

To	HCCRPP
Cc	Leanne Harris
From	Lisa Proctor, Consultant Town Planner
Date	12 July 2021
Subject	Additional Information Clarifying Previous Modifications

The Panel has enquired about the parts of the Act under which previous modifications (A – G) to the consent were approved. These are described below.

As described on page 26 of the Assessment Report the original application was Regionally Significant Development and was approved by the Hunter and Central Coast Joint Regional Planning Panel (HCCJRPP) on 20 September 2017. The provisions of clause 123BA(2) of the Environmental Planning and Assessment Regulation 2000 provide that:

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

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

#### **Modification A (approved 18/04/2018):**

- Corrected a minor miscalculation of the S7.11 contributions relating to the non-commercial component of the development (Condition 8).
- Enabled a stratum subdivision to occur of stage 1A prior to physically connecting water, sewer and electricity infrastructure (Condition No. 92).
- Altered the timing of the requirement for a Notice of Arrangement from Essential Energy to occur prior to the finalisation of the provision of services (Condition No. 93).
- Reduced the maintenance period for the street bio-retention pods from a five (5) year maintenance period to a one (1) year maintenance period consistent with other civil works requirements (Condition No. 95).
- Reduced the maintenance period for the bioretention stormwater devices to be installed in the public road (Condition No. 8).

No modifications were made to the approved plans.

Approved by Council in accordance with S.4.55(1A) of the Act.

**Modification B (approved 26/06/2019):**

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

No modifications were made to the approved plans.

Approved by Council in accordance with S.4.55(1A) of the Act.

**Modification C (approved 22/11/2018):**

- Altered the approved staging to include sub-staging within stage 1 (Condition No. 2) as follows:
  - Stage 1 a - Stage 1 basement carpark and ground floor/transfer slab.
  - Stage 1 b - Ground level public buildings (library communal rooms) and restaurant space on levels 1 and 2.
  - Stage 1 c - Seniors Housing over levels above.
  - Stage 2 – Remainder of Basement and mezzanine car park under Buildings B & C, ground level restaurants/café 1 & 2, ground level public domain and services space, Supermarket and Gymnasium, Seniors Housing units in Building B, public domain / road works to Middle Street adjacent to the development site and West Street.
  - Stage 3 – Seniors Housing Tower C.
  - Stage 4 – Hotel, Serviced Apartments, Public domain / completion of Middle Street roadworks.
- Altered the timing of S7.11 contributions to be paid in accordance with the modified sub-stages in Stage 1 (Condition No. 8).

No modifications were made to the approved plans.

Approved by staff under delegated authority (s.378 LG Act 1993) in accordance with S.4.55(1A) of the Act.

**Modification D (approved 18/12/2018):**

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

No modifications were made to the approved plans.

Approved by staff under delegated authority (s.378 LG Act 1993) in accordance with S.4.55(1A) of the Act.

**Modification E (approved 11/04/2020):**

Altered the staging of construction (Condition No. 1, 2, 3) as well as the timing for payment of contributions in accordance with the modified staging (Condition No. 8). This modification also included the expansion of the civic space over approved restaurant 4 and reallocation of space in the civic area to provide a customer service centre.

Modifications were made to the following plans:

- Development Statistics 5490.09 (2) TVS Architects 17 Feb 2020
- Staging Plan 5490.18 (2) TVS Architects 17 Feb 2020
- Ground Floor Plan 5490.24 (3) TVS Architects 17 March 2020

- Level 1 Floor Plan 5490.25 (2) TVS Architects 17 March 2020
- Level 2 Floor/Roof Plan (Stage 1) 5490.86 TVS Architects 17 Feb 2020
- South & West Elevation (Stage1) 5490.88(1) TVS Architects 29 May 2019
- North & East Elevation (Stage 1) 5490.87(1) TVS Architects 29 May 2019
- Library zone plan Ground 5490.80 (2) TVS Architects 17 Feb 2020
- Library Zone plan level 1 5490.81 (2) TVS Architects 17 Feb 2020

Approved by staff under delegated authority (s.378 LG Act 1993) in accordance with S.4.55(1A) of the Act.

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

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

No modifications were made to the approved plans.

Approved by staff under delegated authority (s.378 LG Act 1993) in accordance with S.4.55(1A) of the Act.

**Modification G (approved 19/05/2021):**

Amended the stratum subdivision plans for stage 1 to create:

- Lot 1 - Council owned facilities (library, community centre, etc.).
- Lot 2 - For the residential tower.
- Lot 3 - Stage 1 retail (restaurant).
- Lot 4 – Stage 1 first floor residents' facility (or commercial space as modified).
- Lot 5 – Residue in Stage 1 structure.
- Lot 6 - Residue in Stages 2, 3 and 4.
- Common Area over plaza areas and access driveways in Stage 1.
- Part lots in basement parking area for:
  - Lot 1 - Council parking spaces and service areas;
  - Lot 2 - Parking and services for the residential tower; and
  - Lot 3 - Parking designation and services for the Stage 1 retail.

Condition 90 was amended to require suitable easements and rights of carriageway related to the stratum subdivision. The approved Stratum Staging Plans were replaced with a Plan of Subdivision of Lots 11,12 and 13 in Deposited Plan 47987.

Approved by staff under delegated authority (s.378 LG Act 1993) in accordance with S.4.55(1A) of the Act.

**Email from former Mayor received by Panel members 7 July 2021:** The email is not relevant to the proposed modifications being considered by the Panel at this meeting, however staff can answer questions that the Panel may have about this email at the meeting on 12 July 2021.