

Statement of Environmental Effects in relation to

**Modification of DA 521/2017 involving
Mixed Use Development
34-36 West Street, Forster**

Prepared for Enyoc Pty Ltd

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Project: 16104

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1. Introduction

1.1 Overview of Proposal

The proposal seeks to modify a development consent for a mixed use development approved on the subject land. The approved development provides for a combination of civic facilities (library, tourist centre and community centre), with commercial, residential and tourist uses.

Previous modifications have been lodged and approved by Council relating to staging and other alterations within the overall development.

1.2 Scope of Report

This report has been prepared to accompany the application to modify the consent and addresses matters that are required to be considered by the consent authority under the provisions of Section 4.55 of the *Environmental Planning and Assessment Act 1979* as relevant to the concept proposal.

1.3 Development Consent

The consent for the development of the land was determined on 20 September 2017 by the Hunter Central Coast Joint Regional Planning Panel following a meeting at Forster on the same date.

The consent has been modified since that time to:

- Correct errors in relation to Section 7.11 contributions.
- Substage the construction of Stage 1 to allow construction to proceed in three (3) stages.
- Alter construction hours to allow some minor works which do not generate significant noise and some significant events that require longer hours due to constraints to undertake large concrete pours etc.
- Alter staging of the development.
- Alter the arrangement of civic facilities in Stage 1 to incorporate a customer service centre and change restaurant to part of Council facilities.

2. Site and Surrounding Locality

2.1 Site Details

The following data is provided in relation to the site:

Title Description	Lot 11 DP 47987 Lot 12 DP 47987 Lot 13 DP 47987
Property Address	34-36 West Street, Forster
Site Area	Lot 11 – 2830m ² Lot 12 – 4374m ² Lot 13 – 5008m ²
Zoning – Great Lakes LEP 2014	B4 – Mixed Use

The subject site is located at the southern end of the Forster town centre. The site in its regional context is shown in Figure 1.

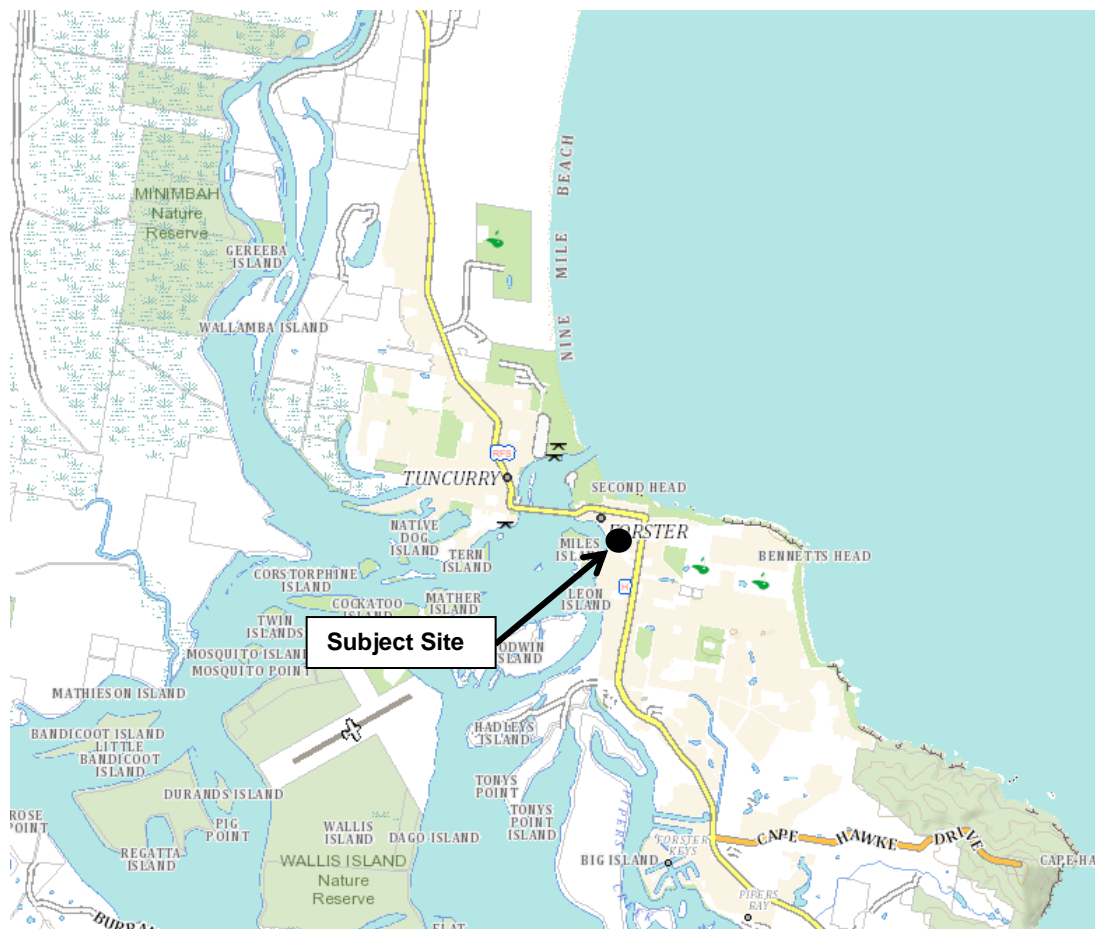


Figure 1 – Location of Site (Regional)

[Source: www.google.com.au/maps]

The site and surrounding area is depicted in Figures 2 and 3 below.

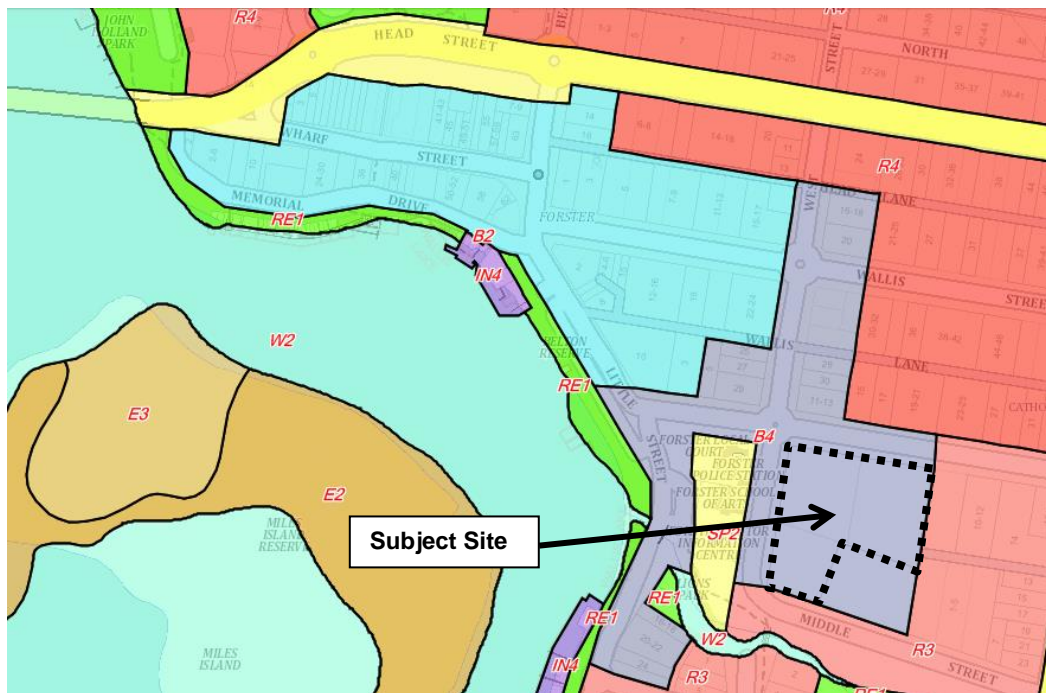


Figure 2 - Site Locality Plan (Zoning)

[Source: MCC Exponare]



Figure 3 - Site Locality Plan (Satellite)

[Source: Google Earth]

3. *The Existing Consent*

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 following list details the forms of development contained within the proposal:

Civic/Community Uses

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

Commercial/Entertainment Uses

- Supermarket
- Restaurant/Cafes (5)

Residential Uses

- Seniors Self Care Dwellings
- Penthouse Apartments
- Residents Club, Terraces and Facilities

Hotel/Serviced Apartments

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

It is noted that the original consent sought approval for a cinema, night club and child care 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 or modifications (as appropriate).

4. *The Proposed Modifications*

The modifications relate to some alterations primarily relating to the residential tower in Building A (currently 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 open space area for the resident facilities.

The proposed changes involve:

- Change of units from seniors housing to regular residential apartments in Building A.
- Creation of an additional storey (Level 7) to Building A containing three (3) penthouse units.
- Strata subdivision of the apartments.
- Conversion of previous residents' club to commercial floor space.
- Provision 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 spaces.
- Alterations to Level 2 parking area to provide additional resident parking.
- Addition of a temporary garbage collection area to the Lake Street frontage.

4.1 Change of Residential Units

The existing residential apartments approved in Building A were proposed as seniors housing apartments. The proposal involves the use of these same unit space/areas as residential apartments. The proposed change will remove any age restriction on occupation of the units, and the units are not required to meet the accessibility standards contained in the State Environmental Planning Policy for Seniors Housing.

The changes to the existing approved units are minimal and involve only minor alterations to the layout of internal walls within the existing unit space. The units maintain compliance with SEPP 65 requirements as detailed in the architect's design certification.

The change also includes alterations to the basement level access to provide additional garage area and resident bicycle parking area.

4.2 Additional Level of Penthouse Units

The proposed modification involves the addition of an additional level to Building A containing three (3) penthouses. One penthouse is a four (4) bedroom dwelling with large living areas and multiple outdoor balconies/courtyards. The other two (2) penthouses contain three (3) 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 the proposed height of 29.1m.

4.3 Strata Subdivision

The proposal will include strata subdivision of the proposed residential units to allow separate sale of individual units.

4.4 Conversion of Resident Club to Commercial Floor Space

With the conversion of the tower from seniors housing to residential apartments, the need for a resident clubhouse etc is reduced and the area has been nominated to be changed to commercial floor space which can be utilised for office purposes. The area will provide 559m² of office space which will be accessible by lift and stairs from the community plaza.

4.5 Outdoor Resident Facilities

The original proposal included roof top garden areas for residents at Level 3 of the Stage 1 building. This rooftop garden area will be retained and improved with extra resident facilities in the form of a swimming pool and a covered barbecue area/terrace.

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 additional outdoor space and the plant room that was provided for cinema air conditioning also removed and the area used for communal open space.

4.6 Restaurant Alterations

The proposed restaurant space at the ground level will be modified in layout and maintain a large internal dining space as well as alfresco dining area.

4.7 Basement Alterations

The basements 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 is 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 tower 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.

4.8 Alteration to Level 2 Parking Area

The Level 2 parking area provides resident parking in Stage 1. The parking spaces in the approved plans are wider than required under AS2890.1 so that they met requirements under the SEPP for Seniors Housing. With the change of use to 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.

4.9 Temporary Waste Management Provision

Approved waste management provision for the complete development involves collection of bins from a large temporary storage area to be created adjacent to the driveway from Middle Street and was to be developed in Stage 2. It is necessary to provide a temporary collection area for Stage 1 to provide an area off the public road where bins from the basement storage areas can be left for collection by the contractor.

The temporary area has been 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 by the contractor. The bins are 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 collection area off the driveway to Middle Street.

4.10 Amended Staging

The staging of the proposal was modified in 2020 as follows:

Stage 1a

- Basement carpark and transfer slab

Stage 1b

- Library
- Visitor centre
- Community centre
- Community lounge
- Community plaza
- Community gardens
- Restaurant/café
- Bike parking and end of trip facilities
- Level 1 carpark shell
- Level 1 residents club shell

Stage 2

- Supermarket
- Retail shops
- Restaurants/cafes (2)
- Remainder of basement parking (128 spaces)
- 59 seniors living units
- Penthouses (x2)
- Stage 2 resident parking
- Pedestrian plaza (West Street frontage)
- Service road access and driveways
- Fit out of Level 1 Residents club and parking constructed in Stage 1
- Lower common terrace for residents
- Lake Street, West Street and Middle Street (site frontage) improvements

Stage 3

- 29 Seniors Units
- Penthouses (x2)
- Upper level resident terraces and common facilities

Stage 4

- 53 seniors living units in tower above Stage 1 (former Stage 1C)

Stage 5

- Gymnasium
- Hotel
- Serviced apartments
- Middle Street reconstruction and footpath between site and Macintosh Street.

It is now proposed to modify the stages similar to the staging arrangements as follows:

Stage 1a

- Basement carpark and transfer slab

Stage 1b

- Library
- Visitor centre
- Community centre
- Community lounge
- Council Customer Service Centre
- Community plaza
- Community gardens
- Restaurant/café
- Commercial floor space
- Bike parking and end of trip facilities

Stage 1c

- 53 apartments
- 3 penthouses
- Lower common terrace for residents
- Stage 1 resident parking
- Lake Street road improvements

Stage 2

- Supermarket

- Retail shops
- Restaurants/cafes (2)
- Remainder of basement parking (128 spaces)
- 59 seniors living units
- Penthouses (x2)
- Stage 2 resident parking (149 spaces)
- Pedestrian plaza (West Street frontage)
- Service road access and driveways

Stage 3

- 29 seniors units
- Penthouses (x2)
- Upper level resident terraces and common facilities

Stage 4

- Gymnasium
- Hotel
- Serviced apartments
- Middle Street improvements

4.11 Development Statistics

The following table compares key statistics of the approved development and the proposed modification.

Relevant Statistic	Approved Development	Proposed Modification
Site Area	12,153m ²	12,153m ²
Gross Floor Area	36,541m ²	37,626m ²
FSR	3.01:1	3.10:1
Landscape Area	21%	21%
Deep Soil Areas	5%	5%
Unit Numbers	143	146
Basement Parking Spaces	294	295
Commercial Parking Spaces Stage 1	163	164
Residential Parking Spaces	209	218
Residential Parking Spaces Stage 1	71	80
Max Building Height RL	Building A – 31.2m AHD Building B – 41.8m AHD Building C – 41.8m AHD Building D – 31.6m AHD	Building A – 34.4m AHD Building B – 41.8m AHD Building C – 41.8m AHD Building D – 31.6m AHD
Maximum building heights above existing ground level	Building A – 25.9m Building B – 36.2m Building C – 36.0m Building D – 26.0 – 28.0m	Building A – 29.1m Building B – 36.2m Building C – 36.0m Building D – 26.0 - 28.0m

4.12 Detailed description of changes

The following tables provide a detailed description of changes on every sheet of modified plans of the proposal compared to the plans listed in the consent. Each change is referenced to the numbers provided on the modified plans.

Cover Sheet – 5490.01

Reference	Approved Plan	Modification	Comment
1.1	Building A has a total of 6 levels in the perspective.	Building A had been increased to 7 levels in the perspective	Perspective has been altered to match modified proposal.
1.2	Drawing List	Drawing List has been updated to reflect modified set.	Alteration to reflect modified plans.
1.3	Thermal Assessment detail – provided on sheet 5490.83	Thermal Assessment has been added.	Thermal Assessment added to cover sheet rather than as separate sheet.

Perspective Views – 5490.02

Reference	Approved Plan	Modification	Comment
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 plans.	Change to correct inconsistency within approved plans.
2.2	Perspective shows balcony for approved residents club.	Perspective amended to show changes in modifying area to commercial space and glass roof.	Changes to perspective resulting from proposed modification.
2.3	Perspective shows old planter location in community plaza.	Perspective amended to show new planter location.	Changes to perspective resulting from proposed modification.
2.4	Perspective shows old skylight to community centre/plaza.	Perspective to amend to show skylights as per previous modification.	Change to correct inconsistency within approved plans.

Perspective Views – 5490.03

Reference	Approved Plan	Modification	Comment
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.	Change to correct inconsistency within approved plans.
3.2	Perspective shows balcony for approved residents club.	Perspective amended to show changes in modifying area to commercial space and glass roof.	Changes to perspective resulting from proposed modification.

Perspective Views – 5490.04

Reference	Approved Plan	Modification	Comment
4.1	Building A has a total of 6 levels in the perspective.	Building A had been increased to 7 levels in the perspective	Perspective has been altered to match modified proposal.
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.	Change to correct inconsistency within approved plans.
4.3	Perspective shows balcony for approved residents club.	Perspective amended to show changes in modifying area to commercial space and glass roof.	Changes to perspective resulting from proposed modification.

Perspective Views – 5490.05

Reference	Approved Plan	Modification	Comment
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.	Change to correct inconsistency within approved plans.

Perspective Views – 5490.06

Reference	Approved Plan	Modification	Comment
6.1 and 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.	Change to correct inconsistency with approved plans.
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.	Change to correct inconsistency with approved plans.

Perspective Views – 5490.07

Reference	Approved Plan	Modification	Comment
7.1	This perspective not included.	New perspective from north east showing proposed modified development.	New perspective to show approved buildings.

Perspective Views – 5490.07a

Reference	Approved Plan	Modification	Comment
7.2	This perspective not included.	New perspective looking into community plaza of proposed modified development.	New perspective to show approved buildings.

Design Intent – 5490.08 - No Change**Development Statistics – 5490.09**

Reference	Approved Plan	Modification	Comment
9.1	Notes Library area as 1,787m ² .	Notes Library area as 1,791m ² .	Slight increase to library area when re-measured in CAD.
9.2	Residential Tower for Building A noted as Stage 4.	Residential Tower for Building A moved back to 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. Reduction in area of ground level restaurant/café. Area of commercial spaces added to replace residents club area.	Modification to areas as a result of staging changes and additional level to Building A.
9.3	Stage 3 and 5 note space for cinemas, night club and child care centre.	Stage 5 moved to stage 4. Cinemas, nightclub and child care area noted as not approved.	Modification to staging. Note added to make clear cinema, night club and child care not approved.

Location Plan - 5490.10 – No Change**Site Context Diagram – 5490.11 – No Change**

ESD Strategies – 5490.12

Reference	Approved Plan	Modification	Comment
12.1	Building A has a total of 6 levels in the section.	Building A had been increased to 7 levels in the section.	Section has been altered to match modified proposal.
12.2	Section shows resident club on level 2.	Section amended to show commercial space on level 2.	Section has been altered to match modified proposal.
12.3	Section shows cinemas which were excluded from consent by condition number 4.	Area occupied as cinemas has been noted as not approved.	Note added to provide consistency with consent issued.

Shadow Diagrams Sun Penetration Design Study – 5490.13

Reference	Approved Plan	Modification	Comment
13.1	Provides shadow diagrams for summer and winter solstices of development for which consent was issued.	Shadow diagrams for modified development have been prepared. To assist in review larger diagrams have been provided over additional sheets (Now 13, 13a, 13b, 13c, 13d, and 13e). Modified shadow diagrams show previous shadow to allow detailed examination of additional shadow impact.	Modified shadow diagrams provided to allow detailed review of additional shading from modified proposal.

Sun Penetration Design for Level 6 (Winter Solstice) – 5490.14 – No Change

Sun Penetration Design for Level 6 (Summer Solstice) – 5490.15 – No Change

Communal Open Space – 5490.16

Reference	Approved Plan	Modification	Comment
16.1	Plan designates outdoor eating spaces for community plaza associated with restaurants/café.	Area adjacent to modified restaurant/café area reduced.	Change as a result of the proposed modification.
16.2	Plan designates outdoor eating spaces for community plaza associated with restaurants/café.	Designated outdoor area beside customer experience centre removed (restaurant space changed as a result of Modification E).	Change to correct inconsistency with approved plans.
16.3	Balcony shown to residents club at level 1.	Balcony no longer provided with change of area to commercial space.	Change as a result of the proposed modification.
16.4	Resident outdoor space at level 1 shown.	Increased outdoor space and facilities shown.	Change as a result of the proposed modification.

Waste Management Plan – 5490.17 -

Reference	Approved Plan	Modification	Comment
17.1	Base plan for Basement based on approved floor plan.	Base plan updated to modified Basement layout.	Change to make plan consistent with modified proposal. No change to waste management arrangements.
17.2, 17.3 and 17.4	Base plan for Ground Floor based on approved floor plan.	Base plan updated to modified ground floor layout.	Change to make plan consistent with modified proposal. No change to waste management arrangements.

Staging Plan – 5490.18

Reference	Approved Plan	Modification	Comment
18.1	Provides staging detail over approved floor plans.	Floor Plan updated with modified floor plans.	Change to plans to be consistent with proposed modification.
18.2	Plan provides 5 stages with Building A tower nominated as stage 4 (changed in Modification E)	Staging modified back to 4 stages with Building A tower returned to Stage 1 (1c)	Change to plans for modified staging. (back to original staging).

Site Plan – 5490.21

Reference	Approved Plan	Modification	Comment
21.1	Site plan shows single 'horseshoe' skylight over Community Centre. Inconsistent with ground and Level 1 plan (modification) which shows two (2) skylights over the area.	Plan amended to show consistent skylight treatment over the area consistent with Modification E plans.	Change to provide consistency between plans and recognise latest approved skylights.
21.2	Plan shows approved roof terrace arrangements (Level 3).	Plan amended to show new roof terrace arrangements for Level 3.	Change as a result of the proposed modification.
21.3	Plan shows approved roof detail for Building A.	Plan amended to show new roof details for Building A.	Change as a result of the proposed modification.

Lower/Basement 2 – 5490.22

Reference	Approved Plan	Modification	Comment
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 provided in original proposal. Alternate Fire Sprinkler Tank added as part of proposed modification.
22.2	Rainwater tank (as detailed on Ground/Basement Level) not shown on plan.	Rainwater tank added to plan to recognise tank which was noted on approved Ground/Basement Plan.	Rainwater tank provided in original proposal added to plan to rectify error.
22.3	Plan shows Nightclub which was excluded from consent by condition number 4.	Area occupied has been noted as not approved.	Note added to provide consistency with consent issued.
22.4	Car parking table provided summarising parking provision in building.	Car parking table amended as a result of proposed modification.	Table updated to be consistent with proposed modification.

Ground/Basement 1 – 5490.23

Reference	Approved Plan	Modification	Comment
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 uses.	Proposed modification to services and provision of additional space for storage.
23.2	Area in in very 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.	Proposed modification to utilise space and provide additional resident bike parking, car parking and building servicing arrangements.
23.3	Building A tower lifts to residential accommodation with refuse room and clearway area (no parking).	Additional Refuse room added. Lift lobby added over previous clearway space. Two (2) parking spaces removed for new refuse room.	Proposed modification to provide additional garbage room to meet condition 11 and cater for larger waste streams from 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.	Small change 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.	Change to be consistent with approved lift shaft above.
23.6	External fire stair provided at south eastern corner of basement.	Inclusion of service shaft next to stair to provide ventilation supply.	Minor change to meet mechanical design requirements.
23.7	Plan shows Nightclub which was excluded from consent by condition number 4.	Area occupied as Nightclub has been noted as not approved.	Note added to provide consistency with consent issued.
23.8	Car parking table provided summarising parking provision in building.	Car parking table amended as a result of proposed modification.	Table updated to be consistent with 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.	Note added to provide consistency with consent issued.

Ground Floor – 5490.24

Reference	Approved Plan	Modification	Comment
24.1	Restaurant/Café provided at western edge of Community Plaza.	Shape and area of restaurant/café amended and glass roof provided over outdoor eating area where resident club balcony previously existed.	Proposed modification to restaurant/café space.
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 plaza.	Minor changes to planters following consultation with Council as 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.	Provision of temporary bin collection area necessary during operation of Stage 1.
24.4	External fire stair provided at north eastern corner connecting with basement.	Minor changes to layout following detailed design.	Minor change to meet design – remains in similar footprint.
24.5	External fire stair provided at south eastern corner connecting with basement.	Minor changes to layout following detailed design.	Minor change to meet design – remains in similar footprint.
24.6	External fire stair provided at south western corner connecting with basement.	Minor changes to layout following detailed design.	Minor change to meet design – remains in similar footprint.
24.7	Plan shows Cinema Lobby which was excluded from consent by condition number 4.	Area occupied as Cinema has been noted as not approved.	Note added to provide consistency with consent issued.
24.8	Plan shows Child Care area which was excluded from consent by condition number 4.	Area occupied as Child Care has been noted as not approved.	Note added to provide consistency with consent issued.
24.9	Plan shows Nightclub entry which was excluded from consent by condition number 4.	Area occupied as Nightclub has been noted as not approved.	Note added to provide consistency with consent issued.

Level 1 – 5490.25

Reference	Approved Plan	Modification	Comment
25.1	1 st floor level area west of the community plaza provides an enclosed area and deck forming a residents club available for residents of Tower A.	With the change of Building A from seniors housing to residential units, the residents club is no longer required and the area has been altered in shape and the deck removed and a glass roof provided over the area below. The first floor area will be used for commercial space.	Plan change as part of key modification. The seniors housing in Stages 2 and 3 still maintain large communal areas, open space and recreational facilities.
25.3	Car parking table provided summarising parking provision in building.	Car parking table amended as a result of proposed modification.	Table updated to be consistent with proposed modification.
25.4	Cinema lift shaft shown through Stage 2 area.	Area occupied as Cinema has been noted as not approved.	Note added to provide consistency with consent issued.

Level 2 – 5490.26

Reference	Approved Plan	Modification	Comment
26.2	Single skylight noted over community lounge (inconsistent with other approved plans) deck/planter arrangements provided for a decks off unit A 201 and A 202.	Double skylight provided consistent with other approved plans. Deck area to units modified in shape to provide additional private open space	Changes to skylights necessary to maintain consistency between approved plans. Deck area changes considered a minor adjustment to improve private open space provision
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.	Additional parking possible with change from seniors housing and minor changes to storage locker layout.
26.3	4 units provided for seniors housing.	4 units changes from seniors housing to residential units. Unit area, shape and location remains the same. Floor plans altered as per detailed floor plan discussions.	Proposed modification to change units from seniors living to residential apartments.
26.5	Cinema lift shaft show through Stage 2 area. These areas were not approved as per condition 4 of the consent.	Area occupied has been noted as not approved.	Note added to provide consistency with consent issued.

Level 3 – 5490.27

Reference	Approved Plan	Modification	Comment
27.1	Plan shows Cinemas which were excluded from consent by condition number 4.	Area occupied as Cinemas has been noted as not approved.	Note added to provide consistency with consent issued.
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.	Cinema and mechanical plant (not approved) area over stage 1 removed and landscape extended over these areas. Landscaped area improved with pool, covered terrace and BBQ area for the use of Building A residents. Small plant room added above approved shaft to provide air conditioning for uses at Ground level and Level 1. Fire stair from lower level extended to connect with this level.	Proposed modification to provide additional communal open space and facilities for residents. Plant room and stair added as a result of detail construction and service design.
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 cinemas area which allows direct access to natural light from communal residents area.	Amendment as a result of modification to communal open space.
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.	Deck area changes considered a minor adjustment to improve private open space provision
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 as per detailed floor plan discussions.	Proposed modification to change units from seniors living to residential apartments.

Level 4 - 5490.28

Reference	Approved Plan	Modification	Comment
28.1	Plan shows Cinemas which were excluded from consent by condition number 4.	Area occupied as Cinemas has been noted as not approved.	Note added to provide consistency with consent issued.
28.2	Non approved cinema area designated consistent with level below. Roof over covered pathway below (noted but not shown).	Non approved cinema area modified as per change on lower level. Roof over covered pathway shown and additional roof for BBQ area and terrace shown.	Proposed modification to provide additional communal open space and facilities for residents.
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 as per detailed floor plan discussions.	Proposed modification to change units from seniors living to residential apartments.

Level 5 – 5490.29

Reference	Approved Plan	Modification	Comment
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 as per detailed floor plan discussions.	Proposed modification to change units from seniors living to residential apartments.

Level 6 – 5490.30

Reference	Approved Plan	Modification	Comment
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 as per detailed floor plan discussions.	Proposed modification to change units from seniors living to residential apartments.

Level 7 - 5490.31

Reference	Approved Plan	Modification	Comment
31.1	Roof of Building A noted on plan.	Additional Level 7 provided for Building A containing three (3) penthouse units.	Proposed modification to provide additional floor.
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.	Provided as a response to modification to maintain cross flow ventilation access for units at Level 6.

Level 8 & 9 – 5490.32

Reference	Approved Plan	Modification	Comment
32.1	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.	Proposed modification as a result of additional level.

Level 10 5490.33 – No Change**Roof Plan – 5490.34**

Reference	Approved Plan	Modification	Comment
34.1	Roof of all approved buildings.	New Roof of Building A added as per changes to add level 7.	Proposed modification as a result of additional level.

Typical Unit Plans – 5490.40

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

Typical Unit Plans Mirrored – 5490.40a

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

Typical Unit Plans Stage 1 Only – 5490.40b

Reference	Approved Plan	Modification	Comment
40.1 and 41.1	No Sheet	New Unit Plans for Stage 1. Units maintain same area but partition walls and layout for bathrooms, laundries slightly modified. Island bench added /modified in kitchens.	Stage 1 unit plans showing minor change to internal layout.

Typical Unit Plans Stage 1 Only, Mirrored – 5490.40c

Reference	Approved Plan	Modification	Comment
40.1 and 41.1	No Sheet	New Unit Plans for Stage 1. Units maintain same area but partition walls and layout for bathrooms, laundries slightly modified. Island bench added /modified in kitchens.	Stage 1 unit plans showing minor change to internal layout.

Typical Unit Plans – 5490.41 (No Change Stage 2 and 3 penthouses)

Typical Unit Plans – 5490.41 (No Change Stage 2 and 3 penthouses)

Typical Unit Plans – 5490.42 (No Change Hotel/Serviced Apartments)

Penthouse Unit Plans Stage 1 – 5490.45

Reference	Approved Plan	Modification	Comment
45.1	No Plan in approved set.	New plan showing detailed floor plans for Level 7 penthouses in Stage 1.	Detail for proposed modification.

Penthouse Unit Plans Stage 1 – 5490.46

Reference	Approved Plan	Modification	Comment
44.1	No Plan in approved set	New plan showing detailed floor plans for Level 7 penthouses in Stage 1.	Detail for proposed modification.

Elevations 5490.50

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

Elevations 5490.51

Reference	Approved Plan	Modification	Comment
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.	Detail for proposed modification.

Sectional Elevation – 5490.52

Reference	Approved Plan	Modification	Comment
52.1	Sectional elevation though Community Plaza provided showing Building A with six (6) levels.	Section elevation modified to show additional storey to Building A and Height Planes added.	Detail for proposed modification.
52.2	Section elevation shows old skylight arrangement.	Plan adjusted to show skylight arrangement approved in Modification E	Correct inconsistency in approved plans.
52.3	Section elevation shows resident club detail.	Modified Sectional elevation shows commercial area detail.	Detail for proposed modification.
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 added from detailed construction design.

Sectional Elevation – 5490.53

Reference	Approved Plan	Modification	Comment
53.1	Sectional elevation though commercial loading/service area provided showing Building A with six (6) levels.	Section elevation modified to show additional storey to Building A and Height Planes added.	Detail for proposed modification.
53.2	Section elevation shows detail of Level 3 communal open space area.	Plan adjusted to show modified arrangement for this area.	Detail for proposed modification.
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.	Detail for proposed modification.

Sections – 5490.60

Reference	Approved Plan	Modification	Comment
60.1	Section A showing Building A with six (6) levels.	Section modified to show additional storey to Building A and Height Planes added.	Detail for proposed modification.
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.	Sections updated to correct error in previous plans. 3.2m floor to floor height maintained as per the Apartment Design Guide.
60.3	Section shows Cinemas which were excluded from consent by condition number 4.	Area occupied as Cinemas has been noted as not approved.	Note added to provide consistency with consent issued.
60.4	Section shows Child Care area which was excluded from consent by condition number 4.	Area occupied as Child Care area has been noted as not approved.	Note added to provide consistency with consent issued.

Materials and Finishes – 5490.70 – No change**Materials and Finishes – 5490.71**

Reference	Approved Plan	Modification	Comment
71.1	Building A has a total of six (6) levels in the Perspective.	Building A had been increased to seven (7) levels in the perspective	Perspective has been altered to match modified proposal.
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.	Change to correct inconsistency within approved plans.

Materials and Finishes – 5490.72

Reference	Approved Plan	Modification	Comment
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.	Change to correct inconsistency within approved plans.

Survey Plan – 5490.82 – No change

5. Planning Controls and Legislation

5.1 Section 4.55 Environmental Planning and Assessment Act 1979

The proposed modification has been lodged under the provisions of Section 4.55 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and there are a number of issues in this statute which need to be addressed.

There are three (3) kinds of modifications identified under the statute as follows:

- Section 4.55(1) – Minor modification involving a minor error, misdescription or miscalculation.
- Section 4.55(1A) – Modification involving minimal environmental impact.
- Section 4.55(2) – Other modifications.

The proposed modifications have been lodged under the provisions of Section 4.55(2). Whilst the height of proposed Building A will increase by one (1) storey, it remains lower than the other approved towers in the development and does not result in significant additional impacts compared to the approved development. In particular, it is noted that the additional storey will not impact on any views or privacy and the overshadowing impacts remain compliant with the DCP standard for sunlight access to adjoining residential properties. Whilst the proposal is considered to have minimal additional environmental impact, it has been lodged as a 4.55(2) application.

In relation to key modification, the following is noted:

Change of units from seniors housing to regular residential apartments in Building A.



This change is a minor change of use from one residential use (*seniors housing*) to another residential use (*shop top housing or residential flat building*). All these uses fall within the group term of *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 layout for the kitchen, bathroom and laundry. The proposed change of use will allow general occupancy for residents, rather than occupation being limited to persons over the age of 55 or persons with a disability. The change of use is substantially the same as the approved proposal and does not alter in any significant manner the

effects of the proposal. The changes only involve the relocation of partition walls within the units and maintains adaptability to return to a layout meeting the SEPP and AS 4299 if necessary.

As discussed in 6.4 of this document, the proposal will not generate a shortage of supply for seniors housing in the Forster Tuncurry area.

Creation of an additional storey (Level 7) to Building A containing three (3) penthouse units.

The additional storey and provision of an additional three (3) penthouse apartments is considered the most significant change to the proposal. The additional level and additional three (3) units does not radically change the development from the original approval. The table below compares the building heights and presentation of the original consent 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 Unit Number - 143 units	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 Unit Number - 146 units
	

The proposed modification to include the additional level will generally maintain the built form relationship of the proposal to the surrounding environment and as discussed through the document will not generate significant environmental impact to the surrounding area.

Strata subdivision of the apartments.

The strata subdivision of the apartments will allow separate sale of the units in the local real estate market. The strata subdivision will make no physical change to the development or alter the potential activity generated from the site. As seniors housing, the units would have been sold in the local market under a 99 year lease arrangement. It is noted that 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*.

Conversion of previous residents club to commercial floor space

This area of development on Level 1 in Stage 1 was originally approved as a residents club which would provide a large entertainment space for residents and guests of the building. The area would function as a bar and restaurant providing refreshments and entertainment. The change involves the use of the area as a commercial space for use as an office space. The change of use would be from a *retail premises* to an *office premises* which are captured in the group term *commercial premises* and does not represent a radical change of use for the area. The proposal maintains a similar space within the building and will maintain the overall mixed use nature of the development.

Provision of communal outdoor resident facilities at Level 3

This area was identified as communal open space that was developed in Stage 1 and provided landscaped areas and covered path. The proposed modification maintains this area as communal open space for the residential uses and adds additional facilities in the form of a pool and BBQ area. The proposal includes alterations to the space for the cinemas (not approved) through the reduction of footprint and removal of the air conditioning plant room and use of that area. The change to the building is minimal and is not viewed from outside the site. The use and changes to the area are consistent with the treatment of the area in the original consent.

Alterations to restaurant area

The alterations to the restaurant area involve minor changes to the shape of the restaurant area and outdoor eating space. As a result of the changes the restaurant café area reduces from 270m² to 265m². The outdoor eating area changes shape around the restaurant/café and a glass roof replaces the solid balcony approved of the restaurant space. The changes are considered minor and do not alter the context of the restaurant/café within the development.

Minor alterations to the basement layout and provision of additional ancillary resident and commercial spaces

The changes within the basement make no change to the building footprint/envelope. The proposal will provide additional facilities to support the approved residential and commercial spaces. The changes are very minor in the context of the development and do not alter the use within the building or increase any impacts of the development.

Proposed alteration to parking area on Level 2

The changes within Level 2 make no change to the building footprint/envelope. The changes involve remarking of the parking spaces within the approved structure. The use for parking is maintained and the provision of an additional 10 car spaces maintains the car parking area as substantially the same.

Addition of a temporary garbage collection area to the Lake Street frontage

The proposed garbage slab is necessary to facilitate pick up 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.

Given the above discussion, the proposed development will remain substantially the same as that originally granted consent and can be modified under the provisions of the clause.

Section 96(3) provides that Council shall have regard to the matters for consideration under Section 79C(1) as are relevant to the proposed development. Such matters are further discussed within this submission.

It is noted that the application was lodged as 'integrated development' as the proposal involves excavation that will require groundwater extraction. The proposal does not involve any change to the approved basement area (Stage 1 dewatering completed).

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

The approved apartments (Seniors Housing) were subject to design certification and compliance with relevant parts of the Apartment Design Guide.

The proposal maintains the existing apartments with very minor changes that do not impact on the design quality matters for the existing apartments.

The new penthouses have high quality design, including multiple living areas, outdoor space and cross flow ventilation. The penthouse apartments meet the relevant standards and design quality considerations under SEPP 65 and the Apartment Design Guide.

The required design certification from the architect has been included in the application.

5.3 State Environmental Planning Policy (State and Regional Development) 2011

The original application was Regionally Significant Development and was determined by the Hunter and Central Coast Joint Regional Planning Panel on 20 September 2017.

The proposal is a Section 4.55(2) which can be subject to determination by a regional panel. The provisions of clause 123BA of the *Environmental Planning and Assessment Regulation 2000* provides that:

123BA Functions exercisable by council on behalf of regional panel

- (1) *For the purposes of section 4.7(2)(h) of the Act, the determination of an application to modify a development consent under section 4.55 of the Act is, except as provided by subclause (2), prescribed as a function that is to be exercised on behalf of a regional panel by a council.*
- (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.*

As the proposed modification is considered under clause 4.55(2), and Council is a landowner, the matter is required to be referred to the regional panel in accordance with the abovementioned instruction.

5.4 State Environmental Planning Policy (Coastal Protection) 2018

The SEPP became operational on 3 April 2018 and repealed SEPP 71, SEPP 14 and SEPP 26, providing a consolidated instrument for land in the coastal zone. The SEPP is supported by interactive mapping for the coastal area. The maps identify that the site is identified as:

- Coastal Environment Area
- Coastal Use Area

Clause 13 of the SEPP applies to land in the coastal environment area and provides:

13 Development on land within the coastal environment area

(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:

- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
- (b) coastal environmental values and natural coastal processes,*
- (c) the water quality of the marine estate (within the meaning of the [Marine Estate Management Act 2014](#)), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (f) Aboriginal cultural heritage, practices and places,*
- (g) the use of the surf zone.*

(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*
- (3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

Relative to these matters:

- The proposed modification does not create any additional impact on ecological or hydrological values in the area.
- The modification will not impact on water quality in any marine estate.
- The modification does not have adverse impacts on native vegetation, fauna or their habitats, headlands or rock platforms.
- The modification makes no change to development footprint or land disturbance and creates no greater potential impact to cultural heritage values.
- The modification maintains connection of sewer to the MidCoast Water reticulated system.
- Stormwater from the site does not change as a result of the proposed modification.
- The proposal does not impact on the surf zone.

Clause 14 of the SEPP provides controls in relation to land in the coastal use area as follows:

14 Development on land within the coastal use area

- (1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) Aboriginal cultural heritage, practices and places,*
 - (v) cultural and built environment heritage, and*
 - (b) is satisfied that:*

- (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
- (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.
- (2) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

Relative to the above, the following is noted:

- The modification does not impact on public access to coastal foreshores.
- The modification does not alter impact to views, overshadowing or wind funneling along the foreshore.
- The modification does not alter scenic amenity of the coast, including coastal headlands.
- The modification makes no change to development footprint or land disturbance and creates no greater potential impact to cultural heritage values.
- The proposal does not affect any heritage items or areas.

5.5 Other State Environmental Planning Policies

The original development was subject to the following State Environmental Planning Policies (SEPP). These are generally not relevant to the proposed modifications as discussed in the table below:

State Environmental Planning Policy (SEPP)	Comment
SEPP (Housing for Seniors or People with a Disability) 2004	The residential units were approved as seniors housing under the provisions of this SEPP. The change to standard residential apartments does not require further consideration of the SEPP. The remaining seniors housing development in Stages 2 and 3 will maintain compliance with the SEPP.
SEPP (Infrastructure) 2007	The original proposal was referred to the Roads and Maritime Services as traffic generating development. The proposed changes do not

State Environmental Planning Policy (SEPP)	Comment
	involve any significant changes to traffic generation of the proposal and will maintain approved accesses etc.

5.6 Great Lakes Local Environmental Plan 2014

5.6.1 Development Control Table

Clause 2.3 of the LEP provides that the development control tables for each zone are used to determine if development is permissible or prohibited and provides that Council must give consideration to the objectives of the zone.

The proposed modification involves a new use within Stage 1 in the form of *shop top housing or residential flat building and Commercial premises (office premises)*. These uses are permissible with consent in the B4 Mixed Use zone.

The objectives of the B4 zone are:

Zone B4 Mixed Use

1 Objectives of zone

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To encourage development that does not prejudice the established business and industrial centres.*
- *To ensure that traffic generation from development can be managed in a way that avoids conflict with the desired pedestrian environment.*
- *To ensure the inclusion and integration of housing to promote housing diversity and community activity within the business centre.*
- *To enable a range of tourism-related uses that support the business centre.*

The development is a mixed-use proposal which meets all of the above objectives. The integration of compatible uses on the site has been achieved in a location near the existing town centre, encouraging sustainable use of public transport, walking and cycling. The proposal has been designed to complement the existing Forster town centre, providing a range of civic uses to meet the needs of existing residents in the area. Traffic generation from the proposed uses in the modified proposal are considered to be consistent with the traffic generation of the original proposal.

5.6.2 Development Standards

5.6.2.1 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 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 would still comply with the LEP provision.

5.6.2.2 Height of Buildings

The Height of Buildings map shows areas of the site subject to 26m and 33m height of building control.

Clause 4.3 of the LEP provides:

- (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 proposal maintains adaptable units consistent with AS 4299-1995. The height of buildings controls over the site (relevant to each building) are:

- Building A – 28.6m
- Building B – 36.3m
- Building C – 36.3m
- Building D – 28.6m

The following table compares the approved building heights and RLs with the modified building heights and RLs.

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

As can be seen, there is no change to the building heights for Buildings B, C and D. The proposed amendments to Building A result in a maximum building height (top of central roof/ lift tower) of 29.1m which is 500mm above the maximum building height development standard applying to that part of the land. A submission under clause 4.6 has been included in this document.

5.6.2.3 Floor Space Ratio

The Floor Space Ratio map shows that the floor space ratio applicable to the site is 3:1.

Clause 4.4 of the LEP provides:

4.4 Floor space ratio

(1) *The objectives of this clause are as follows:*

- a. *to ensure that the scale of proposed buildings is compatible with the existing environmental character and the desired future urban character of the locality,*
- b. *to encourage a diversity of development on land in business zones, which is unlikely to prejudice the supply of retail or business floor space in those zones,*
- c. *to permit a floor space ratio that will provide a transition in built form and land use intensity,*
- d. *to encourage residential development that is consistent with AS 4299—1995, Adaptable housing.*

(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.*

(2A) *Development consent must not be granted for development on land in Zone B1 Neighbourhood Centre or Zone B2 Local Centre unless the development includes commercial premises with a floor space ratio of at least:*

- (a) *for land in Zone B1 Neighbourhood Centre—0.3:1, and*
- (b) *for land in Zone B2 Local Centre—1:1.*

(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.*

(2C) Despite subclause (2), the floor space ratio for development for a purpose other than residential accommodation on land in Zone RU5 Village may exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

Internal lift access is provided to all levels of the buildings and the design of the units maintains adaptable dwelling designs that can meet Seniors Housing standards and AS 4299-1995. Accordingly, the provisions of subclause (2B) provide that the maximum floor space ratio for the site is 3.3:1.

The Gross Floor Area of the entire development proposal (as amended) is 37,626m² which results in a floor space ratio of 3.10:1 and is below the permissible development standard.

5.6.3 Clause 4.6 – Exceptions to Development Standards

Clause 4.6 of the LEP provides for exceptions to development standards which would allow Council to consider variation of these standards. Whilst a 4.6 variation is not required for a modification of consent, it is still useful to examine a variation having regard to these principles.

- (1) The objectives of this clause are as follows:*
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) the consent authority is satisfied that:*

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Director-General has been obtained.*
- (5).....

Relevant to subclause (2), neither Clause 4.3 or Clause 4.4 is expressly excluded from the operation of the clause as detailed in subclause (7) (not reproduced).

The following provides the written request for variation of the development standard for height of buildings in relation to the modified proposal.

5.6.3.1 Height of Buildings

The height of the building is variable in different parts of the development. The following table shows the various heights for various parts of the building.

Development Component	Maximum Building Height	Variance from Height limit
Main Building Skillion	28.6 metres	0.0 metres
Edge NE Feature Skillion	28.8 metres	+0.2 metres
Lift Tower	29.1 metres	+ 0.5 metres

As can be seen, only the lift tower roof and the very end of the feature skillion exceeds the maximum height control, and the highest point of the building represents a 1.7% variation to the maximum height. Whilst this small component of the building exceeds the maximum building height control, the remainder of the building is below the maximum building height controls. As such, the exceedance of the building is very minor in both degree and extent.

As a first step in determining if the application of the standard is unreasonable or unnecessary in this case, the objectives of the development standard are determined. Clause 4.3 lists the objectives of the development standard as follows:

- (a) to ensure that the scale of proposed buildings is compatible with the existing environmental character and the desired future urban character of the locality,*
- (b) to encourage residential development that is consistent with AS 4299–1995, Adaptable housing.*

The additional height above the maximum height plane is limited to a very small area of the building footprint with the remainder of the building generally below the maximum height control. The small area of highest point is centralised and not highly visible in the surrounding landscape and does not result in any appreciable additional scale. The feature skillion is even more minor (less than 1% variation) and does not provide any legible increase to overall building height. The proposal will still be consistent with the desired environmental and urban character provided for by the planning controls.

As can be seen in the Visual Impact Assessment, the additional storey has minimal visual impact and is unlikely to be viewed as a significant visual change to the development.

The proposal is considered to be consistent with the objectives of the standard, notwithstanding the minor non-compliance with the numeric control.

The objectives of the B4 zone have been examined in detail above. The proposal is consistent with the zone objectives and the proposal facilitates achievement of the objectives by providing a variety of housing forms in a central location. It is noted that other approved towers in the development are higher than this Building A, and the adjoining land to the east is subject to a current planning proposal to increase the maximum building height standard to 30m.

Given the above discussion, it is submitted that:

- It is unreasonable and unnecessary to maintain the maximum height standard in this case as:
 - The proposal results in only a minor exceedance of the maximum height controls for a very small part of the building.
 - The variation is considered minor and maintains consistency with the objectives of the standard.

- The higher parts of the building are centralised away from the side of the building to limit impacts to building scale as viewed from the surrounding area.
- The higher building component is located centrally and does not result in any significant additional impacts to surrounding areas in relation to overshadowing etc.

5.6.4 Miscellaneous and Local Provisions

The following provisions of the LEP were also relevant to the original proposal and their application to the modification is discussed in the table below:

Provision	Comment
5.5 Development in the Coastal Zone	This clause has been repealed with the adoption of <i>SEPP (Coastal Management) 2018</i> .
7.1 Acid Sulfate Soils	The modified works involve no excavation and the provisions of this clause are not relevant to the proposed modifications.
7.3 Flood Planning Area	The flood planning area only affects a small part of the site away from the proposed modification. The floor levels provided are well above the relevant flood planning level.
7.5 Stormwater Management	The proposed modifications occur within the approved development footprint and do not create any additional roofed or hardstand areas. As such, the proposal will maintain stormwater outcomes and systems approved for the development of the land.

5.7 Great Lakes Development Control Plan 2014

Great Lakes Development Control Plan 2014 (DCP) provides development controls for various forms of development in the former Great Lakes local government area. The DCP provides 15 Parts that provide controls in relation to various development issues, as well as site specific plans provided in Part 16.

The following parts of the DCP were considered in relation to the proposal and a brief comment is provided in relation to their applicability to the proposed modification:

DCP Part	Comment
Part 3 Character Statements	The modified proposal maintains the mixed use outcome and development form on the site and maintains consistency with the character statement for the area.
Part 4 Environmental Considerations	The proposed modifications do not involve any change to the impacts of the matters under this part, including ecology, flooding etc.
Part 6 Residential Apartment Buildings, Mixed Use Development and Business Premises.	The provisions of this part are discussed in greater detail below in relation to the proposed apartments.
Part 9 Subdivision	The proposal maintains the strata/stratum subdivision of the development and will maintain compliance with the DCP.
Part 10 Car Parking Alternative and Active Transport	The proposed development involves a change to the uses in the Stage 1 development and the analysis of parking requirements. Provided parking is discussed in greater detail below.
Part 11 Water Sensitive Design	The proposal maintains roofed areas, hardstand areas and stormwater management and will not impact on compliance with this part of the DCP.
Part 13 Landscaping and Open Space	The proposal maintains approved landscape areas and will not impact on compliance with this part of the DCP.
Part 14 Waste Management	The proposal maintains waste

DCP Part	Comment
	management within the approved development.
Part 16.12 Site Specific Controls	<p>This part of the DCP provided controls in relation to:</p> <ul style="list-style-type: none"> • Built Form Concept • Site Permeability • Street Address • Building Setbacks <p>The modified plans maintain outcomes in relation to these aspects of the approved development.</p>

5.7.1 Chapter 6 – Residential Apartment Buildings, Mixed Use and Business Premises

This chapter provides the controls for medium and high density residential development, mixed use, and business premises. The following table discusses controls that are relevant to the proposed modifications:

DCP Matter	DCP Control	Compliance of Proposal
General Building Design	Provides a series of controls for design quality and to ensure that development responds appropriately to the context of the site.	The proposed design has been undertaken by a registered architect and has addressed design quality principles and also meets the DCP requirements.
Building Configuration – Adaptable Housing	10% of dwellings should be designed as adaptable housing.	The apartments maintain adaptable dwellings, as well as the future retirement village dwellings in Stages 2 and 3.
Building Configuration – Dwelling Layout and Mix	<ul style="list-style-type: none"> • Provide a mix of apartments as follows: <ul style="list-style-type: none"> - Min. 15% Studio - Min. 15% 1 bedroom - Min. 40% 2 bedroom - Min. 15% 3 bedroom 	<ul style="list-style-type: none"> • There are no studio apartments within the development and these would not meet SEPP (Seniors) standards. The mix of apartments is: <ul style="list-style-type: none"> - 9% 1 bedroom - 45% 2 bedroom - 46% 3 bedroom

DCP Matter	DCP Control	Compliance of Proposal
	<ul style="list-style-type: none"> • Apartments should have minimum floor areas of: <ul style="list-style-type: none"> - 1 bedroom 50m² - 2 bedroom 70m² - 3 bedroom 95m² 	<p>Whilst there is a slightly lower percentage of 1 bedroom units, the developer is an experienced provider of aged housing in the local market and there is only a small demand for 1 bedroom units in the local housing market.</p> <ul style="list-style-type: none"> • The internal floor areas of the different units are: <ul style="list-style-type: none"> - 1 bedroom – 77m² - 2 bedroom – 103-127m² - 3 bedroom – 125-131m²
Building Configuration Storage	<p>Provide storage as follows:</p> <ul style="list-style-type: none"> - 1 bed unit 3m² - 2 bed unit 4m² - 3 bed unit 5m² • 50% of storage should be provided in units. 	<p>Storage is provided as follows:</p> <ul style="list-style-type: none"> - 1 bed unit minimum 3.9m² - 2 bed unit minimum 5.2m² - 3 bed unit minimum 6.1m² • More than 50% of the storage is provided in the units in the form of linen cupboards and robes.

5.7.2 Chapter 10 Car Parking, Access, Alternative and Active Transport

The proposed modification will alter parking requirements under the DCP 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 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.

Overall Basement Parking Provision

The approved basement parking area as proposed provides 294 parking spaces and was designed to accommodate parking for all commercial/retail uses in the development including cinemas, night club and child care centre which were not

approved in the original DA. The modified basement design provides 295 parking spaces as a result in the alterations within the basement area. The basement will still provide for all commercial uses, as well as six (6) residential spaces for Stage 1.

The following table shows the total parking demand for the basement parking areas based on the approved and modified development.

Use	Approved Parking Requirements	Modified Parking Requirements
Library	45 spaces	45 spaces
Community Centre	20 spaces	20 spaces
Customer Service Centre	4 spaces	4 spaces
Visitor/Tourist Centre	9 spaces	9 spaces
Restaurant	43 spaces	38 spaces
Retail/Supermarket	47 spaces	47 spaces
Cinema	80 spaces	-
Nightclub	82 spaces	-
Gym	13 spaces	13 spaces
Business Centre	3 spaces	3 spaces
Hotel/Serviced Apartments	61 spaces	61 spaces
Commercial Floor Area (Proposed)	-	14 spaces
Stage 1 Residential Spaces	-	6 spaces
Total	407 spaces	260 spaces
Provided	294 spaces	295 spaces

The parking provision in the original consent allowed for the different temporal demand for the commercial uses, especially the nightclub and cinemas, which found the 293 parking spaces was sufficient based on the temporal peak demand for uses. These uses are not approved in the development and temporal peak demand for the proposed uses is no longer relevant. 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 was designated for the cinemas, nightclub and child care would be subject to a new consent or modification and would need to resolve parking requirements, which may utilise these surplus spaces.

Stage 1 Basement Parking Provision

The currently constructed Stage 1 basement provides 163 parking spaces under the current consent. As a result of the modifications, the Stage 1 basement will provide 164 spaces. The basement will provide parking for all the community

and commercial uses as well as some residential spaces for the Stage 1 apartments.

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

Use	Approved Parking Requirements	Modified Parking Requirements
Library	45 spaces	45 spaces
Community Centre	20 spaces	20 spaces
Customer Service Centre	4 spaces	4 spaces
Visitor/Tourist Centre	9 spaces	9 spaces
Restaurant	10 spaces	10 spaces
Commercial Floor Area (Proposed)	-	14 spaces
Stage 1 Residential Spaces	-	6 spaces
Total	88 spaces	108 spaces
Provided	163 spaces	164 spaces

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

Overall Upper Level Parking Provision

The approved development provides parking at Levels 1 and 2 that provide parking areas 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 the two (2) levels to 218 spaces (resulting from alteration of the wider spaces required for seniors housing parking).

The parking requirements for the approved development and the modified development is summarised below.

Dwelling/parking type	Approved Parking Requirements	Modified Parking Requirements
1 bed Seniors	3 spaces	-
2 bed Seniors	72 spaces	47 spaces
3 bed Seniors	93 spaces	59 spaces
1 bed Apartments	-	5 spaces
2 bed Apartments	-	30 spaces
3+ bed Apartments	6 spaces	45 spaces
Visitor spaces	1 space	12 spaces
Total	175 Spaces	198 spaces
Provided	209 spaces	218 spaces

As can be seen in both the approved and modified proposal there is a surplus of parking for the proposed residential uses.

Stage 1 Residential Parking Provision

The approved Level 2 parking area in Stage 1 provides 71 parking spaces under the current consent. As a result of the modifications, the Level 2 parking area will provide 80 spaces. The Level 1 area is not accessible until the construction of Stage 2.

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

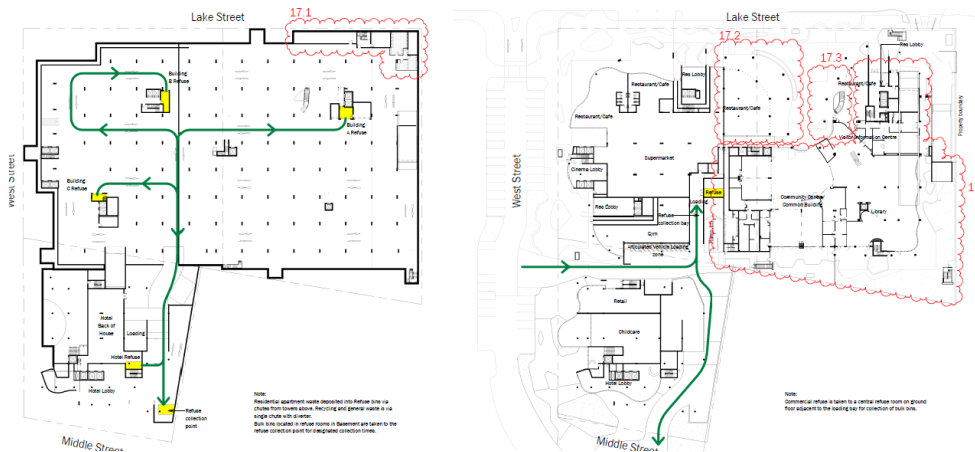
Dwelling/parking type	Approved Parking Requirements (SEPP)	Modified Parking Requirements (DCP)
1 bed Seniors	3 spaces	
2 bed Seniors	25 spaces	
3 bed Seniors	35 spaces	
1 bed Apartments	-	5 spaces
2 bed Apartments	-	30 spaces
3+ bed Apartments	-	39 spaces
Total Resident Parking	63 spaces	74 spaces
Visitor spaces	-	12 spaces
Total Required	63 spaces	86 spaces
Provided Level 2	71 spaces	80 spaces
Including Basement Spaces	71 spaces	86 Spaces

The modified Level 2 Parking area will provide sufficient resident car parking (80 spaces) to meet the requirements for resident parking (74 spaces) for the Stage 1 apartments. The parking on Level 1 will be unavailable until Stage 2 and an additional six (6) residential spaces have been allocated for the basement to provide additional visitor parking to meet the DCP requirements.

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 alternate transport options.

5.7.3 Chapter 14 - 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 the interim period a temporary waste collection area was required to be established. This has been located along the Lake Street frontage west of Stage 1. The location is away from adjoining properties to avoid issues on noise during collection. Alternate locations on West or Middle Street were not considered suitable due to the necessity to transport bulk waste bins long distances along public roads.

6. Environmental Impacts

The proposed modifications do not result in significant change to the environmental impact of the proposal. The change of seniors housing to residential units maintains a residential land use in Building A and the new commercial centre is contained in the approved building envelope. Whilst the proposal includes an additional storey to Building A, the additional storey has minimal additional environment effect. Key issues are further discussed below.

6.1 Context and Setting

The proposed modification maintains the approved mixed use nature of the proposal. Changes from seniors living to residential apartments retain a residential land use in Tower A and makes no change to effective land use. The commercial space at Level 1 integrates with the civic/service uses in the building.

The additional level of penthouse units in Tower A will increase the height of the approved tower and the height of buildings control has been discussed at length. The modified building height remains generally consistent with the approved development and the tower remains 7.5m lower than the approved towers in Stages 2 and 3. The adjoining land to the east is also being rezoned to allow building heights of up to 33m and the proposal remains consistent with the approved and future character of the area.


6.2 Views and Privacy





The modified proposal maintains the approved setbacks and residential units will be no closer to the site boundaries than the approved tower. 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 impacts.


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.

6.3 Overshadowing

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

Time/ Date	Approved Development	Modified Proposal	Extract from Shadow Diagrams
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.	
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 over holiday units and some areas of open space. Solar heating on roof not impacted.	
9am 21 June	Shadow from Building A extends over Department of Education offices and parkland areas along Pennington Creek.	Proposal results in an additional 235m ² of shadow which is located over parkland areas along Pennington Creek.	
Noon 21 June	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.	

3pm 21 June	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 2 & 9ms.	
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As can be seen from the analysis above, the additional shadow cast is relatively minor and in midwinter does not result in any additional impacts to residential buildings or open space in the 9am and noon scenarios as was the case for the original building A approval. The 3pm shadow does result in some minor 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 at the winter solstice. The effects of the additional shadow for each property are discussed below.

6 Lake Street

The additional 3pm shadow from the modified proposal is cast over additional areas of the pool and shade structures/BBQ area. The proposed impacts to this property are considered minimal given it does not involve any additional impact to habitable areas or large open space areas. Whilst the shadow does result in additional impact to the pool area, areas of the pool are not shaded and the impact is only in later afternoon in midwinter when the pool is unlikely to have any significant use. The shadow is not cast over any solar panels etc, including the solar pool heating.

5 Middle Street

The additional 3pm shadow from the modified proposal is cast over additional areas of the roofs and driveway and pool and open space areas. The modification increases shadow length between 2 and 9 metres. The additional 3pm shadow from the modified building will now affect Unit 9 in the complex. The north and part of the west elevations of Unit 9 which would be affected by the additional 3pm shadow are shown in the following photographs:



West Elevation (Unit 9)



North Elevation (Unit 9)

The window in the west elevation that would be impacted by the 3pm shadow would be the bathroom window, whilst the larger bunkroom window would maintain access to sun. The windows in the north elevation are a bedroom, kitchen and bathroom. The bedroom and kitchen window are shaded by the existing carport. The bathroom window would be impacted by the additional shadow. The additional shadow from the modified proposal would not significantly impact on the amenity of this unit.

The proposed impacts to this property are considered minimal given it does not reduce the amenity of Unit 9 and only impacts on additional roof areas of units. The pool area already has a shade structure over it, so no additional impact to the pool will be experienced. The main communal open space area north of the pool maintains access to sunlight at this time.

The proposed modification does not result in any significant increase to overshadowing impacts. Such impacts will not impact on amenity of the adjoining holiday units. The diagrams show that adjoining properties will maintain access to sunlight consistent with standards provided in Council's DCP and generally in the same manner as the approved development. The proposed modifications do not result in any significant additional shadow impact to adjoining properties.

6.4 Visual Impact

A Visual Impact Assessment of the proposed modification has been prepared by Terras Landscape Architects.

The assessment has identified that the proposed additional storey to Building A will be perceived as a minimal visual change to the approved development due to the following:

- *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 to be a significant visual change.*
- *The local character includes many high rise buildings, this is consistent with the local town centre visual character.*
- *The approved development of building B and C are higher than this building and therefore the overall height of the development will appear to remain unchanged.*
- *The approved development of building B and C are higher than this building and therefore will screen the views of the proposed new building A floor level from several surrounding locations to the south and to 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, 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 from distant views from the eastern location 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.*

The Visual Impact Analysis conforms that the proposed modification will have minimal visual impact on the surrounding locality.

6.5 Traffic

As discussed, parking for the proposal has been examined and meets the parking requirements within Council's DCP. The proposed modification includes some change in uses and additional uses. The original application was subject to detailed traffic assessment which was considered by Council and RMS in assessment of the proposal. The traffic assessment analysed traffic impacts on the basis of peak vehicle trip generations. Whilst the additional penthouse units and commercial space will also generate additional traffic, this is offset by the fact that the cinemas, nightclub and child care centre were not approved.

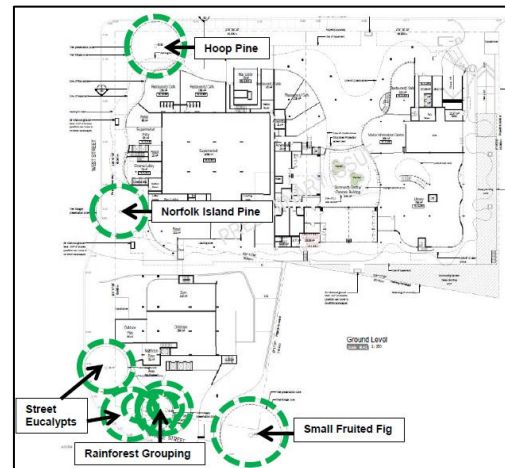
The following table compares traffic generation rates for the approved development and for the proposal as modified (current and previous modifications):

Activity/Use	Approved Peak hour trips	Modified Peak Hour Trips
Library	134 trips	137 trips
Community Centre	16 trips	15 trips
Customer Service Centre	-	3 trips
Visitor Centre	7 trips	7 trips
Restaurant	67 trips	60 trips
Apartments	89 trips	90 trips
Serviced Apartments	11 trips	11 trips
Hotel	42 trips	42 trips
Supermarket	95 trips	95 trips
Retail	8 trips	8 trips
Cinema	80 trips	-
Nightclub	82 trips	-
Gym	12 trips	12 trips
Function Rooms	23 trips	23 trips
Business Centre	7 trips	7 trips
Child Care Centre	41 trips	-
Commercial	-	43 trips
Total	714 trips	553 trips

As can be seen, the number of trips calculated based on the modified proposal does not result in any increase to peak hour traffic generation to the original proposal and will not increase impact on traffic in the area.

6.6 Tree Retention and Landscaping

The original development included provisions for the retention of several large trees on the site which were developed with the project arborist. The retained trees are shown in this extract below from the original Statement of Environmental Effects. The provision included limitations to the extent of building in proximity to these trees. The proposal has not altered the basement or building footprint and the retention of trees is maintained.



Tree Retention Plan



Approved Landscape details

The minor 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 consent and this provision is maintained.

6.7 Seniors Housing Supply

The proposal will result in a reduction of the total number of seniors at the site, although occupancy of strata units in Forster Tuncurry is anecdotally highly favoured by over 55s.

There is little data available in relation to demand for seniors housing in the local region, however, there has been a lot of work done by the Property Council of Australia and the following information has been gained from their publications including the *PwC/Property Council Retirement Census*. The following information examines independent living units (ILU) and has not considered residential care facilities.

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

Under the 2016 Census the population in Forster Tuncurry over the aged of 65 was 7,567 persons (representing approximately 40% of the population). Conservatively applying a rate of 11% to determine demand for ILUs for Seniors (not including nursing home beds) suggests that at 2016 the number of persons seeking this form of housing would be 832.

As this form of housing often has a high proportion of singles, the average occupancy is less than standard dwellings and is in the order of 1.6 persons. Applying this occupancy suggests the housing demand in 2016 was 520 homes.

Of course, as the population grows so will the demand for such homes. Based on the average growth rate of Forster Tuncurry of 1.1% the demand from 2016 to 2026 would rise as shown in the adjoining table. As can be seen projected demand for 2026 is 574 ILUs.

The Forster Tuncurry market is very reactive to this demand and seniors housing places have been progressively developing in the area to address this demand. The following table summarises the current available development providing ILUs.

Year	Seniors ILU demand
2016	520
2017	525
2018	530
2019	535
2020	540
2021	545
2022	550
2023	556
2024	562
2025	568
2026	574

Development	Total Number of ILUs	ILUs Vacant/Available
Golden Ponds - Stockland	205	15
Evermore	148	7
Pacific Cape	62	22
GLACIA - Tuncurry	14	1
Lions Village Forster (GLACIA) - Rentals	25	0
Sunrise Village Tuncurry	106	17
Total	560	62

As can be seen, the existing supply of seniors housing in the area is sufficient to meet the projected current demand.

The new Palm Lake Manufactured Home Estate development in the area is also competing in the ILU market and is being specifically targeted to seniors and has an approved residential care facility as part of the development. The new Palm Lake Estate under construction in Forster will provide a further 290 homes for seniors adding further supply for the projected demand.

The supply of seniors housing in Forster Tuncurry is meeting expected demand as can be seen given the availability of ILUs in existing developments (11%) on the market. Stages 2 and 3 of the development on the site will provide an additional 86 seniors ILUs for the future markets which meet projected demand.

The Stage 2 and 3 ILUs will be operated by Evermore Living Communities who own the nearby Evermore development in Bruce Street making seniors housing development of ILUs of this size feasible and able to be provided with management and services as necessary from Evermore.

7. *Suitability of the Site*

The subject site is highly suitable for this mixed use precinct where this type of development has been identified as desirable. The provision of residential apartments and commercial space is desirable given:

- The land is located in the Forster town centre, in close proximity to other commercial and community uses.
- The site is the only large site available in such a location which could be developed as an integrated community/commercial/residential and tourist precinct as proposed.
- The subject land is not subject to any significant environmental constraints which would make it unsuitable for this type of development.
- The site is a highly disturbed urban site which does not have significant ecological values requiring removal to enable development to occur.
- Being centrally located and connected with the town centre, the site is highly suitable for residential apartments.

8. *The Public Interest*

The original and modified proposal delivers outcomes for the development of the town centre and civic facilities in the area in a manner consistent with the policies and strategies of Council. The proposed development will deliver significant social and economic benefits to the Forster Tuncurry community which are clearly in the public interest.

9. *Alteration of Conditions*

As a result of the changes to the staging, the following alterations to conditions have been identified. Further conditions may be added by the consent authority:

- Condition 1 – Alter reference in table of plans etc to reference new plans submitted with the application.

- Condition 2 – Alteration of Staging to reflect changes reverting Stage 4 back to Stage 1C.
- Condition 8 – The payment of developer contributions under Section 7.11 provided under the condition should be modified to recognise the amendments. It is noted that the contributions levied originally were based on residential apartments rather than any lower figures for seniors living and the new penthouses are the only component which would increase contributions.
- Condition 91 – The condition should be modified to note that only 86 dwellings are seniors housing and all dwellings in Stage 1C do not need to be subject to a restriction limiting the age of occupants.

10. Summary of Modifications

The following table summarises each of the key modifications to the development and discusses the justification for each. Other minor and incidental changes and details to correct previous errors and ensure consistency of plans are identified in part 4.11 of this document.

Modification	Comments
Change of units from seniors housing to regular residential apartments in Building A.	<p>The proposed alteration involves no changes to the building envelope or unit numbers and maintains a residential use of the units.</p> <p>This alteration does not result in any additional environmental impacts of the proposal, and associated changes to the parking area at Level 2 allow on-site parking requirements to be met.</p>
Creation of an additional storey (Level 7) to Building A containing three (3) penthouse units.	<p>The additional level and additional three (3) units does not radically change the development from the original approval. The urban form to be developed at the site remains generally consistent with the approved for as shown in the Visual Impact Assessment. The additional storey does not generate any significant impacts in terms of:</p> <ul style="list-style-type: none"> • Views • Visual Impact • Privacy • Overshadowing <p>The additional storey does result in a minor exceedance of the building height standard, however, this is considered inconsequential in the context of the site and proposal.</p>
Strata subdivision of the apartments.	The proposed strata subdivision of the apartments makes no change to the built form or uses in the

	building and will not alter the development in any significant manner.
Conversion of previous residents club to commercial floor space.	The proposal provides for use of a space that is not needed when the building A units are changed to residential apartments. The use is still consistent with the mixed use proposal. The basement parking area provides sufficient spaces to accommodate parking for the use and no significant impacts are generated by the use.
Provision of communal outdoor resident facilities at Level 3.	The change maintains and improves communal space at Level 3 for the use of residents. The area was always designated for communal use but has been increased in area since the cinemas were not approved and provides additional facilities in the space for residents. The use remains consistent with the approved development and does not result in any impacts in the area.
Alterations to restaurant area.	This change involves minor alterations to the restaurant space and outdoor eating 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 proposal). The proposal maintains the use in the same area and does not generate any additional impacts.
Minor alterations to the basement layout and provision of additional ancillary resident and commercial spaces.	These changes provide for improvements in the use of the space within the basement. The changes include a new storage space, bike parking area and additional parking. The change does not alter the basement footprint/envelope which has been constructed. The changes do not result in any significant changes to the development.
Alterations to Level 2 parking area to provide additional resident parking.	This change occurs within the parking area and only involves the remarking of the parking spaces in the area. The proposal results in additional parking being available within the existing built form and does not result in any impacts to the surrounding area.
Addition of a temporary garbage collection area to the Lake Street frontage.	The area is necessary for the servicing of the building in Stage 1. The area is temporary only and is located away from other properties to avoid potential amenity impacts.

11. Conclusion

Consent for the mixed used development on the site was granted on 20 September 2017.

The modification to the consent issued involves:

- Change of units from seniors housing to regular residential apartments in Building A.
- Creation of an additional storey (Level 7) to Building A containing three (3) penthouse units.
- Strata subdivision of the apartments.
- Conversion of previous residents club to commercial floor space.
- Provision 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 spaces.
- Alterations to Level 2 parking area to provide additional resident parking.
- Addition of a temporary garbage collection area to the Lake St frontage.

The proposal also includes minor and incidental changes to correct errors that have also been identified.

The proposed modification maintains similar outcomes to the approved development and can be modified under the provisions of Section 4.55 (2).

The uses are all permissible in the zone and the modified proposal remains generally compliant with the controls within the LEP and DCP.

Whilst the proposal includes an increase in height of Building A, the building height primarily remains below the height limit set for the land, however, the lift tower and part of one skillion is slightly higher than the maximum building height control. Given its context in the approved development and the surrounding area, variation of the development standard would be justified under clause 4.6 of the LEP.

The modified proposal remains suitable for the site, and the outcomes delivered generate significant social and economic benefits for the area and are in the public interest.