to be perceived as a significant visual change to the approved development.

The additional storey will result in an increase in height of 3.2m for Building A. The majority of the building (as modified) will be at or below the level of the height control for the site, with the small area of the highest point (lift tower) exceeding the height standard by 500mm. This point is centralised and is not highly visible in the surrounding landscape. The exceedance of the height control is considered to be minor in both degree and extent.

Additional overshadowing impacts will result from the additional storey to Building A, however these impacts are considered minor in the context of the approved development. The shadow diagrams lodged with the application demonstrate that adjoining properties will maintain access to sunlight consistent with the DCP and primarily consistent with the approved development.

The proposed modifications do not result in additional non-compliances with any State Environmental Planning Policy or Development Control Plan. The new and modified apartments meet the relevant standards and design quality considerations under the Apartment Design Guide. The proposed modifications do not diminish or detract from the design quality, or compromise the design intent, of the development for which the development consent was originally granted.

BACKGROUND

The site is located within the Forster City Centre Precinct. In 2008 a Forster Civic Precinct Master Plan was created for redevelopment of the site and the adjacent civic precinct to deliver community facilities integrated with commercial and residential development. Due to funding constraints Council resolved to engage with a private partner as a means of funding the development of the facilities. The partnership created between Enyoc and Council enables adequate funding to be available for the public element of the proposal and provides an opportunity for the public and private aspects of the development to operate in an integrated manner.

Since 2017 the development has been modified several times as outlined below:

Modification A (approved 18/04/2018):

- 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).

No modifications were made to the approved plans.

Modification B (approved 26/06/2019):

Altered construction times to allow limited construction activities to occur on Saturdays and Sundays from 9am to 4pm (Condition No.62).

No modifications were made to the approved plans.

Modification C (approved 22/11/2018):

- Altered the approved staging to include sub-staging within stage 1 (Condition No. 2) as follows:
 - 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).

No modifications were made to the approved plans.

Modification D (approved 18/12/2018):

Altered the staging of the payment of the damage bond, in line with the sub-staging of Stage 1 (Condition No. 18).

No modifications were made to the approved plans.

Modification E (approved 11/04/2020):

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 (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.

Modifications were made to the following plans:

- 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
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Modification F (approved 31/03/2021):

Altered the timing and amount of the construction bond (Condition No. 18).

No modifications were made to the approved plans.

Modification G (approved 19/05/2021):

Amended the stratum subdivision plans for stage 1 to create:

- 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:
 - 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.

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.

SUBJECT SITE AND LOCALITY

The subject site is located at the southern end of the Forster town centre. It is located on a lot with two corners with a frontage to West Street of 123.86m, a frontage to Lake Street of 120.70m and a frontage to Middle Street of 46.81m. The Forster Civic Precinct Master Plan 2008 was created for re-development of the site and the adjacent civic precinct to deliver community facilities integrated with commercial and residential development.

The land is classified as operational land under the *Local Government Act 1993*. The site is zoned B4 – Mixed Use, and the range of land uses approved and proposed are all permissible with consent and are appropriate to meet the objectives of the B4 zone.

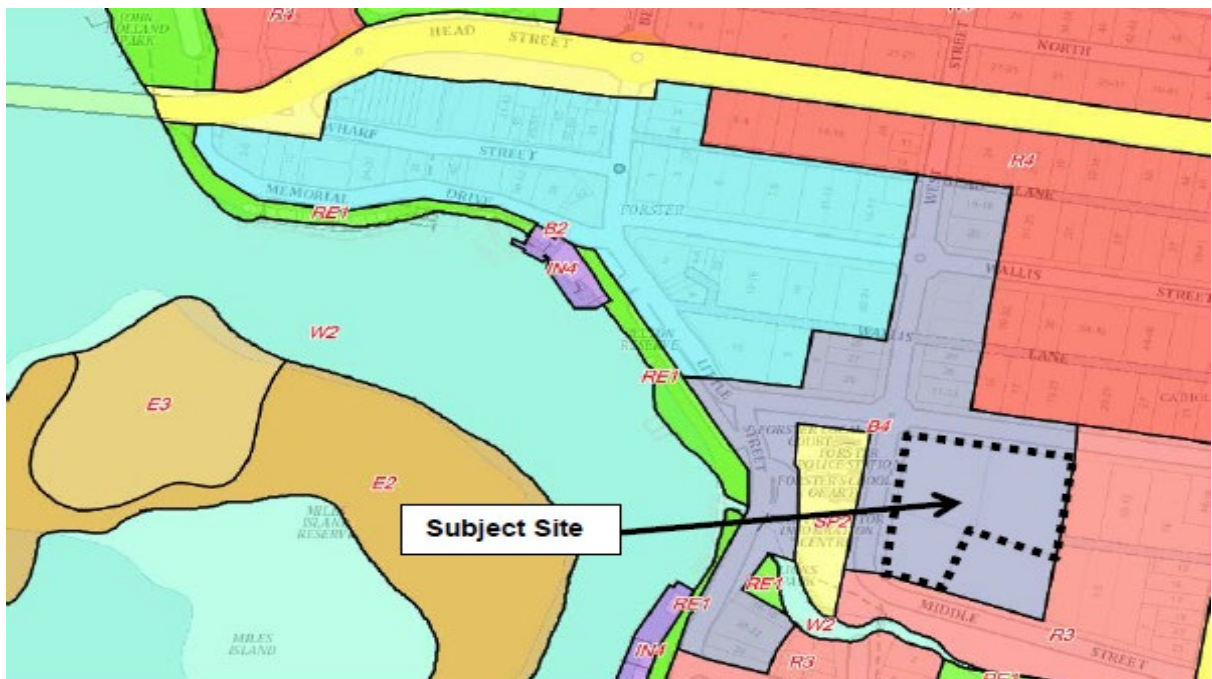


Figure 1: Site location showing landuse zones



Figure 2: Aerial photo of site

The site is surrounded by various types of development and uses as follows:

Land to the north: This is part of the Forster town centre B4 - Mixed Use and R4 - High Density Residential area which is currently developed with a variety of commercial, residential and tourist development which varies from two-storey buildings to eleven-storey residential towers. The development controls in those areas provide for maximum building heights of up to 30m.

Land to the west: This is part of the southern central B4 – Mixed Use area and SP2 – Infrastructure area. On the opposite side of West Street, in the SP2 area, is the police station, bus stop and tourist information centre. The area is currently developed with a mix of commercial, residential, and tourist development along Lake Street.

Land to the south: The adjoining land to the south along Middle Street is comprised of offices occupied by the Department of Education. Development on this site is comprised of single storey buildings with a maximum allowable height of 18m.

Land to the east: The land adjoining the site to the west is comprised of tourist units. Although it currently has a height limit of 12m, Council's Housing Strategy (2019) proposes to increase the maximum allowable building height to 30m.

APPROVED DEVELOPMENT

The consent provides for a mixed-use development containing a range of uses including civic/community uses, commercial uses, residential uses and tourist uses. The forms of development approved are:

Civic/Community Uses

- Library
- Community Centre
- Visitor Information Centre
- Council Customer Service Centre
- Community Plaza (Flexible)
- Community Plaza (Outdoor)

Commercial/Entertainment Uses

- Supermarket
- Restaurant/Cafes (4)

Residential Uses

- Seniors housing (self-care independent living units)
- Penthouse Apartments
- Residents Club, Terraces and Facilities

Tourist Uses

- Hotel Rooms
- Serviced Apartments
- Hotel Facilities and Café/Restaurants

The original application also sought approval for a cinema, night club and childcare centre. These uses were not approved in the original consent with condition 4 requiring their removal. No use has been allocated to these spaces at this time, and any use for these areas will be subject to future development applications.

PROPOSED MODIFICATIONS

The modifications relate primarily to alterations to the residential component of Building A (currently Stage 4) and alterations to staging so that Stage 4 becomes Stage 1C. The modifications include some minor changes to Building B to create additional communal open space and facilities for residents.

The proposed modifications involve:

- Change of occupancy arrangements from seniors housing to regular residential apartments in Building A, including minor changes to the internal layouts.
- Creation of an additional storey (Level 7) to Building A containing three (3) penthouse units.
- Strata subdivision of the newly created residential apartments.

- Change of use of the area approved for the resident's club to commercial space.
- Extension of the communal outdoor open space and resident facilities at Level 3.
- Minor alterations to the restaurant layout.
- Minor alterations to the basement layout and provision of additional ancillary resident and commercial spaces.
- Alterations to Level 2 parking area to provide additional resident parking.
- Addition of a temporary garbage collection area to the Lake Street frontage.
- Changes to staging.

1. Change of units from seniors housing to standard residential apartments

The apartments in Building A are approved for seniors housing (DA-521/2017). The modification proposes to remove any age restriction on occupation of the units and the requirement for the units to meet the accessibility standards contained in *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. The modified units would still be capable of meeting the Adaptable Housing standards (refer to Attachment H).

The proposed modifications to the approved units involve only minor alterations to the layout of the existing unit spaces. The units maintain compliance with SEPP 65 requirements as detailed in the architect's design certification at Attachment G. The modification to the unit occupancy provisions necessitates alterations to the basement level access to provide additional garage area including vehicle and bicycle parking spaces.

2. Additional Level of Penthouse Units

The proposed modification includes an additional level to Building A containing three (3) penthouses. One penthouse is a four-bedroom dwelling with large living areas and multiple outdoor balconies/courtyards. The other two penthouses contain three bedrooms with large living areas and multiple outdoor balconies/courtyards. The additional level will increase the building height from the approved height of 25.9m to a proposed height of 29.1m (the maximum height applying to that part of the land is 28.6m including the allowable height bonus). The design and form of the addition will be consistent with the approved development.

3. Strata Subdivision

The modification includes strata subdivision of the proposed residential units to allow separate ownership of individual units. The proposed strata subdivision will not result in any change to the built form or the uses within the building.

4. Conversion of Resident's Club to Commercial Space

With the change of use in Building A from seniors housing to regular residential apartments, the building no longer requires a resident clubhouse. The approved clubhouse is proposed to be changed to a commercial space. The area will provide 559m² of office space which will be accessible by lift and stairs from the community plaza. The proposed modification will be consistent with the approved mixed use. The basement parking area provides sufficient spaces to accommodate parking for the future commercial use, which would be subject to a separate development application.

5. Extension of Communal Open Space for Residents

The approved development includes roof top garden areas at Level 3 of Building A. The proposed modifications include extra resident facilities in the form of a swimming pool and a covered barbecue / terrace area. The modifications will result in the ultimate loss of access to the level 3 communal outdoor space for residents of Buildings B and C, who currently have

access in the approved layout. Temporary access will be provided for those residents until the communal open space for Buildings B and C is available.

The purpose of this change to ultimate access arrangements for residents of Building B is to ensure that any communal space available for seniors is not available to the general residents of the building. This is for the purposes of safety, security and privacy for senior residents. High quality communal facilities for seniors are available on levels 5 and 6 of Building B in the form of a pool, garden and outdoor terrace areas.

This change also involves some changes to Building B with the wall around the space for the cinemas (which were not approved) reduced to accommodate the additional outdoor space and the plant room that was provided for cinema air conditioning also removed and the area used for communal open space.

6. Restaurant Alterations

The proposed restaurant space at the ground level will be modified in layout but will maintain a large internal dining space as well as an alfresco dining area. The proposal slightly reduces the restaurant floor area and provides a glass roof over the outdoor eating area (that was sheltered by a concrete balcony in the approved development). The proposal maintains the use in the same area and modifications are minor.

7. Basement Alterations

The basement area will be modified so that the sprinkler tank is now located under the basement level, along with the main water storage tank and the area formerly utilised for the sprinkler tank will be altered to provide commercial storage space, additional bike parking areas for residential units and building services.

The proposal also includes an additional refuse area for the residential units and alterations to the parking layout in these two (2) areas.

Minor changes to stairs and lifts are also detailed to be consistent with levels above and as a result of detailed construction design.

The proposed basement modifications provide for improved use of the space. The change does not alter the basement footprint/envelope which has already been constructed.

8. Alteration to Level 2 Parking Area

The Level 2 parking area provides resident parking in Stage 1. The approved parking spaces are wider than required under AS2890.1 so that they meet requirements under the Seniors Housing SEPP. With the change of use to regular residential apartments, the parking spaces have been redesigned to comply with AS2890.1 which has resulted in an additional 10 parking spaces being provided in the stage 1 parking area at this level. The modifications will involve altered line-marking arrangements within this area, which has already been constructed.

9. Temporary Waste Management Provision

The approved waste management arrangement for the development involves collection of bins from a large temporary storage area adjacent to the driveway from Middle Street, approved to be developed in Stage 2. It is necessary to provide a temporary collection area for Stage 1 off the public road where bins from the basement storage areas can be left for collection by a contractor. The temporary area would be located on the Lake Street frontage west of Stage 1. The area will be used by building management to place bins from the garbage room for collection. The bins will be taken to the pad just prior to collection and returned to the garbage

room after collection. Once Stage 2 is developed the temporary garbage collection area will no longer be required and all garbage collection will be undertaken from the approved collection area off the driveway to Middle Street.

10. Modified Staging

Originally Approved	Proposed
Stage 1	Stage 1a
Library	Basement carpark and transfer slab
Visitor centre	Stage 1b
Community centre	Library
Community Lounge	Visitor centre
Community plaza	Community centre
Community gardens	Community lounge
Restaurant / café	Council customer service centre
Basement carpark (162 spaces)	Community plaza
Bike parking and end-of-trip facilities	Community gardens
53 seniors living units	Restaurant/café (1)
Lower common terrace for residents	Bike parking and end of trip facilities
Stage 1 resident parking (77 spaces)	Commercial floor space
Lake Street road improvements	
	Stage 1 c
	53 residential apartments
	3 penthouses
	Lower common terrace for residents
	Stage 1 resident parking
	Lake Street road improvements
Stage 2	Stage 2
Supermarket	Supermarket
Retail shops	Retail shops
Restaurants/cafes (4)	Restaurant/cafes (2)
Remainder of basement parking (128 spaces)	Remainder of basement parking (128 spaces)
59 seniors living units	59 seniors living units
Penthouses (x2)	Penthouses (x2)
Stage 2 resident parking (149 spaces)	Stage 2 resident parking (149 spaces)
Pedestrian plaza (West Street frontage)	Pedestrian plaza (West Street frontage)
Service road access and driveways	Service road access and driveways
Stage 3	Stage 3
29 Seniors Units	29 Seniors Units
Penthouses (x2)	Penthouses (x2)
Upper level resident terraces and common facilities	Upper level resident terraces and common facilities
West Street improvements	
Stage 4	Stage 4
Gymnasium	Gymnasium
Hotel	Hotel
Serviced apartments	Serviced apartments
Middle Street improvements	Middle Street improvements

Plans of the proposed modifications are included at Attachment C, with proposed modifications outlined in red. The table below provides a description of the proposed modifications in reference to the notations on the Plans. Several of the plans have also been corrected to reflect components previously approved but not included (in error) on the plans. The corrections are also described in the tables below.

Cover Sheet 5490.01

Reference	Approved Plan	Modification
1.1	Building A has a total of 6 levels in the perspective	Building A has been increased to 7 levels in the perspective
1.2	Drawing List	Drawing List has been updated to reflect modified plan set
1.3	Thermal assessment detail approved on sheet 5490.83	Thermal assessment added to cover sheet rather than as separate sheet

Perspective Views 5490.02

Reference	Approved Plan	Modification
2.1	Perspective does not show skylight at the top of Building B which is included in approved roof plan	Skylight added as per approved roof plan
2.2	Perspective shows balcony for approved residents club	Perspective amended to show modification of residents club area to commercial space and glass roof
2.3	Perspective shows planter location in community plaza	Perspective amended to show new planter location as a result of amended restaurant layout
2.4	Perspective shows old skylight to community centre / plaza	Perspective amended to show skylights as per previous modification, to correct inconsistency in approved plans

Perspective Views 5490.03

Reference	Approved Plan	Modification
3.1	Perspective does not show skylight at the top of Building B which is included in approved roof plan.	Skylight added as per approved roof plans to correct inconsistency
3.2	Perspective shows balcony for approved residents club.	Perspective amended to show modification of resident's club area to commercial space and glass roof

Perspective Views 5490.04

Reference	Approved Plan	Modification
4.1	Building A has a total of 6 levels in the perspective.	Building A has been increased to 7 levels in the perspective
4.2	Perspective does not show skylight at the top of Building B which is included in approved roof plan.	Skylight added as per approved roof plans, to correct inconsistency
4.3	Perspective shows balcony for approved residents club	Perspective amended to show modification of residents club area to commercial space and glass roof

Perspective Views 5490.05

Reference	Approved Plan	Modification
5.1	Perspective shows different roof form at top of Building C which is inconsistent with approved roof plan	Perspective changed so it is consistent with approved roof plan for Building C, to correct inconsistency.

Perspective Views 5490.06

Reference	Approved Plan	Modification
6.1, 6.2	Perspective shows different roof form at top of Building C which is inconsistent with approved roof plan	Perspective changes so it is consistent with approved roof plan for Building C, to correct inconsistency
6.3	Level 5 terrace in perspective not consistent with approved floor plans and retained tree omitted	Perspective amended to be consistent with approved floor plan and retained tree included to correct inconsistency

Perspective Views 5490.07 and 5490.07a

Reference	Approved Plan	Modification
7.1	n/a – new plan	New perspective from north-east showing proposed modifications
7.2	n/a – new plan	New perspective of modified development looking into community plaza

Development Statistics 5490.09

Reference	Approved Plan	Modification
9.1	Notes library area as 1787m ²	Miscalculation in original plans – library space actually measures 1791m ²
9.2	Residential tower for Building A noted as stage 4	Residential tower for Building A proposed for Stage 1. Penthouse areas added resulting in increase to total unit area. Change to area of corridors and lobbies. Reduction in area of ground level amenities and area of ground level café / restaurant. Area of commercial spaces added to replace residents club area.
9.3	Stage 3 and 5 note space for cinemas, night club and childcare centre.	Stage 5 moved to Stage 4. Cinemas, nightclub and childcare areas noted as not approved.

ESD Strategies 5490.12

Reference	Approved Plan	Modification
12.1	Building A has a total of 6 levels in the section	Building A has a total of 7 levels in the section
12.2	Section shows residents club on level 2	Section amended to show commercial space on level 2
12.3	Section shows cinemas which were excluded from the consent by Condition no.4	Area previously labelled as cinemas has been noted as 'not approved'

Shadow Diagrams Sun Penetration Design Study 5490.13

Reference	Approved Plan	Modification
13.1	Provides shadow diagrams	To assist in assessment larger diagrams have been provided over additional sheets (now 13, 13a, 13b, 13c, 13d, 13e). Modified diagrams show additional impacts of proposed modifications in red including additional m ² of shadowing.

Communal Open Space 5490.16

Reference	Approved Plan	Modification
16.1	Plan designates outdoor eating spaces for community plaza associated with restaurants/café	Area adjacent to modified restaurant/café area reduced in size.
16.2	Plan designates outdoor eating spaces for community plaza associated with restaurants / cafe	Designated outdoor eating spaces removed due to proximity to customer experience centre (restaurant 4 deleted in Modification E). Corrects an inconsistency.
16.3	Balcony shown to residents club at level 1	Balcony no longer provided with change of area to commercial space.
16.4	Resident outdoor space at level 1 shown	Increased outdoor space shown.

Waste Management Plan 5490.17

Reference	Approved Plan	Modification
17.1	Base plan for basement based on approved floor plan	Updated to modified basement layout
17.2, 17.3, 17.4	Base plan for Ground Floor based on approved floor plan	Updated to modified ground floor layout

Staging Plan 5490.18

Reference	Approved Plan	Modification
18.1	Provides staging detail over approved floor plans	Floor Plan updated with modified floor plans

18.2	Plan provides 5 stages with Building A nominated as stage 4	Staging modified back to 4 stages with Building A now in stage 1c
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Site Plan 5490.21

Reference	Approved Plan	Modification
21.1	Site plan shows single 'horseshoe' skylight over Community Centre. Inconsistent with ground and Level 1 plan which shows two (2) skylights over the area.	Plan amended to show consistent skylight treatment over the area consistent with Modification E plans.
21.2	Plan shows approved roof terrace arrangements (Level 3).	Plan amended to show proposed roof terrace arrangements for Level 3.
21.3	Plan shows approved roof detail for Building A.	Plan amended to show proposed roof details for Building A

Lower Basement 2 Plan 5490.22

Reference	Approved Plan	Modification
22.1	Fire Sprinkler Tank provided in space in Ground/Basement Level	Fire Sprinkler Tank provided in tank below Ground/Basement Level. Tank provided as part of larger rainwater tank in original proposal. Alternate Fire Sprinkler Tank added as part of this proposed modification.
22.2	Rainwater tank (as detailed on Ground/Basement Level) not shown on plan.	Rainwater tank added to plan to rectify an error.
22.3	Plan shows Nightclub which was excluded from consent by condition number 4.	Area has been noted as not approved, to provide clarity
22.4	Car parking table provided summarising parking provision in building.	Car parking table updated to be consistent with proposed modification

Upper Basement 1 Plan 5490.23

Reference	Approved Plan	Modification
23.1	Area between Basement and Lake Street frontage in north western corner contains Pump Room and Fire Sprinkler Tank.	Fire Sprinkler Tank relocated below slab and hydrant pump room relocated to other side of fire stair. Area expanded to provide storage area for use by commercial tenants.
23.2	Area in in north-eastern corner of basement provides part of Fire Sprinkler Tank	Fire Sprinkler Tank relocated below slab. Area utilised for additional lockable bike storage for residential use, culvert for electrical supply distribution under approved transformer and 6 car spaces provided
23.3	Building A tower lifts to residential	Additional Refuse Room added. Lift lobby added over previous clearway space. Two parking

	accommodation with refuse room and clearway area (no parking)	spaces removed for new refuse room. Provided to meet condition 11 and cater for larger waste streams from new residential apartments. Proposed lift lobby provided to improve security for the residential lifts.
23.4	Lift and stair provided to connect basement with community and commercial floors above	Minor change to stair layout to be consistent with construction plans and meet BCA requirements.
23.5	Library Lift provided at angle (inconsistent with lift orientation in library on Levels 1 & 2)	Lift orientation modified to be consistent with shaft orientation above
23.6	External fire stair provided at south eastern corner of basement	Inclusion of service shaft next to stair to provide ventilation supply to meet mechanical design requirements
23.7	Plan shows nightclub which was excluded from consent by condition number 4	Area labelled as Nightclub has been noted as not approved to provide clarity
23.8	Car parking table provided summarising parking provision in building	Car parking table amended as a result of proposed modification
23.9	Plan shows lifts for Cinema which was excluded from consent by condition number 4	Lifts are no longer referenced as for cinema, for clarity

Ground Floor Plan 5490.24

Reference	Approved Plan	Modification
24.1	Restaurant / café area provided at western edge of community plaza	Shape and area of restaurant / café modified and glass roof provided over outdoor eating area where residents club balcony previously existed
24.2	Planters provided to edge of outdoor eating areas, centrally in plaza and adjacent to street frontage	Planter shapes modified around outdoor eating areas and adjacent to site frontage. Central planter relocated and made a central feature of the plaza following consultation with Council as the landowner.
24.3	No temporary bin collection area designated for stage 1	Temporary bin collection area provided at Lake Street frontage west of stage 1. This area will be removed when the loading docks and approved bin collection area are provided in Stage 2.
24.4	External fire stair provided at north eastern corner connecting with basement.	Minor changes to layout following detailed design. Footprint remains the same.
24.5	External fire stair provided at south eastern corner connecting with basement.	Minor changes to layout following detailed design. Footprint remains the same.
24.6	External fire stair provided at south western corner connecting with basement.	Minor changes to layout following detailed design. Footprint remains the same.
24.7	Plan shows cinema lobby which was excluded from consent by condition no. 4	Area labelled as cinema has been noted as 'not approved' for clarity

24.8	Plan shows childcare area which was excluded from consent by condition no. 4	Area labelled as childcare centre has been noted as 'not approved' for clarity
24.9	Plan shows nightclub entry which was excluded from consent by condition no. 4	Area labelled as nightclub has been noted as 'not approved' for clarity

Level 1 Floor Plan 5490.25

Reference	Approved Plan	Modification
25.1	First floor area west of the community plaza provides an area forming a residents club for Building A	With the change of Building A from seniors housing to residential units the residents club is no longer required. The area has been modified in shape, the deck removed and a glass roof provided over the area below. It is proposed to use the first floor area for commercial space.
25.2	Car parking schedule provided to reflect approved parking	Car parking schedule modified to reflect changed parking arrangements
25.4	Cinema lift shaft shown through stage 2 area	Area labelled as Cinema has been noted 'not approved', for clarity

Level 2 Floor Plan 5490.26

Reference	Approved Plan	Modification
26.1	Carpark with 71 parking spaces provided and storage areas for use by residents	With reduction in carparking width, parking area now provides 81 parking spaces. Storage floor area has been maintained, however layout between storage cupboards has been modified.
26.2	Single skylight noted over community lounge (inconsistent with other approved plans) deck/planter arrangements provided for decks off units A 201 and A 202.	Double skylight provided consistent with other approved plans, to correct an error. Deck area to units modified in shape to provide additional private open space.
26.3	4 units provided for seniors housing	4 units changed from seniors housing to residential units. Unit area, shape and location remains the same. Floor plans altered slightly.
26.5	Cinema lift shaft shown through Stage 2 area. These areas were not approved as per condition 4 of the consent.	No longer noted as lift shaft for cinema.

Level 3 Floor Plan 5490.27

Reference	Approved Plan	Modification
27.1	Plan shows Cinemas which were excluded from consent by condition number 4	Area labelled as Cinema has been noted 'not approved', for clarity

27.2	Approved plan shows landscaped area over slab of remaining Stage 1 area where not occupied by Stage 2 Cinema space or mechanical plant (cinema air conditioning). Condition 4 of the consent did not permit use of the space for cinema as discussed above.	<p>Cinema and mechanical plant (not approved) area over stage 1 removed and landscape extended over these areas.</p> <p>Landscaped area improved with pool, covered terrace and BBQ area for the use of Building A residents.</p> <p>Small plant room added above approved shaft to provide air conditioning for uses at Ground level and Level 1.</p> <p>Fire stair from lower level extended to connect with this level.</p>
27.3	Lightwell provided to get light penetration for Stage 2 when cinema wall blocked natural light access to hallway	Lightwell not necessary for this level as a result of change to non-approved cinema area which allows direct access to natural light from communal residents area.
27.4	Balcony area of unit A310 limited in extent by planter	Deck area to unit A310 increased over slab and planter modified to provide additional private open space for unit.
27.5	12 units provided for seniors housing	12 units changed from seniors housing to residential units. Unit area, shape and location remains the same. Floor plans altered slightly

Level 4 Floor Plan 5490.28

Reference	Approved Plan	Modification
28.1	Plan shows Cinemas which were excluded from consent by condition number 4.	Area labelled as cinemas noted as 'not approved', for clarity
28.2	<p>Non approved cinema area designated consistent with level below.</p> <p>Roof over covered pathway below (noted but not shown).</p>	<p>Non approved cinema area modified as per change on lower level.</p> <p>Roof over covered pathway shown and additional roof for BBQ area and terrace shown, to provide additional communal open space for residents.</p>
28.3	12 units provided for seniors housing	12 units changed from seniors housing to residential units. Unit area, shape and location remains the same. Floor plans altered slightly.

Level 5 Floor Plan 5490.29

Reference	Approved Plan	Modification
29.1	12 units provided for seniors housing	12 units changed from seniors housing to residential units. Unit area, shape and location remains the same. Floor plans altered slightly.

Level 6 Floor Plan 5490.30

Reference	Approved Plan	Modification
30.1	12 units provided for seniors housing	12 units changed from seniors housing to residential units. Unit area, shape and location remains the same. Floor plans altered slightly.

Level 7 Floor Plan 5490.31

Reference	Approved Plan	Modification
31.1	Roof of Building A noted on plan	Additional Level 7 provided for Building A containing three (3) penthouse units
31.2	Roof noted ventilated skylights for Level 6 units to provide cross flow ventilation	Light and ventilation shafts provided through penthouse units to maintain cross flow ventilation to Level 6 units

Levels 8 & 9 Floor Plan 5490.32

Reference	Approved Plan	Modification
32.3	Roof plan of Building A repeated as per Level 7 plan	New roof of Building A added over new Level 7 including ventilated skylights for Level 6 units

Roof Plan 5490.34

Reference	Approved Plan	Modification
34.1	Roof of all approved buildings	New roof of Building A added as per changes to add Level 7

Typical Unit Plans 5490.40

Reference	Approved Plan	Modification
40.1	Typical Unit Plans in approved towers	Approved Stage 1 unit plans removed and Stage 1 unit plans now provided as new sheets 40b and 40c

Typical Unit Plans Stage 2 & 3 Mirrored 5490.40a

Reference	Approved Plan	Modification
41.1	Typical Unit Plans in approved towers	Approved Stage 1 unit plans removed and Stage 1 unit plans now provided as new sheets 40b and 40c

Typical Unit Plan Stage 1 only 5490.40b and Mirrored 5490.40c

Reference	Approved Plan	Modification
n/a	n/a	New unit plans for stage 1. Units maintain same area but partition walls and layout for bathrooms and laundries slightly modified. Island benches added in kitchens.

Penthouse Unit Plans Stage 1 5490.44

Reference	Approved Plan	Modification
n/a	n/a	New plan showing detailed floor plans for Level 7 penthouses (A701 and A702) in Stage 1.

Penthouse Unit Plans Stage 1 5490.45

Reference	Approved Plan	Modification
n/a	n/a	New plan showing detailed floor plans for Level 7 penthouse (A703) in Stage 1.

Elevations 5490.50

Reference	Approved Plan	Modification
50.1	North elevation (to Lake Street) of Buildings A and B	Additional level (level 7) added to Building A elevation. Height planes added.
50.2	North elevation shows resident club balcony at level 1	Elevation modified to remove balcony and depict new arrangements.
50.3	East elevation of Building A provided	Additional level 7 added to Building A elevation
50.4	East elevation shows screening structures for library	Area of screening slightly increased to provide light control for large eastern windows of library to improve library amenity

Elevations 5490.51

Reference	Approved Plan	Modification
51.1	Western elevation (West Street) and southern elevation (Middle Street) provided showing Buildings C, D and E	No change to elevations. Height planes added.

Elevations 5490.52

Reference	Approved Plan	Modification
52.1	Sectional elevation through Community Plaza provided showing Building A with six (6) levels.	Elevation modified to show additional storey to Building A and height planes added
52.2	Section elevation shows old skylight arrangement	Plan adjusted to show skylight arrangement approved in Modification E
52.3	Section elevation shows resident club detail	Modified sectional elevation shows commercial area detail to replace residents club
52.4	No roof shown over fire exit adjacent to Lake Lane from Basement.	Roof added over fire stair to minimise stormwater intrusion to basement. Minor detail picked up during detailed construction design.

Sectional Elevation 5490.53

Reference	Approved Plan	Modification
53.1	Sectional elevation through commercial loading/service area provided showing Building A with six (6) levels.	Sectional elevation modified to show additional storey to Building A and height planes added.
53.2	Sectional elevation shows detail of Level 3 communal open space area	Plan adjusted to show modified arrangements for this area
53.3	Stage 1 west elevation provided showing Building A with six (6) levels	Elevation modified to show additional storey to Building A and height planes added.

Site Sections 5490.60

Reference	Approved Plan	Modification
60.1	Section A showing Building A with six (6) levels	Section modified to show additional storey to Building A
60.2	Section for Building A includes typing error for floor Levels 5 & 6. Other levels correct including maximum building height	Plan updated with corrected floor levels to address error in previous plans. 3.2m floor to floor height maintained as per the ADG.
60.3	Section shows Cinemas which were excluded from consent by condition number 4	Area labelled as Cinemas has been noted as 'not approved', for clarity
60.4	Section shows Child Care area which was excluded from consent by condition number 4	Area labelled as Cinemas has been noted as 'not approved', for clarity

Material and Finishes 5490.71

Reference	Approved Plan	Modification
71.1	Building A has a total of six (6) levels in the Perspective	Building A has been increased to seven levels in the perspective
71.2	Perspective does not show skylight at the top of Building B which is included in approved roof plan	Skylight added as per approved roof plans, to correct previous error

Material and Finishes 5490.72

Reference	Approved Plan	Modification
72.1	Perspective shows different roof form at top of Building C which is inconsistent with approved roof plan	Perspective changed so it is consistent with approved roof plan for Building B, to correct previous error

IS THE DEVELOPMENT SUBSTANTIALLY THE SAME?

Under S.4.55(2) of the Act a consent authority may modify the consent if:

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

The development, as modified, will remain substantially the same development for which consent was originally granted, prior to the approval of previous modifications. It is not proposed to introduce any new uses and although it is proposed to change the seniors housing in Building A to residential apartments, there will be 86 self-care seniors living units constructed in Buildings B and C, therefore seniors living will still be provided within the completed development.

The proposal does not involve radical transformation of the approved development and there are no modifications proposed to any features of the development that are material or essential to the characterisation of the development or the merits of the development. This report has considered both the quantitative and qualitative elements of the approved development with the proposed modified development as follows:



- The numerical differences in all key aspects of the development.
- Non-numerical factors (e.g. visual impact, privacy and overshadowing).
- Whether any changes relate to a material and essential feature of the approved development.

In relation to considering whether the development is substantially the same as the development for which consent was originally granted and before that consent as originally granted was modified, the proposed modifications are considered individually below.

Change of use from seniors housing to residential apartments: This proposed modification is a minor change of use from one residential use (seniors housing) to another residential use (residential flat building). All of these uses fall within the group term “residential accommodation”. The change in use involves no physical change to the footprint or envelope of these units and only results in minor internal changes to the unit layouts for the kitchens, bathrooms and laundries. The proposed change of use will allow general occupancy, rather than occupation being limited to persons over the age of 55 or persons with a disability. The physical changes only involve the relocation of partition walls within the units and they will maintain adaptability to return to a layout meeting the Seniors SEPP and AS 4299 (refer to Attachment H) if necessary. It is considered that this modification has a substantial level of merit as it will improve the diversity of housing available within the development.

Additional storey for Building A: The additional storey and provision of an additional three (3) penthouse apartments is considered to be the most significant change to the development, although it is not considered to radically change the development from the original approval.

The table below compares the building heights of the approved development¹ to the proposed modification:

Original Consent	Proposed Modification
Building A – 6 storeys: 25.9m Building B – 11 storeys: 36.2m Building C – 11 storeys: 36.2m Building D – 8 storeys: 26-28m Total Number of units: 143	Building A – 7 storeys: 29.1m Building B – 11 storeys: 36.2m Building C – 11 storeys: 36.2m Building D – 8 storeys: 26-28m Total number of units: 146
	

The proposed modification to include the additional level will generally maintain the built form relationship of the proposal to the surrounding environment (refer to Attachment E). Although there are some environmental impacts associated with the additional storey to Building A (discussed in detail in other parts of this report), these are considered to be minor and do not affect the threshold of whether the proposed modified development is substantially the same as the development originally approved.

Strata subdivision: Although the approved development does not include strata subdivision, there would be no physical change to the development or alteration of the potential activity generated on site as a result of the proposed strata subdivision. As seniors housing the units would have been sold in the local market under a 99-year lease arrangement².

Conversion of residents club to commercial space: A large area of the development on Level 1 has been approved as a residents club to provide an entertainment space for residents and guests of the seniors housing. It was intended that the area would function as a bar and restaurant providing refreshments and entertainment. The proposed change involves the use of the area as a commercial space. Both uses are captured in the group term “commercial premises” and it is not considered that the modification to this space represents a radical change of use. The proposed modification will not change the mixed-use characterisation of the development.

Extension of communal open space and resident facilities: This area was approved as communal open space to be developed in Stage 1, for residents of Buildings A and B, providing landscaped areas and a covered path. The proposed modification maintains this area as communal open space for residents and adds additional facilities in the form of a pool and BBQ area. The extension of the space requires a reduction of the space allocated originally to the cinemas which were not approved. This proposed change to the building is minor and it cannot be seen from outside of the site. The use of the expanded area is consistent with the treatment of the central part of the site in the original consent.

¹ Since the original consent was issued for the development, there have been no modifications that have increased the height of any of the buildings.

² The strata subdivision of the units could alternatively be undertaken as complying development under Clause 6.1 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Alteration to layout of restaurant / café area: The alterations to the approved restaurant / cafe at ground level involve minor changes to the shape of the internal area and outdoor eating space. As a result the restaurant / café area reduces from 270m² to 265m². A glass roof replaces the solid balcony approved over the restaurant space. The changes are considered minor and do not alter the context and setting of the restaurant / café within the development.

Minor alterations to the basement layout and provision of additional ancillary resident and commercial spaces: The proposed changes within the basement make no change to the building footprint, which is already constructed. The proposed change will provide additional facilities to support the proposed residential and commercial spaces. The changes are minor in the context of the development and do not alter the use of the building or change the impacts of the development.

Proposed alteration of parking area on level 2: The proposed parking changes within level 2 make no change to the building footprint/envelope, which is already partially constructed. The changes involve remarking of the approved parking spaces within the same footprint. The use for parking is maintained and the provision of an additional 10 car spaces maintains the car parking area as substantially the same, albeit to cater for the change from seniors housing to residential apartments as well as the additional three units.

Addition of a temporary garbage collection area to the Lake Street frontage: The proposed garbage slab and pickup area is necessary to facilitate collection of garbage by contractors until the service vehicle access and loading areas are completed in Stage 2. The temporary collection area was always required for the Stage 1 development and the designation on the plan is as a result of further detailed design and operational considerations.

Alterations to staging: The alterations to the approved staging are required to facilitate the orderly delivery of the modified development. The proposed alterations to the approved staging do not result in any material changes to the approved development.

EXTERNAL REFERRALS

Under S.4.55(2) of the Act a consent authority may modify the consent if:

(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,

The application was lodged as 'integrated development' as the proposal involves excavation that will require groundwater extraction. The proposed modifications do not involve any change to the approved basement area for Building A as this is already constructed and Stage 1 dewatering is completed.

Natural Resources Access Regulator (NRAR) – The modification application was referred to NRAR who advised that the proposed works are exempt from the need to obtain a controlled activity approval by virtue of the *Water Management Act (General) Regulation* Schedule 4, 31 - Activities on 1st, 2nd & 3rd order streams where the works are separated from the river by a public road.

WaterNSW – The modification application was referred to WaterNSW who advised that: "WaterNSW has no objections to the proposed modifications. The original GTA's provided by WaterNSW still stand" (email received 27/05/2021).

Transport for NSW (TfNSW) – Although TfNSW are not an approval or concurrence authority for the development, the modification application was referred to them as the application is “traffic generating development”. TfNSW advised that:

- TfNSW has no proposal that requires any part of the property.
- Council should ensure that appropriate traffic measures are in place during the construction phase of the project to minimise the impacts of construction vehicles on traffic efficiency and road safety within the vicinity.
- Discharged stormwater from the development shall not exceed the capacity of the Macintosh Street stormwater drainage system. Council shall ensure that drainage from the site is catered for appropriately and should advise TfNSW of any adjustments to the existing system that are required prior to final approval of the development.
- Council should ensure that the applicant is aware of the potential for road traffic noise to impact on development on the site, in particular, noise generated by the Macintosh Street, a classified State road (MR692). In this regard, the developer, not TfNSW, is responsible for providing noise attenuation measures in accordance with the NSW Road Noise Policy 2011, prepared by the department previously known as the Department of Environment, Climate Change and Water.
- If the external noise criteria cannot feasibly or reasonably be met, TfNSW recommends that Council apply internal noise objectives for all habitable rooms with windows that comply with the Building Code of Australia.

The TfNSW comments have already been addressed through the conditions of consent for the approved development. No additional conditions are required in relation to the TfNSW comments.

SUBMISSIONS

Under S.4.55(2) of the Act a consent authority may modify the consent if:

- (c) it has notified the application in accordance with—*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

The proposed modification was advertised and notified between 31 March 2021 and 12 May 2021, in accordance with Council’s Community Engagement Policy. One submission was received. That submission enquired whether the Cinemas were being proposed as part of the modification. Council advised the submitter in writing that the modification was not considering a cinema. No objections to the proposed modifications were received.

MATTERS FOR CONSIDERATION

In determining an application for modification of a consent under sS.4.55 of the Act, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

State Environmental Planning Policy (State and Regional Development) 2011

The original application was Regionally Significant Development and was approved by the Hunter and Central Coast Joint Regional Planning Panel (HCCJRPP) on 20 September 2017. The provisions of clause 123BA(2) of the Environmental Planning and Assessment Regulation 2000 provide that:

(2) A council is not to determine, on behalf of a regional panel, an application to modify a development consent under section 4.55(2) of the Act if the application is of a kind specified in the "Instruction on Functions Exercisable by Council on Behalf of Sydney District or Regional Planning Panels—Applications to Modify Development Consents" published on the NSW planning portal on 30 June 2020.

A council is not to determine an application under section 4.55(2) of the Act to modify a development consent granted by a regional panel if the application meets the criteria relating to conflict of interest, contentious development or departure from development standards set out in Schedule 1 to the Instruction. "Development for which the applicant or landowner is the council" is listed on the Schedule as a conflict of interest, therefore the HCCJRPP is the determining authority for this modification application.

State Environmental Planning Policy (Coastal Management) 2018

The site is located in the Coastal Environment Area and the Coastal Use Area. An assessment of the proposed development against the provisions of the SEPP was undertaken for the original application. The proposed modifications do not change the potential impacts of the development on the Coastal Environment Area or the Coastal Use Area. An assessment of the proposed modifications against Clauses 13 and 14 of the SEPP is included in the Statement of Environmental Effects at Attachment D.

State Environmental Planning Policy Number 65 – Design Quality of Residential Apartment Development

The approved units in Building A (seniors self-care dwellings) were subject to design certification and compliance with the relevant parts of the Apartment Design Guide (ADG). The proposed modifications maintain the existing apartments with minor changes that do not reduce design quality. The proposed penthouses include multiple and generous living areas, outdoor space and cross-flow ventilation. The apartments meet the relevant standards and design quality considerations under the SEPP and the ADG. The Design Verification Statement at Attachment G demonstrates that the proposed modifications do not result in any change to the compliance of the development with SEPP 65 and the ADG and do not diminish or detract from the design quality, or compromise the design intent, of the development for which the development consent was originally granted.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The units in Building A were approved as seniors housing under the provisions of this SEPP. The approved resident's club was intended to provide part of a suite of recreation facilities in compliance with Section 26(1)(c) of the SEPP. The removal of the resident's club will not change the compliance of the development with Section 26(1)(c) as the remaining seniors housing development in Stages 2 and 3 will have access to recreation facilities in the form of communal open space areas that comply with Section 26(2)(a) and (c). The proposed modifications do not change the level of access that seniors will have to nearby bus stops, footpaths and recreation facilities off-site.

State Environmental Planning Policy (Infrastructure) 2007

The original proposal was referred to Transport for NSW (TfNSW) as traffic generating development. The proposed changes do not involve any significant changes to traffic generation, with only 3 additional units added. Although the change of use from seniors housing to standard residential apartments may generate a small amount of additional vehicle trips, this is likely to be inconsequential and TfNSW have not raised any concerns in relation to traffic generation. TfNSW have provided a response only in relation to stormwater, construction traffic impacts and road traffic noise. The potential traffic impacts are addressed in more detail further on in this report.

Great Lakes Local Environmental Plan (LEP) 2014

The proposed modification involves a new use within Stage 1 in the form of residential flat buildings³ and commercial premises. These uses are permissible with consent in the B4 Mixed Use zone, and application is being sought for a modification to the approved mixed use. The proposed modifications do not change the compliance of the development with the objectives of the zone.

Clause 4.1 Minimum subdivision lot size: Clause 4.1 of the LEP provides controls in relation to minimum lot sizes for subdivision. The LEP includes maps which identify the minimum lot size controls for certain lands. In relation to the subject land, the minimum lot size control identified on the maps for this land is 1,000m². The proposed lots within the strata subdivision are less than 1,000m², however, Clause 4.1 of the LEP includes the following provision:

(4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

As the proposed lots will be individual lots in a strata plan, they are not required to comply with the minimum lot size standard.

Clause 4.3 Height of buildings: The Height of Buildings Map for the site shows the part of the site subject to a height increase with a 26m height control. The clause provides that:

(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.

(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 B1 Neighbourhood Centre, Zone B2 Local Centre or Zone B4 Mixed Use and the consent authority is satisfied that:

(a) internal lift access will be provided to all levels in the building, and

(b) the design of the building is consistent with AS 4299-1995, Adaptable Housing

Internal lift access is provided to all levels of the buildings and the proposed modification maintains adaptable units consistent with AS 4299-1995, therefore Building A has a height limit of 28.6m. Attachment H provides adaptable unit layouts within Building A to demonstrate compliance with this clause. The following table compares the approved building heights and RLs with the modified building heights and RLs:

³ The proposed residential flat buildings also fall within the definition of “shop top housing”

Building	Approved RL	Approved Max. Height	Proposed RL	Proposed Max. Height
A	31.2m AHD	25.9m	34.4m AHD	29.1m
B	41.8m AHD	36.2m	41.8m AHD	36.2m
C	41.8m AHD	36.2m	41.8m AHD	36.2m
D	31.6m AHD	28.0m	31.6m AHD	28.0m

There is no change in building heights proposed for Buildings B, C and D. The proposed additional storey for Building A results in a maximum building height of 29.1m, which is 500mm above the building height control applying to that part of the land. This non-compliance applies only to a small central peak where the lift tower is provided.

Clause 4.4 Floor space ratio: The Floor Space Ratio Map for the site shows that the floor space ratio applicable to the site is 3:1. The clause provides that:

(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.

(2B) Despite subclause (2), the floor space ratio for a building on land in Zone R3 Medium Density Residential or Zone B4 Mixed Business may exceed the floor space ratio shown for the land on the Floor Space Ratio Map by 10% if the consent authority is satisfied that—

(a) lift access will be provided to each level in the building, and

(b) the design of the building is consistent with AS 4299–1995, Adaptable housing.

Internal lift access is provided to all levels of the buildings and the proposed modification maintains adaptable units consistent with AS 4299-1995 (refer to Attachment H), therefore the modified development has an allowable floor space ratio of 3.3:1. The gross floor area of the modified development proposal is 37,626m² which results in a floor space ratio of 3.10:1, which is below the development standard.

Clause 4.6 Exceptions to development standards: This clause allows for exceptions to development standards by allowing flexibility in particular circumstances. Whilst a variation under Clause 4.6 is not required for a modification of consent, the proposed modification to the height of Building A has been considered having regard to the objectives and intent of the clause in order to determine whether the proposed variation to the height standard for Building A is reasonable in the circumstances. A detailed assessment against Clause 4.6 is provided in the SEE at Attachment D and is summarised below.

The proposed height of Building A is variable across the site:

Development Component	Maximum Building Height	Variation to Height Limit
Main building skillion	28.6m	0m
Edge of north-east feature skillion	28.8m	200mm
Lift tower	29.1m	500mm

The proposed development will result in an increased height of 3.2m for Building A. The majority of the building is at or below the level of the height control, with the small area of the highest point (lift tower) centralised and not highly visible in the surrounding landscape. The exceedance of the height control is considered to be minor in both degree and extent. A Visual Impact Assessment of the proposed modifications was lodged with the application and is included at Attachment E. That assessment demonstrates that the additional storey is unlikely to be viewed as a significant visual change to the development.

Miscellaneous and Local Provisions: The following provisions of the LEP were relevant to the original proposal. Their applicability to the proposed modification is discussed below:

Provision	Applicability
7.1 Acid sulfate soils	The modified works involve no excavation
7.3 Flood planning area	The flood prone area does not affect that part of the land subject to the proposed modifications
7.5 Stormwater management	The proposed modifications occur within the development footprint and do not create any additional roofed or hardstand areas. No changes to the stormwater management system are required.

(1)(a)(ii) the provisions of any proposed instrument

There are no draft instruments relevant to the proposed modification.

(1)(a)(iii) the provisions of any development control plan

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 in the SEE at Attachment D.

The most notable change to the DCP provisions, as a result of the proposed modifications, relates to communal open space. Clause 13.2.1 of the DCP requires that development containing 6 or more dwellings must have communal open space with a minimum area of 10m² per dwelling and minimum dimensions of 5m in any direction.

As a result of the modification, different communal spaces will be provided for the residential apartments in Building A (Stage 1) and the seniors housing and penthouses in Buildings B and C (Stages 2 and 3) to ensure that ultimately the communal space allocated for the seniors housing can only be accessed by the residents and guests of those apartments.

Communal space for Building A is provided at Level 3 with the enlarged and improved outdoor space and new facilities available for those residents. Communal space for the residential development (seniors housing and penthouses) in Towers B and C (Stages 2 and 3) is provided at Levels 5 and 6 with the provision of combined internal and external space and facilities comprising a pool, sauna and recreation and activity rooms. A temporary connection will be provided in Stage 2 to connect Tower B to the Level 3 open space area and will be in place until the resident facilities serving Towers B and C are constructed in Stage 3. All of the residents, at all times, will have access to the civic plaza and community facilities available at ground level and Level 1.

The proposed communal open space areas available for residents will exceed the minimum requirements of the DCP. The following table analyses the modified communal open space areas provided:

Communal Open Space	Area	Number of Units Served	Communal Open Space per Unit	DCP Requirement
Level 3	709m ²	56 units	12.7m ² /unit	10m ² /unit min.
Levels 5 and 6 combined	1,377m ²	90 units	15.3m ² /unit	10m ² /unit min.

The approved development has several non-compliances with the DCP. The three main non-compliances of the approved development relate to pedestrian connection through the site, dwelling mix and maximum building floor plate. These non-compliances were assessed to be acceptable in the original determination. The proposed modifications do not result in any

additional non-compliances with the DCP and have no impact on the existing non-compliances.

(1)(a)(iiia) the provisions of any planning agreement that has been entered into

There are no relevant planning agreements applying to the development.

(1)(a)(iv) the provisions of the regulations

Environmental Planning & Assessment Regulation 2000

The relevant provisions of the Regulations are addressed below:

115 Application for modification of development consent

(1) An application for modification of a development consent under section 4.55(1), (1A) or (2) or 4.56(1) of the Act must contain the following information:

(g) an undertaking to the effect that the development (as to be modified) will remain substantially the same as the development that was originally approved,

The SEE at Attachment D includes a detailed assessment and comparison of the modified development against the approved development and an undertaking that the development (as to be modified) will remain substantially the same as the development that was originally approved. Council is satisfied that the development (as to be modified) will remain substantially the same as the development that was originally approved.

(2) In addition, if an application for the modification of a development consent under section 4.55(2) ...of the Act relates to residential apartment development and the development application was required to be accompanied by a design verification from a qualified designer under clause 50(1A), the application must be accompanied by a statement by a qualified designer.

(3A) The statement by the qualified designer must—

(a) verify that he or she designed, or directed the design of, the modification of the development and, if applicable, the development for which the development consent was granted, and

(b) provide an explanation of how—

(i) the design quality principles are addressed in the development, and

(ii) in terms of the Apartment Design Guide, the objectives of that guide have been achieved in the development, and

(c) verify that the modifications do not diminish or detract from the design quality, or compromise the design intent, of the development for which the development consent was granted.

A Design Verification Statement has been prepared by the architect that directed the design of the development for which the consent was granted. That Statement is included at Attachment G. The Statement verifies that the proposed modifications do not diminish or detract from the design quality, or compromise the design intent, of the development for which the development consent was originally granted.

(6) An application for the modification of a development consent under section 4.55(1A) or (2) of the Act, if it relates to development for which the development application was required to be accompanied by a BASIX certificate or BASIX certificates, or if it relates to BASIX optional development in relation to which a person has made a development application that has been accompanied by a BASIX certificate or BASIX certificates (despite there being no obligation

under clause 2A of Schedule 1 for it to be so accompanied), must also be accompanied by the appropriate BASIX certificate or BASIX certificates.

The modification application was accompanied by the relevant NATHERS and BASIX certificates. These are included at Attachment F.

120 Notification of concurrence authorities and approval bodies

- (1) As soon as practicable after receiving an application for the modification of a development consent, a consent authority must cause a copy of the application to be given to each concurrence authority and approval body for the development to which the application relates.*

The modification application was referred to WaterNSW, Transport for NSW and the Natural Resources Access Regulator, consistent with the original application.

The original application was also referred to NSW Police and Essential Energy for comment. The modification application was not referred to either of these authorities as the proposed modifications are not of relevance to either. The primary concern of NSW Police with the original application was the inclusion of the night club, which is not proposed in this modification. Essential Energy's original comments included no objections to the proposal provided that the development was undertaken in accordance with the relevant standards. It is not proposed to modify any conditions that relate to the provision of electricity or the exclusion of the nightclub.

(1)(b) the likely impacts of that development

Context and Setting

The approved development is a series of high-rise buildings located close to the main town centre area where a number of existing high-rise residential buildings have been previously built and are clearly visible from many locations within and outside of the town centre. These existing high-rise buildings are approximately 10-11 storeys high and establish the local character. The proposed additional storey to Building A will be perceived as a minimal visual change to the approved development as:

- The proposed additional floor on the existing approved high-rise building will be an extension of the existing building form and unlikely to be perceived as a significant visual change.
- The local character includes many high-rise buildings consistent with the local town centre visual character.

The proposed modification maintains the approved mixed-use nature of the development. The proposed commercial space at Level 1 of Building A integrates with the approved civic uses in the development. The proposed apartments provide additional variety in the dwelling types being offered within the development in its entirety, allowing a broader demographic to occupy the dwellings which will no longer be restricted to the over 55s, whilst retaining the residential uses.

The proposed modifications are considered to offer a balanced mix of accommodation which, when combined with the other stages, will improve diversity of housing type across the site.



The likely impacts of the proposed modifications on the context and setting of the approved development are considered to be acceptable.




Privacy


The modified proposal maintains the approved setbacks, which comply with the DCP, and the proposed residential units will be no closer to the site boundaries than the approved units. The additional storey will maintain DCP compliance in relation to setbacks. The balcony locations and orientation of the residential units remain as per the approved seniors housing units and will not alter potential overlooking issues. The balconies and decks of the penthouse units have similar orientation and aspect to the lower floor balconies and do not introduce additional privacy or overlooking impacts as Building A does not adjoin residential development.

Overshadowing

Shadow diagrams have been prepared for the modified proposal, which show the impact of additional shadows cast in mid-winter and mid-summer. These are included in Attachment C. The following table discusses and compares the shadows cast by the approved and modified proposal.

Time / date	Approved development	Modified proposal	Shadow diagram
9am 21 Dec	Shadow from Building A impacts on open space areas of development.	Proposal results in an additional 156m ² of shadow to these areas.	
Noon 21 Dec	Shadow from Building A impacts on open space areas of development.	No additional shadow from modifications	

Time / date	Approved development	Modified proposal	Shadow diagram
3pm 21 Dec	Shadow from Building A extends to roof of holiday units.	Proposal results in an additional 473m ² of shadow which is located over roof on holiday units and some areas of open space. Solar heating on roof not impacted.	
9am 21 Jun	Shadow from Building A extends over Department of Education offices.	Proposal results in an additional 235m ² of shadow which is located over parkland areas along Pennington Creek.	
12pm 21 Jun	Shadow from Building A extends over Department of Education offices.	Proposal results in an additional 120m ² of shadow which is located over roofs and parking areas of Department of Education offices.	

Time / date	Approved development	Modified proposal	Shadow diagram
3pm 21 Jun	Shadow from Building A extends over Department of Education offices, roofs of units and pool/open space areas of adjoining holiday units.	Proposal results in an additional 385m ² of shadow primarily affecting the same areas to a minor additional extent. The additional shadow length is between 2m & 9m.	

As would be expected, there are additional overshadowing impacts associated with the addition of the storey to Building A. The additional shadow cast in midwinter does not result in any additional impacts to residential buildings or open space in the 9am and 12pm scenarios. The 3pm winter solstice shadow does result in increases of shadow over the adjoining holiday units to the east and south-east of the site located at 6 Lake Street and 5 Middle Street. The effects of the additional shadow on these properties is examined in detail in the SEE (including photographs of affected areas) at Attachment D and summarised below:

Holiay Units 6 Lake Street: The additional 3pm shadow is cast over the pool and bbq area, at a time of year when this area is least likely to be used. There are no impacts on habitable areas and no shadow is cast over any solar panels.

Holiday Units 5 Middle Street: The additional 3pm shadow is cast over the roof, driveway and pool area as well as the bathroom area of Unit 9.

It is not considered that additional overshadowing impacts as a result of the proposed modifications would be significant. The shadow diagrams lodged with the modification demonstrate that adjoining properties will maintain access to sunlight consistent with the DCP requirements and largely consistent with the approved development.

Visual Impact

A Visual Impact Assessment (VIA) was lodged with the modification application and is included at Attachment E. The VIA concludes that the approved development will result in a significant change to the local visual character once the building is constructed, however the additional storey proposed for Building A is unlikely to be perceived as a significant visual change to the approved development. It also notes that Buildings B and C will be higher than Building A and the overall height of the development will remain unchanged. Other mitigating factors include:

- As Buildings B and C are higher than Building A, the additional storey will eventually be screened from surrounding locations to the south and the west.
- The adjoining land zoned to the east of the site has a permissible height limit of 30 meters and therefore will likely be developed to this height. This would provide additional screening of views to the approved development and further add to the amount of high-rise development in the vicinity.

- The rise in height for Building A will have minimal visual change for distant views from the east as the backdrop for Buildings B and C is higher than the proposed Building A height increase.
- Many vantage points are seen in a context of surrounding and nearby high-rise development establishing the visual character.

There are no views available across the site from adjoining properties and the additional storey will not impact on existing views. The proposal maintains the setbacks of buildings, allowing retention of the view corridors established by the development layout.

The likely visual impacts are considered to be acceptable.

Access, Parking and Traffic

The proposed modifications will alter parking requirements for the new commercial space and the residential apartments. The commercial space will utilise the approved and partly constructed basement parking area, whilst the residential apartments will utilise parking to be constructed at Levels 1 and 2. The proposal also involves alterations within the approved building envelope that increases required basement and upper level parking space numbers. The following discussion details the parking requirements / provisions for the commercial and residential uses and also examines parking provided in Stage 1.

Total basement parking provision: The approved basement parking area provides 294 parking spaces. The modified basement design provides 295 parking spaces. The basement will still provide for all approved commercial uses as well as six residential spaces for Stage 1, and surplus spaces for any potential future commercial uses in the areas that were originally proposed for cinemas, a nightclub and a childcare centre. The following table shows the total parking demand and provision for the basement parking areas, comparing the approved and proposed developments:

Use	Approved parking spaces	Modified parking spaces
Library	45	45
Community Centre	20	20
Customer Service Centre	4	4
Visitor / Tourist Centre	9	9
Restaurant	43	38
Retail / supermarket	47	47
Cinema	-	-
Nightclub	-	-
Gym	13	13
Business centre	3	3
Hotel / serviced apartments	61	61
Commercial floor area (proposed)	-	14
Stage 1 residential spaces	-	6
Total required by DCP	245	260
Provided	294	295

The parking areas provided are sufficient to provide for all the uses in the modified proposal consistent with the requirements of the DCP, with a surplus of 35 parking spaces provided. Any future uses of the spaces that were originally designated for the cinemas, nightclub and childcare centre would be subject to a new consent or modification and would need to resolve parking requirements, which would likely utilise these surplus spaces.

Stage 1 basement parking provision: The constructed Stage 1 basement provides 163 parking spaces under the existing consent. As a result of the modifications, the Stage 1 basement would provide 164 spaces. The basement will provide parking for all of the community and commercial uses as well as some residential spaces for the Stage 1 apartments.

The following table shows the total parking demand and provision for the basement parking areas comparing the approved and modified development:

Use	Approved parking spaces	Modified parking spaces
Library	45	45
Community Centre	20	20
Customer Service Centre	4	4
Visitor / Tourist Centre	9	9
Restaurant	10	10
Commercial Floor Area (proposed)	-	14
Stage 1 residential spaces	-	6
Total required by DCP	88	108
Provided	163	164

The Stage 1 basement will contain 164 spaces, providing a 56-space surplus of parking for Stage 1.

Total upper level parking provision: The approved development provides parking at Levels 1 and 2 for the residential uses in the development. The approved parking areas at these levels provide 209 spaces whilst the modified layout in the Stage 1 parking area increases the parking on both levels to 218 spaces (resulting from alteration of the wider spaces originally required for seniors housing parking).

The following table shows the total parking demand and provision on levels 1 and 2 for the residential uses in the development.

Dwelling type	Approved parking spaces	Modified parking spaces
1 bed seniors	3	-
2 bed seniors	72	47
3 bed seniors	93	59
1 bed apartments	-	5
2 bed apartments	-	30
3+ bed apartments	6	45
Visitor spaces	1	12
Total required by DCP	175	198
Provided	209	218

Stage 1 residential parking provision: The existing consent provides for 71 parking spaces on level 2. The proposed modifications will result in the provision of 80 spaces (resulting from alteration of the wider spaces originally required for seniors housing parking). The level 1 parking area will not be accessible until the construction of Stage 2 and an additional six residential spaces have been allocated for the basement to provide additional visitor parking to meet the DCP requirements.

The following table shows the total parking demand for the residential uses in Stage 1 for the approved and modified development:

Dwelling type	Approved parking spaces	Modified parking spaces
1 bed seniors	3	-
2 bed seniors	25	
3 bed seniors	35	
1 bed apartments	-	5
2 bed apartments	-	30
3+ bed apartments	-	39
Total resident parking required by DCP	63	74
Visitor spaces	-	12
Total required	63	86
Provided level 2	71	80
Including basement spaces	-	86

The proposed modification introduces a residents' bike parking area which will provide bike parking in addition to the resident store areas provided. This bike parking is in addition to the minimum requirements under the DCP and promotes active transport options.

Waste Management

The proposal will allow the approved waste management outcomes for the overall development to be achieved which provides for all waste facilities within the site and collection using the service road to be developed in Stage 2, as shown on the waste management diagrams in Attachment C. In the interim period a temporary waste collection area will be established along the Lake Street frontage west of Stage 1. The location is away from adjoining properties to avoid issues of noise during collection. Alternative locations on West or Middle Streets were not considered suitable due to the necessity to transport bulk waste bins long distances along public roads.

Landscaping

The approved development includes provisions for the retention of several large trees on the site. The provisions included limitations to the extent of the building in proximity to these trees. The proposal has not altered the basement or building footprint and the retention of trees is maintained. The changes to the planter areas in the community plaza are relatively minor and will remain generally consistent with the landscape concepts for the original consent. Detailed landscape plans for the development are required to be approved by Council under Condition 27 of the existing consent and this provision will be maintained for the modified development.

Social and Economic

The proposed modifications are unlikely to have a negative economic impact, as the development will be substantially the same as the approved development. There is likely to be a small increase in economic benefit during the construction stage as additional work will be available for local tradespeople in association with the additional building works.

In relation to potential social impacts the proposed modifications will result in a reduction in the availability of seniors housing on site, though Stages 2 and 3 will still provide 86 independent living units (ILUs) operated by Evermore Living Communities, a specialist seniors housing provider. An analysis of the demand for seniors housing in the local area is provided in the SEE at Attachment D and is summarised below.

Although there is little data available in relation to demand for seniors housing in the local area, there has been substantial research undertaken by the Property Council of Australia on this

issue and the following statistics are provided for seniors independent living units (ILU) across Australia:

- Average resident age in ILUs: 81 years
- Residents 75 or older: 76%
- Residents 65 or older: 97%
- Total number of retirement village residents in 2016: 184,000 people (representing 11% of the Australian population over 65 in the 2016 Census).

In the 2016 Census the population in the Forster and Tuncurry locality over the aged of 65 was 7,567 persons representing approximately 40% of the population in these community profile areas. Conservatively applying a rate of 11% to determine demand for ILUs for the over 55s (not including nursing home beds) suggests that at 2016 the number of persons seeking this form of housing would be approximately 832 resulting in an approximate demand of 520 dwellings. Based on the average growth rate of the area of 1.1% the demand in 2026 would be approximately 574 ILUs. Council's own development data indicates that the Forster Tuncurry market is very reactive to this demand and seniors housing places have been rapidly developing in the area to address this demand. The following table summarises the current available development providing ILUs, indicating that the existing supply of seniors housing in the area is sufficient to meet the demand:

Development	Total Number of ILUs	ILUs vacant
Golden Ponds	205	15
Evermore	148	7
Pacific Cape	62	22
Glacia Tuncurry	14	1
Lions Village Forster (Glaica)	25	0
Sunrise Village Tuncurry	106	17
Total	560	62

The new Palm Lake Estate development in Forster, which is currently under construction, will provide a further 290 ILUs for seniors adding further supply to address the projected demand.

(1)(c) the suitability of the site for the development

The assessment report for the original proposal noted that the site is generally suitable for this form of development as it is located at the edge of the Forster town centre and is surrounded by a range of residential, community and commercial land uses. The reasons given were:

- The site has three road frontages.
- The site is of an appropriate size to accommodate mixed use community / commercial / residential development.
- The site is located within walking distance of a range of shops, services, employment and recreational opportunities within the Forster town centre.
- The site is heavily disturbed and is not affected by any significant environmental constraints.

The proposed modifications do not alter the suitability of the site for the development.

(1)(e) the public interest

The modified proposal delivers outcomes for the development of the town centre and civic facilities in the area in a manner consistent with the original development approved in 2017. The proposed modifications are consistent with the original intent of the proposal and will be likely to have a positive social and economic impact. Having regard to the information lodged

with the application it is considered that approval of the proposed modifications is in the public interest.

CONSIDERATION OF THE REASONS GIVEN BY THE CONSENT AUTHORITY FOR THE GRANTING OF THE CONSENT THAT IS SOUGHT TO BE MODIFIED

Section 4.55(3) provides that “*in determining an application for modification of a consent under this section...The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified*”.

The Panel’s Determination and Statement of Reasons was issued on 20 September 2017 and is included at Attachment F. The table below compares the reasons for the original approval with the potential impacts of the proposed modifications:

Reason provided	Comparison against proposed modification
Panel agreed with environmental assessment and balance of considerations in the assessment report, in particular noting the urban design considerations and SEPP 65, and design modifications in response to these.	The proposed modifications retain the urban design merits of the proposed development. The design verification statement lodged with the modification application demonstrates that the modifications do not diminish or detract from the design quality, or compromise the design intent, of the development for which the development consent was originally granted.
The proposal is permissible in the zone and is consistent with the zone objectives and is within the allowable building height and FSR applying to the site.	The proposed development, as modified, will still be permissible in the zone and will remain consistent with the zone objectives. The proposed modifications will not alter the compliance of the development with the FSR standard, however the modifications will result in a minor non-compliance with the building height standard.
The proposal will be a transformative project and will have a positive socio-economic impact as it will combine community facilities with seniors housing in an accessible location.	The proposed modifications will not alter the level of transformation that the project will provide and will continue to combine community facilities with seniors housing in an accessible location.
The Panel did not support the childcare centre, nightclub or cinemas primarily due to inadequate detail, lack of justification and social concerns.	The proposed modifications do not include a childcare centre, nightclub or cinemas.
Regard was given to community concerns about the use of the site, non-compliances with controls and impacts on the community, and the public consultation undertaken.	The proposed modifications were notified and advertised for 28 working days in accordance with Council’s community engagement policy. No objections to the proposed modifications were received.
Conditions have been included in the consent to address operational and management requirements, compliance with recommended acoustic treatments and improvements to manage vehicular / traffic conflicts.	The modified notice of determination retains conditions that address operational and management requirements, compliance with recommended acoustic treatments and improvements to manage vehicular / traffic conflicts and proposes

	modified and additional conditions to address any impacts associated with the modifications.
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RECOMMENDATION

It is recommended that application MOD2021/0018 to modify the approved mixed-use development at 34-36 West Street Forster 2428 be approved in accordance with the modified conditions of consent in Attachment A.