

## COUNCIL ASSESSMENT REPORT – MODIFICATION APPLICATION

### SYDNEY EASTERN CITY PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	[PPSSEC-445] – DA/631/2018/A
<b>PROPOSAL</b>	Section 4.56 Modification to an approved Seniors Housing Development including reduction from 164 beds (comprising 108 Residential Aged Care Units and 56 Independent Living Units) to 99 beds (comprising 41 Independent Living Units, 44 Residential Aged Care Units and 14 Assisted Living Units), removal of gates, introduction of visual break-up of the built-form along Mons Avenue elevation, removal of porte-cochere and basement access from Mons Avenue, consolidated loading and basement vehicle access from Malabar Road, conversion of Residential Aged Care Facility (RACF) rooms, provision of a rooftop communal open space and relocation of café.
<b>ADDRESS</b>	Lot 101 DP 776582, 481-499 Malabar Road, MAROUBRA
<b>APPLICANT</b>	Catholic Healthcare Limited
<b>OWNER</b>	Catholic Healthcare Limited
<b>MOD LODGEMENT DATE</b>	5 November 2025
<b>ORIGINAL DA DETERMINATION DATE</b>	Land & Environment Court No. 2018/381499, determined on 12/07/2019
<b>APPLICATION TYPE</b>	Modification Application under Section 4.56
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Clause 2, Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> : <i>Development that has an estimated development cost of more than \$30 million.</i>
<b>CIV</b>	Estimated cost of works - \$186,634,000.00 (including GST)
<b>CLAUSE 4.6 REQUESTS</b>	N/A
<b>KEY SEPP/LEP</b>	<ul style="list-style-type: none"> <li>• <i>State Environmental Planning Policy (Planning Systems) 2021.</i></li> <li>• <i>State Environmental Planning Policy (Housing) 2021.</i></li> <li>• <i>Randwick Local Environmental Plan 2012.</i></li> <li>• <i>Randwick Development Control Plan 2013.</i></li> </ul>
<b>TOTAL &amp; UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS</b>	A total of 14 submissions comprising 7 unique and 7 identical template submissions. (7 total unique submissions).

<p><b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b></p>	<ul style="list-style-type: none"> <li>• Amended Statement of Environmental Effects prepared by Planning &amp; Co., dated 5 March 2026 and received by Council on 5 March 2026.</li> <li>• Architectural Plans prepared by Group GSA, dated 26/09/2025, Revision D and received by Council on 5 November 2025.</li> <li>• Accessibility Design Review Report prepared by Sam Dikstenin from Philip Chun Building Compliance, dated 19 September 2025 and received by Council on 5 November 2025.</li> <li>• Noise Impact Assessment Report prepared by Pulse White Noise Acoustic, report reference: 250349 (Rev. R1), dated 19 September 2025 and received by Council on 5 November 2025.</li> <li>• Arboricultural Impact Assessment Tree Protection Specification report prepared by Tree IQ, Project No. 481/MALA/AIA/E, dated 23 September 2025 (Revision E) and received by Council on 5 November 2025.</li> <li>• BASIX Certificate, no. 1818349M, dated issue Wednesday 22 October 2025 and received by Council on 5 November 2025.</li> <li>• Civil and Stormwater Engineer Design Report prepared by WSP, dated October 2025 and received by Council on 5 November 2025.</li> <li>• Traffic Impact Assessment prepared by Traffix – Traffic and Transport Planners, Reference: 25.166r01v03, dated 24/09/2025 and received by Council on 5 November 2025</li> <li>• Design Development Report prepared by Formiga1, project No. S250702, dated 23 September 2025 (Revision B) and received by Council on 5 November 2025.</li> <li>• Architecture &amp; Urban Design Report Draft prepared by Group GSA, dated October 2025 and received by Council on 5 November 2025.</li> <li>• Flood Review Report prepared by WMS Civil/Water/Environment, Ref/20371-L01-1, dated 1 October 2025 and received by Council on 5 November 2025.</li> <li>• Landscape Report prepared by Place Design Group, Document No. 240586 (Revision A), dated 26/09/2025 and received by Council on 5 November 2025.</li> <li>• Operational East Management Plan prepared by Universal Foodservice Design, dated 3 October 2025 and received by Council on 5 November 2025.</li> <li>• Section J4 Report prepared by Cundall, Doc Ref: RPT-SY-001 (Revision A), dated 30 September 2025 and received by Council on 5 November 2025.</li> </ul>
<p><b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)</b></p>	<p>N/A</p>

<b>RECOMMENDATION</b>	Approval
<b>DRAFT CONDITIONS TO APPLICANT</b>	No
<b>SCHEDULED MEETING DATE</b>	1 April 2026
<b>PLAN VERSION</b>	Plan Set - Dated 26 September 2025 (Revision D)
<b>PREPARED BY</b>	Chahrazad Rahe
<b>DATE OF REPORT</b>	24 March 2026

## EXECUTIVE SUMMARY

This modification application has been lodged pursuant to Section 4.56 of the Environmental Planning and Assessment Act 1979 and seeks approval to modify the Court approved seniors housing development at 481–499 Malabar Road, Maroubra. The original application was approved by the Land and Environment Court on 12 July 2019 for a mixed seniors housing development comprising ILUs, RACF accommodation, basement parking, communal facilities and a through-site pedestrian link. The modification application includes all information required under Clause 100 of the Environmental Planning and Assessment Regulation 2021.

The application is referred to the Sydney Eastern City Planning Panel (SECPP) as it relates to a regionally significant development pursuant to section 2.19(1) and Schedule 6, clause 2 of State Environmental Planning Policy (Planning Systems) 2021. The modification satisfies the criteria for Panel consideration under Clause 275(2) of the 2021 EP&A Regulation.

The site is the former Maroubra Bowling Club, now cleared following demolition approved by the Land and Environment Court in 2019. While seniors housing is not ordinarily permissible in the RE2 zone, permissibility is secured through the saved Seniors SEPP Site Compatibility Certificate, preserved by Schedule 7A of the Housing SEPP. The approved development comprises a four-storey RACF building, Buildings A1, A2 and B containing 56 ILUs, basement parking for 97 vehicles, a chapel, café and associated communal spaces, landscaped grounds and a publicly accessible link between Mons Avenue and Malabar Road.

A Pre-Lodgement meeting (PL/23/2024) was held on 23 September 2024. Council identified key statutory considerations including the need to demonstrate that the proposal remains “substantially the same” development under s 4.56(1)(a), to address the saved Seniors SEPP provisions (Chapter 3, Part 5), Housing SEPP Chapter 4 (ADG), Randwick DCP Part F1, and to provide updated overshadowing, view analysis, design excellence, traffic, landscape and architectural justification.

The applicant also sought early advice from the Design Excellence Advisory Panel (DEAP), which supported the design direction and recommended refinements to façade articulation, the Mons Avenue interface, rooftop treatment, sustainability measures and the landscape strategy; these recommendations have been incorporated into the modified scheme.

The proposed modification redistributes the accommodation mix to 41 ILUs, 14 Assisted Living Units and 44 RACF rooms, reducing overall resident numbers from 164 to 99. Architectural refinements include a substantial increase to the Mons Avenue setback, removal of the porte cochere, consolidation of all vehicular access to Malabar Road, introduction of a visual break between Buildings C1 and C2, curved façades, improved articulation, softened roof forms, rooftop access and a recessed additional upper level on Building C2. The

landscape scheme is significantly enhanced, delivering an additional 1,166m<sup>2</sup> of landscaping, achieving ≥15% deep soil, and incorporating a mix of ground-level and rooftop communal open space.

The application was publicly exhibited from 14–28 November 2025, generating fourteen (14) submissions (seven unique and seven template submissions). Matters raised include building height, perceived bulk, overshadowing, privacy, traffic and parking, construction impacts, service configuration, flooding/stormwater, RSL dedication, and a request from the Maroubra Precinct Committee for approximately 25 additional on-site parking spaces (including a second basement level beneath the south-eastern open space).

A Request for Information (RFI) was issued on 13 February 2026 seeking legal advice on the “substantially the same development” test, additional architectural detail for the C2 upper level and rooftop link, clarification of submission responses and confirmation of the appropriate consent authority. The applicant’s full response was received on 6 March 2026 and accepted under Clause 113(1) of the EP&A Regulation. This included independent legal advice from Allens (5 March 2026), which reviewed the proposed modification against the Court-approved scheme, relevant case law and the statutory framework, and concluded that the modification comfortably satisfies the “substantially the same development” test in Section 4.56(1)(a).

Council’s independent assessment concurs with this conclusion. In response to the Precinct Committee’s parking request, the applicant advised that the proposal already complies with Seniors Housing parking benchmarks, the local road network can accommodate the revised traffic distribution, and such a redesign would fall outside the permissible scope of a Section 4.56 modification.

Having regard to s 4.56(1)(a), the modified proposal is considered to be substantially the same development as approved by the Court in 2019. The land use, building arrangement and envelope logic are retained in the modified scheme. While some roof RLs change due to the introduction of a recessed upper level on Building C2 and a rooftop terrace on Building C1, these elements are visually recessive, and the visible built form predominantly remains within the perceived extent of the Court approved envelope. The proposed changes improve internal site amenity without generating appreciable amenity impacts in terms of privacy, overshadowing or view obstructions to neighbouring properties.

Importantly, the deletion of pitched roofs on Buildings A2 and B reduces the roof profile and offsets the introduction of these new elements, resulting in an overall reduction in perceived bulk within the site curtilages. The increased Mons Avenue setback, curved façades and enhanced articulation further contribute to a softer presentation. Incorporation of DEAP advice results in a clearer, higher-quality architectural and public-domain outcome.

Key issues associated with the modification identified in the assessment are summarised below:

1. Urban Design – Curved façades, increased modulation, a deeper Mons Avenue setback and a clear C1–C2 break deliver a softer, more contextual built form and improved streetscape.
2. Height & Bulk – Although some roof RLs are altered, the modified massing remains within the perceived Court-approved envelope and reduces perceived bulk as the additional height has been redistributed centrally within the subject site.
3. Setbacks & Interfaces – The significantly increased Mons Avenue setback improves visual comfort, amenity, outlook and privacy.
4. Solar Access & Overshadowing – Net reductions in overshadowing relative to the approved scheme; ≥70% of dwellings achieve required solar access; no unreasonable shading to the school frontage or adjacent dwellings.

5. Privacy – Improved outcomes through increased separation, curved geometries, façade modulation, screening and balcony treatments.
6. Traffic & Access – Vehicle access consolidated to Malabar Road improves safety near school frontages; parking complies with Seniors Housing benchmarks.
7. Noise & Construction – Operational noise is reduced; construction noise and vibration impacts are manageable via a Construction Noise and Vibration Management Plan (CNVMP) and vibration monitoring.
8. Landscape & Deep Soil – Approximately 1,166m<sup>2</sup> of additional landscaping and ≥15% deep soil significantly improves green infrastructure and amenity.
9. Public Domain & Crime Prevention Through Environmental Design (CPTED) – Removal of gates, improved lighting and sightlines strengthen permeability, safety and passive surveillance.
10. Stormwater & Flooding – Compliant subject to conditions, including extension of the Mons Avenue stormwater pipeline.
11. Signage – Business identification signage has been assessed under SEPP (Industry and Employment) 2021 – Chapter 3 (Signage). As signage was not considered under the original Court consent, new conditions have been included to regulate illumination, scale and maintenance to ensure compatibility with the surrounding residential context.

All jurisdictional prerequisites are satisfied, including permissibility under the Seniors SEPP savings provisions, design excellence under Clause 6.11 of the Randwick LEP 2012, contamination provisions under the SEPP (Resilience & Hazards), stormwater/flooding adequacy, and compliance with Clause 275(2) of the EP&A Regulation.

When considered under Section 4.15(1) of the EP&A Act, the modification will not result in unreasonable environmental, social or economic impacts. The proposal achieves improved solar access, privacy, landscape quality, streetscape presentation, safety and accessibility, and consolidates vehicle access away from sensitive school frontages. The development remains compatible with the surrounding area and delivers a significantly enhanced urban design and public domain outcome relative to the approved scheme.

It is therefore recommended that the modification be approved, subject to the conditions in Attachment A, as it:

- remains substantially the same development;
- satisfies applicable planning controls, including the Seniors SEPP (savings), Housing SEPP, SEPP (Industry & Employment) 2021 – Signage, Randwick LEP and Randwick DCP - Part F1 provisions;
- delivers improved built form, amenity, landscape and access outcomes; and
- is in the public interest.

# 1. THE SITE AND LOCALITY

## 1.1 The Site

The subject site is located at 481-499 Malabar Road, Maroubra and is legally described as Lot 101 in DP 776582. The land occupies a prominent corner position at the intersection of Malabar Road and Mons Avenue, with a third frontage to Rossiter Lane along the northern boundary. The site was previously occupied by the Maroubra Bowling Club, which has since been demolished under the original consent, and the land is currently vacant.

The site is irregular in shape and has a total area of approximately 10,850m<sup>2</sup>. Previous earthworks have resulted in a generally level landform, with a gentle rise of around 2m toward the north-west. The site experiences overland flow during major storm events, and parts of the former bowling green area are identified as subject to low flood hazard, with a localised high-hazard point along Malabar Road where deeper flows may occur. These matters were considered under the original approval and are unchanged by the current modification.

The land contains no prominent trees and is not identified as containing threatened terrestrial biodiversity, nor is it mapped as bush fire prone land. Vegetation on the site is limited and largely associated with previous development and site disturbance.

Vehicular access to the site has historically been available from both Mons Avenue and Malabar Road. Mons Avenue provides a local street interface, while Malabar Road forms a key corridor with indirect connections to Anzac Parade and, via that route, the wider Sydney transport network and the Eastern Distributor.

Under the Randwick Local Environmental Plan 2012, the land is zoned RE2 Private Recreation. Although Seniors Housing is not ordinarily permissible in this zone, the site benefits from a Site Compatibility Certificate issued under the former Seniors SEPP, which continues to apply via the Housing SEPP savings provisions, enabling the approved and modified Seniors Housing development to proceed.



Figure 1: Existing Site Plan showing buildings/structures cleared under base approval.

## 1.2 The Locality

The surrounding development is predominantly residential in character, comprising a mix of 1-2 storey detached dwellings and multi-dwelling housing forms of varying architectural styles and eras, with occasional 3-storey residential buildings dispersed within the subdivision pattern. The locality maintains a generally low-density coastal suburban character, informed by rectilinear street layouts and a landscaped public domain.

To the south of the site, directly opposite on Mons Avenue, is St Mary-St Joseph Catholic Primary School, which comprises predominantly single-storey school buildings and associated play areas. To the east, adjoining the site, are 1-3 storey modern townhouses. To the north, beyond Rossiter Lane, the built form transitions to low-scale residential dwellings.

The site benefits from proximity to a range of services and community facilities. It is located within walking distance of the Maroubra Town Centre (approximately 300m) and a strip of neighbourhood shops along McKeon Street, with additional shop-top housing opposite the site along Malabar Road. The locality is also well-served by public open space, including John Shore Park (approximately 280m), Maroubra Beach, Arthur Byrne Reserve and Broadarrow Reserve, all within approximately 400 m of the site.

Overall, the locality comprises a mixed residential and community environment, offering access to schools, shops, public transport along Malabar Road, and high-amenity coastal open spaces. The proposed Seniors Housing development sits within an established urban setting and maintains an appropriate relationship with the scale and function of surrounding land uses.



Figure 2: Surrounding Built form – Aerial image looking to the north east illustrates the juxtaposition of various building typologies around the subject site.



Figure 3: Sounding Built form – Photos of local Built form 4 Storeys and above.

## 2. THE PROPOSAL

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### 2.1 The Proposed Modification

This Section 4.56 application seeks approval to modify the Court-approved Seniors Housing development at 481–499 Malabar Road. The modified scheme retains the approved land use and overall site organisation while making targeted changes to the built form, access, landscape and the accommodation mix.

The Section 4.56 modification to the approved Seniors Housing development includes: reduction from 164 beds (108 RACF and 56 ILUs) to 99 beds (41 ILUs, 44 RACF rooms and 14 ALUs), removal of gates, visual break introduced along the Mons Avenue elevation, removal of the porte-cochere and basement access from Mons Avenue, consolidated loading and basement vehicle access from Malabar Road, conversion of RACF rooms to a RACF/ALU mix, provision of a recessed rooftop communal open space, relocation of café, relocation of floorspace centrally within the site and provision for four (4) business identification signs.

#### Detailed proposed modification works

Accommodation mix (site-wide):

- Resident capacity: 164 to 99 beds
- Rebalanced mix: 41 Independent Living Units (ILUs), 44 RACF rooms, 14 Assisted Living Units (ALUs).

Building A1 (ILU):

- External design refinements (curved edges, increased articulation).
- No change to approved height envelope.

Building A2 (ILU):

- Deletion of pitched roof; roof profile flattened (overall height reduced relative to approved roof form).
- Façade and articulation updates.

Building B (ILU):

- Deletion of pitched roof; roof profile flattened (overall height reduced relative to approved roof form).
- Balcony/material refinements.

Building C1 (RACF):

- Mons Avenue setback increased (approx. +6.8m).
- Porte-cochere removed.
- Visual break created between C1 and C2.
- Internal room re-allocation to support RACF/ALU mix.

Building C2 (RACF / ALU):

- New recessed additional upper level (set inboard from primary façades).
- Recessed rooftop communal terrace, with lightweight bridge link to C1.
- Curved façades and articulation updates.

Site-wide/public domain/services:

Vehicle access and servicing:

- All non-ambulance vehicle access, basement entry and loading consolidated to Malabar Road.
- Mons Avenue: former basement entry and porte-cochere removed; ambulance-only loop retained.

Through-site link and public domain:

- Gates removed; link is open and publicly accessible.
- Improved lighting and clear sightlines (CPTED-compliant).

Landscape and deep soil:

- Additional landscaping of approx. +1,166m<sup>2</sup> (total 6,550m<sup>2</sup>).
- Deep soil ≥15% of site (typ. 3–6 m widths to the north/east and a central deep-soil courtyard between Buildings C1–C2).
- Street trees: removal of TF (Mons Ave) to deliver the through-site link; compensatory Banksia planting on Malabar Road and Mons Avenue (as per updated landscape plans).

Café:

- Relocated to a central, more accessible position to activate the through-site link on Mons Ave.

Stormwater/flooding:

- Stormwater design updated, including extension of the Mons Avenue stormwater pipeline to the site frontage.
- Finished floor levels unchanged and compliant with flood planning controls.

Signage (proposed):

- Approval is sought for four (4) business identification signs displaying the operator's name and locality: "Catholic Healthcare – Maroubra."
- Type & locations:
  - SIGNAGE 1 & 3: Illuminated, back-lit individual letters fixed to building façades.
  - SIGNAGE 2: Smaller, wall-mounted back-lit lettering on a building return.
  - SIGNAGE 4: Entry/forecourt wall sign near vehicle gates (building-integrated).

Approved DA Scheme

Proposed Modification



Key Metrics

Site Area = 10,850m <sup>2</sup>	ILUs (Independent Living Unit) = 56
Total GFA = 14,807m <sup>2</sup>	RACF (Residential Aged Care Facilities) = 108
FSR = 1.36:1	
Total Open Space = 5,384m <sup>2</sup>	

Key Metrics

Site Area = 10,850m <sup>2</sup>	ILUs (Independent Living Unit) = 41
Total GFA = 14,807m <sup>2</sup>	ALAs (Assisted Living Unit) = 14
FSR = 1.36:1	RACF (Residential Aged Care Facilities) = 44
Total Open Space = 6,550m <sup>2</sup>	<b>+1,166m<sup>2</sup> (21.66%)</b>

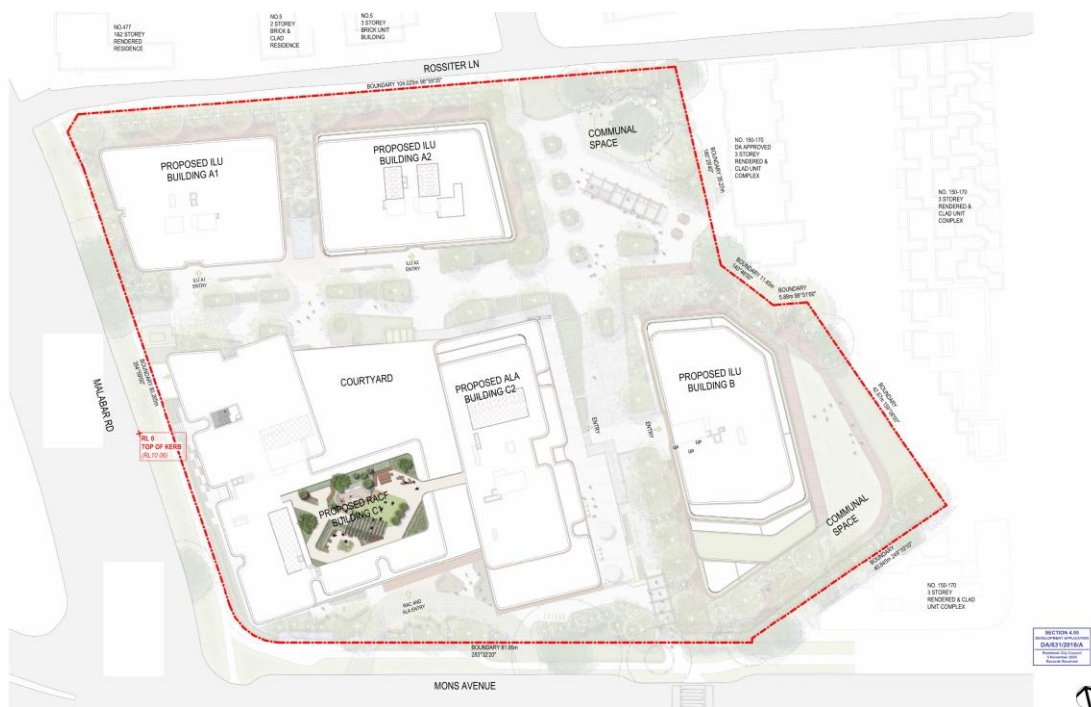


Figure 4: Site Plan - Proposed modification



Figure 5: Approved (left) and proposed development (right) from corner of Malabar Road and Mons Avenue



Figure 6: Approved (left) and proposed development (right) from Malabar Road



Figure 7: Approved (left) and proposed development (right) of main entrance from Mons Avenue

### ***Proposed Changes to Conditions***

**Table 1: Proposed Changes to Conditions**

<b>Condition No</b>	<b>Condition requirements</b>	<b>Change Proposed</b>	<b>Reason for Change</b>
1	Approved plans and documents	Update Condition 1 to reference the revised architectural plans and updated supporting reports, including the updated stormwater, traffic, waste and acoustic assessments submitted with the s4.56 modification.	To ensure the consent references the current modified drawings that form the basis of determination.
New Condition 1A	Modified Concept design	Introduce a new condition for the concept DA (DA/409/2018) to align with the subject modification.	Both the concept and modified development remain consistent.
2	Detailing of balustrade for Level 3 of Building A2	Condition no longer required due to design changes.	Original detail superseded by modified design; condition redundant.
New Condition 2A	External Colours, Finishes and Materials	Introduce a condition requiring the development to comply with the revised external colours, finishes and	To ensure built form reflects the assessed materials, finishes and updated bridge detailing shown in the

		materials schedule and the updated lightweight C1–C2 bridge drawings.	Response to Submissions report.
5	Compliance Fee	Delete Condition 5.	Fee is no longer required.
New Conditions: 140, 141, 142, 143, 144, 145, 146, 147	Signage (Business Identification)	Introduce new conditions for business identification signage addressing illumination type, operating hours, static display, no flashing/animation and light-spill controls.	Signage was not considered in the original consent and has now been assessed; the condition secures amenity, safety and integration in the R3 context.
28	Parking layout (superseded)	Delete Condition 28.	The original condition no longer applies due to revised layout and access arrangements.
29	Car parking management	Amend Condition 29 to require an updated Car Parking Management Plan addressing staff/visitor/resident parking and staff changeover coordination.	Reflects revised parking layout, access consolidation, and updated Traffic Impact Assessment.
44(c) & 44(d)	Stormwater management (OSD and discharge)	Amend Conditions 44(c) and 44(d) to reflect updated stormwater strategy, optional ARR 2019/2024 methodology, and OSD performance/volume requirements.	Ensures stormwater design complies with updated engineering best practice and Council requirements.
102	Public domain and civil works	Amend Condition 102 to update required civil works including vehicular crossings, kerb/gutter works, footpaths and the extension of the Mons Avenue stormwater pipeline.	To align with the updated stormwater design and revised access arrangements.
18, 19, 20, 49, 113 & 116	Landscape and arboricultural requirements	Amend landscape conditions to reflect the updated arborist report and revised landscape plans submitted with the modification.	Ensures landscaping, tree protection, and planting schedules align with the revised design and current documentation.

Table 2: Development Data

Control	Approved	Proposal																																																																																				
Site area	10,850m <sup>2</sup>	10,850m <sup>2</sup>																																																																																				
GFA	14807m <sup>2</sup>	14807m <sup>2</sup> (no changes; GFA redistributed)																																																																																				
FSR (residential)	1.36:1	1.36:1																																																																																				
Clause 4.6 Requests	No (as per original determination)	No – however merit assessment provided against objectives and locality in relation to building height changes.																																																																																				
No. of ILUs (apartments)	56	41																																																																																				
No. of ALU (assisted living units)	-	14																																																																																				
RACF beds/rooms	108	44																																																																																				
Max. Height	<table border="1"> <thead> <tr> <th>Building</th> <th>Roof RL (AHD)</th> <th>Ground RL (AHD)</th> <th>Approved Max. Height (m)</th> </tr> </thead> <tbody> <tr> <td>A1 (Roof)</td> <td></td> <td></td> <td></td> </tr> <tr> <td>TOW RL 19.25</td> <td>19</td> <td>9.6</td> <td>9.4m</td> </tr> <tr> <td>A1 (Incl. lift over-run)</td> <td>20.3</td> <td>9.6</td> <td>10.7m</td> </tr> <tr> <td>A2 (Roof)</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Top of pitched roof</td> <td>22.75</td> <td>9.6</td> <td>13.15m</td> </tr> <tr> <td>A2 (Incl. lift over-run)</td> <td>23.5</td> <td>9.6</td> <td>13.9m</td> </tr> <tr> <td>B (Roof)</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Top of pitched roof</td> <td>21.85</td> <td>8.65</td> <td>13.2m</td> </tr> <tr> <td>B (Incl. lift over-run)</td> <td>22.55</td> <td>8.65</td> <td>13.9m</td> </tr> <tr> <td>RACF RF (Lift not indicated)</td> <td>23.45</td> <td>9.35</td> <td>14.1m</td> </tr> </tbody> </table>	Building	Roof RL (AHD)	Ground RL (AHD)	Approved Max. Height (m)	A1 (Roof)				TOW RL 19.25	19	9.6	9.4m	A1 (Incl. lift over-run)	20.3	9.6	10.7m	A2 (Roof)				Top of pitched roof	22.75	9.6	13.15m	A2 (Incl. lift over-run)	23.5	9.6	13.9m	B (Roof)				Top of pitched roof	21.85	8.65	13.2m	B (Incl. lift over-run)	22.55	8.65	13.9m	RACF RF (Lift not indicated)	23.45	9.35	14.1m	<table border="1"> <thead> <tr> <th>Building</th> <th>Roof RL (AHD)</th> <th>Ground RL (AHD)</th> <th>Proposed Height (m)</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td>9.4m</td> </tr> <tr> <td>A1 (Roof)</td> <td>RL 19</td> <td>RL 9.6</td> <td>Remain the same</td> </tr> <tr> <td>A1 (Incl. lift over-run)</td> <td>20.3</td> <td>9.6</td> <td>10.7m Remain the same</td> </tr> <tr> <td>A2 (Roof)</td> <td>22.2</td> <td>9.6</td> <td>12.6m Pitched roof removed</td> </tr> <tr> <td>A2 (Incl. lift over-run)</td> <td>23.5</td> <td>9.6</td> <td>13.9m Remain the same</td> </tr> <tr> <td>B (Roof)</td> <td>21.35</td> <td>8.65</td> <td>12.7m Pitched roof removed height lowered</td> </tr> <tr> <td>B (Incl. lift over-run)</td> <td>22.55</td> <td>8.65</td> <td>13.9m Remain the same</td> </tr> <tr> <td>RAC (C1)</td> <td>23.45</td> <td>9.35</td> <td>14.1m TOW RL 24.05</td> </tr> <tr> <td>ALA (C2)</td> <td>26.75</td> <td>9.35</td> <td>17.4m Top of Lift RL 28.25</td> </tr> </tbody> </table>	Building	Roof RL (AHD)	Ground RL (AHD)	Proposed Height (m)				9.4m	A1 (Roof)	RL 19	RL 9.6	Remain the same	A1 (Incl. lift over-run)	20.3	9.6	10.7m Remain the same	A2 (Roof)	22.2	9.6	12.6m Pitched roof removed	A2 (Incl. lift over-run)	23.5	9.6	13.9m Remain the same	B (Roof)	21.35	8.65	12.7m Pitched roof removed height lowered	B (Incl. lift over-run)	22.55	8.65	13.9m Remain the same	RAC (C1)	23.45	9.35	14.1m TOW RL 24.05	ALA (C2)	26.75	9.35	17.4m Top of Lift RL 28.25
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	Top of pitched roof	21.85	8.65	13.2m																																																																																		
	B (Incl. lift over-run)	22.55	8.65	13.9m																																																																																		
	RACF RF (Lift not indicated)	23.45	9.35	14.1m																																																																																		
	Building	Roof RL (AHD)	Ground RL (AHD)	Proposed Height (m)																																																																																		
				9.4m																																																																																		
A1 (Roof)	RL 19	RL 9.6	Remain the same																																																																																			
A1 (Incl. lift over-run)	20.3	9.6	10.7m Remain the same																																																																																			
A2 (Roof)	22.2	9.6	12.6m Pitched roof removed																																																																																			
A2 (Incl. lift over-run)	23.5	9.6	13.9m Remain the same																																																																																			
B (Roof)	21.35	8.65	12.7m Pitched roof removed height lowered																																																																																			
B (Incl. lift over-run)	22.55	8.65	13.9m Remain the same																																																																																			
RAC (C1)	23.45	9.35	14.1m TOW RL 24.05																																																																																			
ALA (C2)	26.75	9.35	17.4m Top of Lift RL 28.25																																																																																			
<b>Approved 3-4 storeys in scale with a maximum height above existing</b>																																																																																						

	<p>ground level of approximately 14.1m (RACF).</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;"></td> <td style="width: 33%;"></td> <td style="width: 33%; text-align: right;">TOW RL 27.05</td> </tr> </table> <p><b>Proposed 4-5 storeys in scale with a maximum height of: 17.4m (RACF)</b></p>			TOW RL 27.05
		TOW RL 27.05			
<p>Landscaped area</p>	<p>5384m<sup>2</sup></p>	<p>6550m<sup>2</sup> (increase of 1116m<sup>2</sup>/21.66%)</p>			
<p>Car Parking spaces</p>	<p>Total = 97</p>	<p>Total = 98</p> <p>ILU/ALU Resident Parking = 76 spaces</p> <p>RACF Parking = 5 spaces</p> <p>Staff Parking = 14 spaces</p> <p>Ambulance Parking = 1 dedicated bay (Ground Floor)</p> <p>Mini-Bus Parking = 1 Space</p> <p>Visitor Parking = 1 space</p>			
<p>Setbacks</p>	<p>Mons Avenue: A porte-cochere and more forward building alignment formed the primary frontage.</p> <p>Other setbacks: As per the approved building envelope and generally consistent around the perimeter.</p>	<p>Mons Avenue: The porte-cochere is removed and the building line is pulled further back from the boundary.</p> <p>The plans show approximately 6m of additional setback compared with the approved alignment.</p> <p>Eastern and northern boundaries: Setbacks remain generally consistent with the approved configuration, with mass redistributed to create a visual break along Mons Avenue.</p> <p>Southern side (Malabar Road): Setbacks are unchanged; however, vehicle access and servicing are consolidated to Malabar Road, reducing conflict and improving the streetscape condition on Mons Avenue.</p> <p>The proposed scheme results in a materially improved Mons Avenue interface, with an increased front setback of approximately 6 m,</p>			

		removal of the porte-cochere, and enhanced articulation. All other setbacks remain broadly consistent with the approved envelope.
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### **Notes to Panel:**

**Program/Mix:** Overall resident capacity decreases from 164 to 99 residents (41 ILUs + 14 ALUs + 44 RACF rooms), resulting in a lower-intensity operation and a clearer continuum of care across the site.

**Built Form:** The proposal introduces curved and softened façades, removes heavy rectilinear elements, and adds a visual break along Mons Avenue. Building mass is redistributed without increasing total GFA, improving architectural expression and reducing perceived bulk.

**Access and Parking:** The porte-cochere and basement access on Mons Avenue are removed. All vehicle access, loading and servicing are consolidated to Malabar Road, reducing traffic conflict on Mons Avenue. Basement parking increases slightly from 97 to 98 spaces.

**Open Space:** Total open space increases by 1,166m<sup>2</sup> (+21.66%), providing improved landscape quality and increased amenity for residents and the community.

**Heights:** Although some individual proposed building roofs (Buildings A1, A2 and RACF/ALA upper level) have higher roof RLs than their respective approved RLs, the overall proposed built form remains within the extent of the approved building envelope. The added rooftop communal level and apartments are recessed, visually contained, and does not substantially exceed the overall Court-approved profile noting the change results from the redistribution of GFA across the site.

**Setbacks:** Along Mons Avenue, the proposal provides a significantly increased front setback compared with the approved scheme approximately 6.8 metres deeper due to removal of the porte-cochere and realignment of the frontage. Setbacks on all other boundaries remain generally consistent with the approved envelope, with revised massing and articulation improving compatibility and reducing apparent bulk.

## **2.2 Background**

The development was originally expected to be referred to the Sydney Eastern City Planning Panel as it fell within the category of *regionally significant development*, given its scale, mixed building typologies, and the inclusion of a large residential aged care facility with substantial capital investment value. Under the statutory framework in place at the time, development of this scale would ordinarily be determined by a regional planning panel rather than Council.

However, the matter did not proceed to the Eastern City Planning Panel. Instead, during the assessment process, the applicant lodged Class 1 proceedings in the NSW Land and Environment Court seeking determination of both the concept development application (DA/409/2018) and the detailed development application (DA/631/2018). Once proceedings were commenced, the Court assumed the role of the consent authority, meaning the development was no longer eligible or required to be referred to the regional planning panel.

Consequently, the assessment, refinement of design elements, and final determination occurred within the Court process rather than through the panel referral pathway.

## Approved Development

On 12 July 2019, the NSW Land and Environment Court, acting as the consent authority, granted development consent to both the concept development application DA/409/2018 and the detailed development application DA/631/2018.

The approvals were issued as follows:

### Concept Development Consent – DA/409/2018

Consent was granted for a seniors housing development comprising:

- a residential care facility,
- independent living units,
- on-site parking,
- ancillary community services including a chapel, café, swimming pool and multipurpose space,
- demolition and landscaping works,
- tree removal, and
- a through-site pedestrian link at 481-489 Malabar Road, Maroubra, subject to conditions contained in *Annexure A of the consent*.

### Detailed Development Consent – DA/631/2018

Consent was issued for the detailed design of the seniors housing development, including:

- a residential care facility,
- independent living units,
- on-site car parking,
- community hub and ancillary services,
- chapel, café, swimming pool and multipurpose space,
- demolition, landscaping, tree removal, and
- continuation of the through-site pedestrian link at 481-489 Malabar Road, Maroubra, subject to conditions contained in *Annexure B of the consent*.

### Extent of Approved Works

As described in the Court's judgment, the approved development comprises:

- A four-storey residential aged care facility (RACF) accommodating 108 beds
- A three-storey building (Building A1)
- A mixed three- and four-storey building (Building A2)
- A mixed one-, two-, three- and four-storey building (Building B) containing 56 independent living units (ILUs)
- Basement parking for 97 vehicles
- A community hub including a chapel, café, swimming pool and multipurpose space
- Associated landscaping and a through-site pedestrian link

A site plan illustrating the extent of approved development is provide in Figure 8 below.



Figure 8: Approved DA scheme.

A pre-lodgement meeting was held on 23 September 2024 (PL/23/2024) prior to the lodgement of the subject modification application. Various issues were discussed, including permissibility, application requirements and design considerations.

The key matters raised during the pre-lodgement meeting, and how they have been addressed in the current proposal, are summarised below:

- Land Use and Permissibility:

*Council confirmed that seniors housing is not a permissible use in the RE2 zone under the Randwick LEP 2012. The proposal relies on the existing Site Compatibility Certificate issued under the (now repealed) Seniors SEPP. The SEE must demonstrate the site remains suitable for seniors housing and that the modified proposal is justified within the existing approval framework.*

- Section 4.56 – Substantially the Same Development:

*Council advised that any modification must clearly demonstrate compliance with s 4.56(1) and s 4.56(1A), including addressing the Court's reasons for the original approval.*

- Seniors SEPP / Housing SEPP Requirements:

*Due to the savings provisions, the Seniors SEPP (2004) continues to apply to this modification. The SEE must demonstrate consistency with Part 3 (Design Requirements), Part 4 (Development Standards) and Part 7 (Non-refusal Standards). Council also noted that Housing SEPP Chapter 4 (transferred SEPP 65/ADG provisions) applies to modification applications and requires a Design Verification Statement.*

- Randwick DCP 2013 (Part F1):

*The modification must demonstrate consistency with the controls applying to development in RE1/RE2 zones, including need for the development, impacts on existing or future recreation use, and compatibility with scenic and ecological values.*

- Environmental and Design Matters:

*Council identified the need for:*

- *updated solar access and overshadowing analysis,*
- *revised landscape plans,*
- *strengthened architectural refinement narrative, and*
- *input from Council's Design Excellence Advisory Panel (DEAP).*

A summary of how the applicant has responded to each of these matters is provided in the body of this report.

The proposed modification application was lodged on 5 November 2025. A chronology of the modification application since lodgement is outlined below in **Table 3** including the Panel's involvement (briefings, deferrals etc) with the application:

**Table 3: Chronology of the Modification Application**

<b>Date</b>	<b>Event</b>
<b>23 September 2024</b>	Pre-lodgement meeting (PL/23/2024) held with Council on 23 September 2024, and formal advice was provided to the applicant on 23 October 2024.
<b>5 November 2025</b>	Modification application lodged.
<b>14 to 28 November 2025</b>	Application publicly exhibited.
<b>13 February 2026</b>	Request for Information (RFI) issued to the applicant under Clause 104 of the EP&A Regulation 2021.  RFI issued under Clause 121A requesting: (1) legal advice confirming the modification is "substantially the same"; (2) refined architectural treatment for the Building C2 additional level and link; and (3) responses to public submissions.
<b>6 March 2026</b>	Applicant submitted RFI response, additional documentation, which included legal advice, architectural refinements and consolidated response to submissions.  The additional information was accepted by Council under Clause 113(1) of the EP&A Regulation 2021.
<b>1 April 2026</b>	Panel briefing and determination meeting scheduled.

## 2.3 Site History

The site formerly accommodated the Maroubra Bowling Club, which had ceased operation prior to redevelopment and was subsequently demolished under the original consent.

A Site Compatibility Certificate (SCC) was issued under the now-repealed SEPP (Housing for Seniors or People with a Disability) 2004, enabling Seniors Housing on RE2-zoned land.

The original development consent for a Seniors Housing development comprising ILUs and RACF accommodation was granted by the Land and Environment Court on 12 July 2019 (following Class 1 proceedings).

A Pre-lodgement meeting (PL/23/2024) occurred on 23 September 2024, where Council provided advice on permissibility (via SCC + Seniors SEPP savings provisions), Section 4.56 requirements (substantially the same test), the need for updated solar, landscape and design excellence inputs, and the requirement to address Seniors SEPP Chapter 3, Housing SEPP Chapter 4/ADG, and Randwick DCP Part F1.

The applicant also undertook Design Excellence Advisory Panel (DEAP) engagement prior to lodgement. The Panel was broadly supportive and recommended refinements to architecture, landscaping, sustainability performance and overshadowing analysis, which have been incorporated into the amended design.

The modification application was lodged on 5 November 2025.

Council issued an RFI on 13 February 2026, requesting:

- Legal advice addressing the s 4.56 “substantially the same” test;
- Refined architectural treatment for the Building C2 additional level and bridge connection;
- A consolidated response to public submissions; and
- Clarification regarding the consent authority - Council sought brief clarification on the applicable consent authority for a Section 4.56 modification of this scale.

The applicant submitted the RFI response on 6 March 2026, including legal advice, architectural refinements, and a full response to submissions. The information was accepted by Council under Clause 113(1) of the EP&A Regulation 2021.

### 3. STATUTORY CONSIDERATIONS

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When determining a modification application, the consent authority must take into consideration the matters outlined in 4.56 of the EP&A Act in relation to modification of consents provisions, Section 4.15(1) of the EP&A Act in relation to matters for consideration for applications and Part 5 of the 2021 EP&A Regulation in relation to information requirements and notification. These matters are considered below.

#### 3.1 Section 4.24(4) of the EP&A Act - Modification of the Concept Development Consent

Section 4.24 of the Environmental Planning and Assessment Act 1979 establishes the relationship between a Concept Development Consent and any subsequent detailed development application for the same site. Under s 4.24(2), a further development application cannot be determined in a manner that is inconsistent with the existing Concept Consent while that consent remains in force.

The current modification to the detailed Seniors Housing approval introduces design refinements and revised building envelopes that result in inconsistencies with the parameters and massing diagrams contained in the existing Concept Consent. These differences primarily relate to the revised building forms, including the re-configured upper-level massing of Building C2 and reductions to roof profiles on Buildings A2 and B, which differ from the earlier concept-stage controls.

Section 4.24(4) provides a specific pathway enabling consent authorities to approve a detailed development that is inconsistent with the Concept Consent, provided the detailed consent includes a condition requiring the Concept Consent to be modified. This mechanism ensures that both consents operate coherently and that no conflict remains between the concept-stage envelope and the approved detailed design.

The Applicant has requested, and confirmed their intention, to modify the Concept Development Consent accordingly. Requiring this modification is appropriate and necessary to:

- remove inconsistencies between the concept-stage controls and the detailed built form now approved,
- ensure that development on the site is regulated by a single, coherent set of design parameters, and
- give proper effect to the detailed consent in accordance with s 4.24(4) of the Act.

The recommended condition requiring the Applicant to obtain approval for the modification of the Concept Consent prior to the issue of the Construction Certificate is therefore reasonable, lawful, and necessary to ensure both consents remain aligned.

For these reasons, the proposal is satisfactory with respect to s 4.24 of the EP&A Act, and the recommended condition appropriately manages the interface between the concept and detailed approvals.

#### 3.2 Section 4.56 of the EP&A Act

Section 4.56 of the *Environmental Planning and Assessment Act 1979* allows the consent authority to modify a development consent granted by the Court if the matters listed under s 4.56(1)(a)–(d) and s 4.56(1A) are satisfied.

The matters include the following:

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all) (s4.56(1)(a)), and*

The statutory test requires that, once amended, the development must be the same or substantially the same development as originally approved. The Land and Environment Court has confirmed that this is a holistic, fact-based comparison, rather than a mechanistic “critical elements” test.

Key caselaw includes:

- Canterbury Bankstown Council v Realize Architecture Pty Ltd [2024] NSWLEC 31 - The Court (Preston CJ) explained a three-step evaluative task:
  - (1) find the primary facts (what has changed),
  - (2) apply the law, and
  - (3) determine whether, overall, the modified development remains substantially the same.

Both qualitative and quantitative changes are weighed, with emphasis on whether the essence and purpose of the development is maintained.

- Moto Projects (No 2) Pty Ltd v North Sydney Council (1999) 106 LGERA 298 - The comparative exercise asks whether the modified development is “essentially or materially the same” in its qualitative and quantitative characteristics; a sterile, component-by-component approach is rejected.
- Contrast (illustrative): In the Redbank decisions, where a modification replaced an approved fuel source with a different one, the Court found the proposal was not substantially the same because a fundamental operating element changed.

### **Applicant’s legal advice (Allens)**

The applicant has provided independent legal advice from Allens (5 March 2026) addressing the s 4.56 test. The advice compares the Proposal to the Court-approved development and relevant case law and concludes the modified development can comfortably be found to be substantially the same as the Stage 2 consent.

### **Planner’s assessment - application of the test**

- Use and purpose remain unchanged.

The development continues to operate as Seniors Housing comprising ILUs, ALUs and RACF. The introduction of ALUs reflects a contemporary care model and does not alter the core purpose or permissibility under the Housing SEPP (seniors provisions via savings).

- Bulk, scale and expression comparable or improved.

Curved façades, increased articulation, deeper Mons Avenue setback and a recessed additional level on C2 yield a more recessive built form while maintaining the Court-approved envelope when perceived from public domain vantage points. Internal RACF reconfiguration does not materially change site interfaces.

- Access and circulation - functional refinements.

Consolidating all vehicular access/servicing to Malabar Road and removing the porte cochere improves safety and street relationship without changing the development's essential nature or intensity.

- Amenity outcomes maintained or improved.

Comparative analysis demonstrates no unreasonable additional overshadowing, equal or improved visual privacy and separation, enhanced landscaping (including ≥15% deep soil), and a recessed rooftop communal terrace that is not visually dominant.

Conclusion (s 4.56(1)(a)):

Having regard to the caselaw above and the Allens advice (5 March 2026), the proposal remains substantially the same development as that approved in 2019. The purpose, character, site relationships and overall massing are consistent with the Court consent. Accordingly, s 4.56(1)(a) is satisfied.

- (b) *it has notified the application in accordance with—*
- (i) *the regulations, if the regulations so require, and*
  - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent (s4.56(1)(b)), and*

Planners Assessment:

The modification was publicly exhibited 14–28 November 2025 in accordance with the EP&A Regulation and Council's Community Participation Plan (CPP). (Refer to Section 4 of this report).

- (c) *it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person (s4.56(1)(c)), and*

Planners Assessment:

Council has notified (or made reasonable attempts to notify) each person who made a submission on the original DA at their last known address, consistent with s 4.56(1)(c). (Refer to Section 4 of this report.)

- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be (s4.56(1)(d)).*

Planners Assessment:

Fourteen (14) submissions were received (7 unique; 7 template counted collectively for analysis). All submissions have been summarised and addressed in Section 4, satisfying s 4.56(1)(d).

- (e) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The*

*consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified (s4.56(1A)).*

The matters required to be considered include:

- Matters for consideration pursuant to Section 4.15(1) of the EP&A Act – these matters are considered below in Section 3.2 of this report; and
- Reasons given by the consent authority for the grant of the consent that is sought to be modified – outlined below.

### Reasons for Grant of Consent

The original consent was issued by the NSW Land and Environment Court on 12 July 2019, which endorsed a seniors housing precinct on this site with a defined built-form envelope, a through-site pedestrian link, basement parking and associated community facilities.

### Consistency with original reasons

The proposed modification remains consistent with the Court's reasons because it:

- maintains the seniors housing land use and continuum-of-care model (ILU/ALU/RACF), aligned with the applicable Housing SEPP settings;
- retains a built form predominantly within the perceived extent of the Court-approved envelope, while delivering qualitative improvements (increased Mons Avenue setback, curved/softened façades, articulation and landscaping);
- delivers acceptable amenity, access and public domain outcomes, with access consolidated to Malabar Road and improved landscape/permeability; and
- upholds the planning intent established by the Court, namely development of a high-quality seniors housing precinct on this site.

The modification appropriately satisfies the s4.15(1) assessment framework and remains aligned with the original reasons for consent.

### **3.3 Section 4.15(1) of the EP&A Act**

Section 4.15(1) of the EP&A Act contains matters which the consent authority must take into consideration in determining a development application and modification applications pursuant to Section 4.56(1A), which are of relevance to the application.

These matters include the following, which are considered in detail below:

- (a) *the provisions of—*
- (i) *any environmental planning instrument, and*
  - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
  - (iii) *any development control plan, and*
  - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*

- (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
- (b) *that apply to the land to which the development application relates, the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

**(a) The provisions of any applicable Environmental Planning Instrument, proposed instrument, Development Control Plan, Planning Agreement, and the Regulations**

**(i) Environmental Planning Instruments (EPIs)**

The key EPIs relevant to the proposal are:

- State Environmental Planning Policy (Housing) 2021 - now contains the seniors housing provisions (savings of the former Seniors SEPP). The modified proposal remains within the Seniors Housing typology (ILU/ALU/RACF) and complies with the applicable design and amenity principles.
- SEPP (Industry & Employment) 2021 – Chapter 3 (Signage) - business identification signage has been assessed against cl 3.1 aims and Schedule 5 criteria; additional conditions regulate illumination (static/dimmable; no flashing/animation; operating-hours curfew), materials/finish and maintenance in the R3 context.
- EP&A Regulation 2021 - procedural requirements (including notification/exhibition) have been met.

**Development Control Plan**

Relevant Randwick DCP Part F1 provisions for built form, access/parking, landscaping and amenity/interfaces continue to apply. The modifications improve articulation and permeability, and consolidate access arrangements consistent with DCP objectives.

**Planning agreements**

No planning agreements (or draft VPAs) apply.  
Planner's assessment (a).

The modified proposal is consistent with the Housing SEPP framework (seniors housing - savings), Council's DCP objectives, and the SEPP (Industry & Employment) - signage provisions (subject to conditions).

**(b) Likely impacts (environmental, social, economic)**

- Built form & visual impact:  
  
Softer curved façades, increased articulation and a recessed upper level (C2) refine presentation without altering essential massing or site relationships.
- Amenity:

Outcomes are maintained or improved: new recessed rooftop COS; enhanced through-site link; centrally located café; ≥15% deep soil; no unreasonable additional overshadowing; equal or improved privacy.

- Traffic & access:

Access/servicing relocated to Malabar Road; resident numbers reduced (164-99), lowering trip generation; parking remains compliant with Seniors Housing benchmarks; CTMP will manage construction and school/event peaks.

- Landscape/environment:

+1,166 m<sup>2</sup> additional landscaping; deep soil ≥15%; no additional vegetation removal beyond that previously approved.

- Social & economic:

Broader choice in aged-care accommodation and a continuum of care (ILU/ALU/RACF) consistent with contemporary practice; positive activation and local interaction benefits.

(c) Suitability of the site

The site's suitability was affirmed by the 2019 Court approval. The modifications retain the approved land use, building logic and interfaces; no change diminishes site suitability.

(d) Submissions

Submissions have been considered (Section 4), satisfying s 4.15(1)(d) and s 4.56(1)(d).

(e) The public interest

The proposal supports seniors housing supply in a locality identified as experiencing significant population ageing, which aligns with the public interest in providing diverse, high-quality aged-care accommodation.

The modifications improve accessibility, permeability and amenity while maintaining compliance with applicable planning controls. These factors support a finding that the proposal is in the public interest.

Conclusion – s 4.15(1).

Having regard to s 4.15(1), the modified proposal:

- complies with applicable EPIs;
- delivers positive built-form, social and economic outcomes;
- is well suited to the site;
- addresses submissions appropriately; and
- is consistent with the public interest.

Accordingly, the requirements of s 4.15(1) are satisfactorily met.

### 3.3.1 Section 4.15(1)(a) - Provisions of Environmental Planning Instruments, Proposed Instruments, DCPs, Planning Agreements and the Regulations

The relevant provisions under s4.15(1)(a) are considered below.

**(a) Environmental planning instruments (s4.15(1)(a)(i))**

The following Environmental Planning Instruments are relevant to this application:

- State Environmental Planning Policy (Biodiversity & Conservation) 2021
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development
- SEPP (Industry & Employment) 2021 – Chapter 3 (Signage)
- Randwick Local Environmental Plan 2012 (Amendment No.9);
- Part F1 - Recreation Zones

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 4** and considered in more detail below.

**Table 4: Summary of Applicable State Environmental Planning Policies (Preconditions in bold)**

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	<p>Chapter 2 – Vegetation in Non-Rural Areas applies to Randwick LGA.</p> <p>The modification includes updated landscape works only. All vegetation outcomes remain consistent with the original approval and no additional clearing or impacts arise.</p> <p>The proposal is satisfactory under this SEPP.</p>	Yes
BASIX SEPP	<p>Applies to the Independent Living Unit (ILU) component.</p> <p>No BASIX non-compliances identified; compliance achievable subject to standard conditions on any consent.</p>	Yes
<p>State Environmental Planning Policy (Housing) 2021 - Schedule 7A (Savings)</p> <p>Note: The seniors-housing provisions were</p>	<p>Because the original consent pre-dates 26 Nov 2021, Schedule 7A (savings and transitional) preserves the operation of the repealed Seniors SEPP (2004) to this s 4.56 modification, including recognition of any applicable Site Compatibility Certificates.</p>	Yes

<p>moved into the Housing SEPP (2021) in Nov 2021, but Schedule 7A keeps the repealed Seniors SEPP (2004) applying to relevant existing consents/SC Cs; therefore, it continues to govern this s 4.56 modification.</p>	<p>Relevant ADG/Housing SEPP Chapter 4 design considerations also apply to amenity/design. No inconsistencies identified in relation to revised design.</p>	
<p>SEPP (Industry &amp; Employment) 2021 – Chapter 3 (Signage)</p>	<p>Business identification signage (4 signs) has been assessed against cl 3.1 aims (compatibility, effective communication, high-quality design) and Schedule 5 criteria (character, streetscape, views, illumination, safety) in the R3 residential context.</p> <p>Conditions have been imposed to ensure static/dimmable illumination (no flashing or animation), an illumination curfew, no third-party advertising, architectural materials/finish consistency, and ongoing maintenance, ensuring the signage remains low-impact and appropriately integrated.</p>	<p>Yes</p>
<p>Design Excellence Advisory Panel (DEAP) / RLEP cl 6.11</p>	<p>DEAP sought refinements to overshadowing verification, internal views, access/traffic, sustainability targets, landscape privacy/amenity, CPTED and architectural narrative/materiality.</p> <p>The amended plans implement these refinements: updated solar/view analysis; Malabar Rd access; 4-Star Green Star + Silver Livable Housing; revised Place Design Group landscape; CPTED measures; strengthened curved façades/material palette. Design excellence achieved.</p>	<p>Yes</p>
<p>LEP</p>	<p>The proposal includes a maximum height of 17.4 m at Building C2, associated with an additional upper level.</p> <p>This component is centrally located within the site, recessed, and designed with curved upper-level forms that limit visibility from surrounding streets. A clear break between Buildings C1 and C2 further reduces perceived massing, allowing the upper built form to visually recede and maintaining consistency with the Court-approved envelope.</p> <p>Seniors Housing remains permissible on the site under the saved Seniors Housing provisions of the former Seniors SEPP and the associated Site Compatibility Certificates.</p>	<p>Yes</p>

	The modification maintains consistency with the RE2 zone objectives and the scale and character anticipated by the approved built form.	
DCP	The modification does not introduce new non-compliances and continues to satisfy key landscape, built-form, access, setback and amenity controls relevant to Part F1 (Recreation Zones).	Yes

### **Notes to Panel:**

- Pre-conditions satisfied: The SCC pathway (Seniors SEPP 2004) remains valid under Housing SEPP Schedule 7A.
- Permissibility: Seniors Housing continues to be permissible via SEPP, not the LEP.
- Design review: DEAP advice obtained; refinements incorporated in current revision.
- ADG / SEPP 65: Not applicable to seniors housing; however, Chapter 4 (ADG) of the Housing SEPP applies to modifications and has been addressed.

## **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

### **Chapter 2: Vegetation in non-rural areas**

Chapter 2 of the Biodiversity and Conservation SEPP applies within Randwick LGA and regulates vegetation in non-rural areas. The modification includes some updated landscape works; however, these works remain consistent with the vegetation outcomes already established under the original approval and do not introduce any additional vegetation impacts of concern.

On this basis, the proposal is considered to satisfactorily respond to the intent of Chapter 2, and no issues arise under this SEPP

## **State Environmental Planning Policy (Housing) 2021**

### **Seniors Housing – Savings and Transitional Provisions (Schedule 7A)**

The original Seniors Housing consent for the site was granted by the Land and Environment Court on 12 July 2019, before the commencement of the Housing SEPP. Under Schedule 7A (Savings and Transitional), development consents granted prior to 26 November 2021 continue to be assessed against the saved seniors housing provisions carried over from the former *SEPP (Housing for Seniors or People with a Disability) 2004*.

Accordingly, this modification is assessed under the Housing SEPP at Chapter 3, Part 5 (Seniors Housing), noting that the operative controls in that Part are the saved Seniors SEPP provisions.

Assessment of the Modification (Saved Seniors SEPP controls now located in Chapter 3, Part 5).

The proposal has been assessed against the relevant seniors housing controls, including:

- Design requirements

- Development standards
- Non-refusal standards

As set out in this report (and in the accompanying compliance tables), the modification is consistent with all applicable seniors housing standards under the savings and transitional framework.

#### **Chapter 4 – Design Quality (Apartment Design Guide provisions)**

The development is not a residential flat building and SEPP 65 does not apply.

However, Chapter 4 of the Housing SEPP which carries forward the design quality and ADG-based considerations to modification applications. Relevant matters include solar access, natural ventilation, privacy, building separation and communal open space.

The modified scheme achieves improved performance in these areas through increased Mons Avenue setbacks, curved façades, a visual break between buildings, enhanced daylight access and ventilation, and a recessed rooftop communal space.

#### **Part 7 – BASIX**

Part 7 of the Housing SEPP contains the current BASIX energy, water and thermal comfort requirements. A BASIX Certificate (No. 1818349M, dated 22 October 2025) has been submitted for the ILUs, confirming compliance with all mandatory BASIX performance targets. Conditions of consent ensure implementation of all BASIX commitments.

Overall, the modification is consistent with the Housing SEPP 2021 to the extent that the SEPP applies. Seniors Housing continues to be assessed under the saved Seniors SEPP provisions, and the proposal satisfies relevant Chapter 4 design quality and Part 7 BASIX requirements. No other parts of the Housing SEPP are triggered. Refer to Attachment B for detailed assessment on the relevant section of the SEPP.

#### **Design Quality / State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development and LEP Clause 6.11 Design Excellence**

SEPP 65 does not apply to this modification as the proposal is Seniors Housing (ILUs, ALUs and RACF rooms) rather than a residential flat building. However, Clause 6.11 (Design Excellence) of the Randwick LEP 2012 applies because the site exceeds 10,000m<sup>2</sup> and parts of the development exceed 15m in height. As such, development consent may only be granted if the modification demonstrates design excellence.

To support this requirement, Council referred the proposal to the Randwick Design Excellence Advisory Panel (DEAP) under Clause 6.11. The DEAP reviewed the modified scheme and provided high-level design input to assist in benchmarking architectural quality, public-domain outcomes, landscape integration, CPTED considerations and sustainability performance.

The DEAP was broadly supportive of the proposal but identified specific matters requiring refinement, including façade articulation, the Mons Avenue interface and C1–C2 relationship, landscape and CPTED outcomes, internal outlook/solar/ventilation, access via Malabar Road, and sustainability targets.

The amended design incorporates the DEAP's recommendations and demonstrates design excellence under Clause 6.11, by:

- curved, softened façades and increased articulation;

- a substantially increased Mons Avenue setback and introduction of a visual break, reducing perceived bulk;
- enhanced landscaping and stronger building–landscape integration;
- improved solar access, internal outlooks and natural ventilation;
- a more sensitive and recessed rooftop communal space;
- rationalised traffic and access arrangements via Malabar Road;
- strengthened sustainability outcomes, including a 4-Star Green Star target and Silver Livable Housing intentions.

The revised built form responds appropriately to the site’s environmental and urban context, improves the amenity of the public domain, maintains acceptable relationships with neighbouring properties, and avoids adverse impacts on view corridors or landmarks.

Accordingly, the modified proposal supported by DEAP advice exhibits design excellence consistent with Clause 6.11 of the Randwick LEP 2012.

Refer to Attachment D for the Design Excellence Advisory Panel referral comments.

## **State Environmental Planning Policy (Resilience and Hazards) 2021**

### Chapter 4: Remediation of Land

The former Maroubra Bowling Club historically occupied the site with bowling greens and ancillary club buildings. A Preliminary Site Investigation (PSI) prepared for the original (2019) consent reviewed historic aerials, title/land-use records and undertook a site walkover.

Potential contamination sources were limited to localised fill associated with former greens, and legacy building materials (e.g. asbestos-containing materials and lead-based paints) from the former structures. Demolition and bulk earthworks undertaken to implement the original approval removed former structures and shallow soils where required, and no contamination of concern was identified that would preclude the approved seniors housing use.

The current Section 4.56 modification does not introduce significantly new excavation or ground disturbance beyond the approved works (it primarily refines architecture, access and landscaping).

On this basis, the land is considered suitable for the ongoing, approved seniors housing use for the purposes of Chapter 4 (Remediation of Land) of the SEPP (Resilience & Hazards) 2021, with standard “unexpected finds” and construction-phase contamination management conditions remaining appropriate.

### Randwick Local Environmental Plan 2012

The proposed development is a Seniors Housing scheme comprising Independent Living Units, Assisted Living Units and Residential Aged Care Facility rooms. This is the same land-use category approved under the 2019 Court consent.

While Seniors Housing is not ordinarily permitted in the RE2 Private Recreation zone under the Randwick Local Environmental Plan 2012, the development continues to rely on the existing Site Compatibility Certificate issued under the former Seniors SEPP. Through the savings provisions in the Housing SEPP, these provisions continue to apply, and the modification does not alter the permissibility pathway already established for the site.

The site is zoned RE2 Private Recreation and, although the LEP does not itself permit Seniors Housing, the Seniors SEPP pathway enables the land use to continue. The modification therefore remains within the scope, intent and permissibility of the original Court approval. The proposal continues to be assessed on this basis, with no change to the underlying land-use definition or approval mechanism.

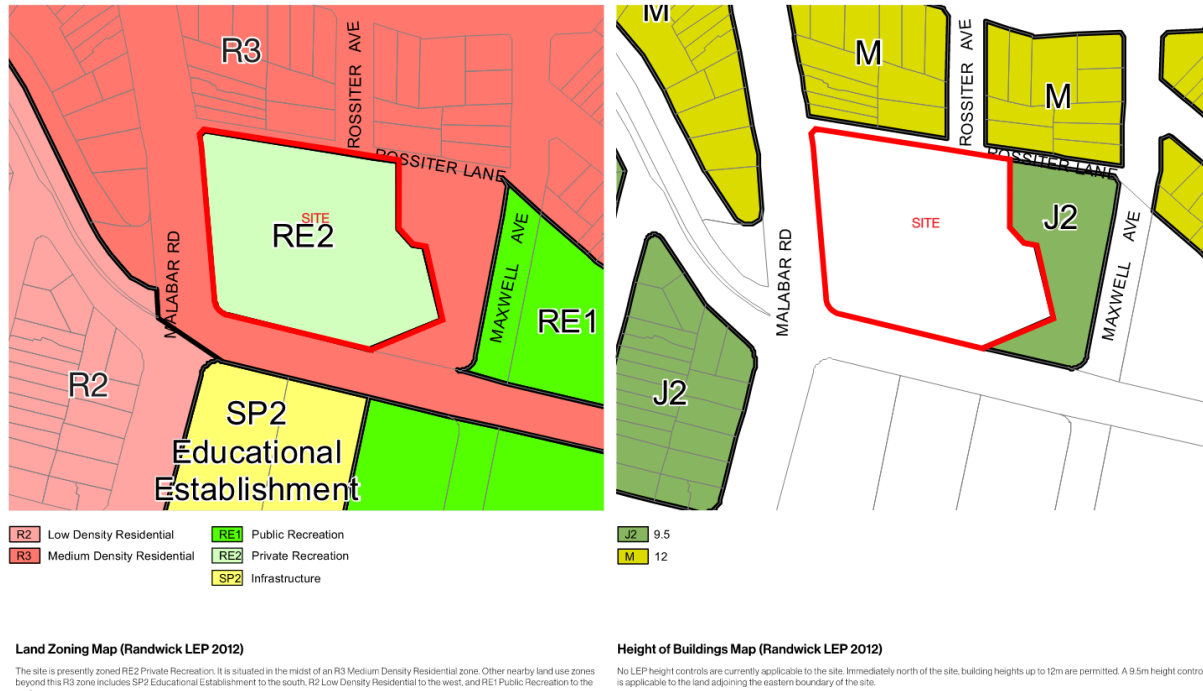


Figure 9: Land Zone Map and Height of Building Map, (Randwick LEP 2012, Amendment No.9)

### Zone Objectives (RE2 Private Recreation)

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- To enable land to be used for private open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To protect, manage and restore areas with high biodiversity, ecological and aesthetic values, including buffer areas and habitat corridors.

The amended proposal remains consistent with these objectives. The need for Seniors Housing at this location was established under the original consent and continues to be appropriate given the site's urban and recreational context.

The revised design improves architectural quality, softens built form through curved façades, increases landscaping, and enhances the publicly accessible through-site link, which contributes positively to pedestrian permeability and provides passive recreational benefit to the surrounding community.

The development does not hinder existing or future recreational uses on adjoining land, nor does it generate land-use conflicts. The improved landscape integration and refined built form also strengthen alignment with the environmental and recreational character intended by the RE2 zone.

## General Controls and Development Standards (Part 2, 4, 5 and 6)

The LEP contains development standards relating to land use permissibility, height, FSR, heritage, landscaping, local provisions, and miscellaneous controls.

The controls relevant to the proposal are considered in **Table 5** below.

The proposal complies with all applicable LEP provisions, and where the Housing SEPP prevails (seniors housing), the proposal has been assessed accordingly.

The modification continues to comply with applicable LEP provisions, and where the Housing SEPP prevails for Seniors Housing, the proposal has been assessed accordingly. Any non-compliances identified are discussed in the Key Issues section.

No variations to any LEP development standards are sought under this modification.

**Table 5: Consideration of the LEP Controls**

Control	Requirement	Proposal	Comply
Minimum subdivision Lot size (CI 4.1)	Only applies where subdivision is proposed.	No subdivision sought.	Not applicable
Height of buildings (CI 4.3)	As per map there is no building height maximum that applies to the site.	Seniors Housing assessed under the saved Housing SEPP and Court-approved envelope.  The additional level to Building C2 results in a maximum height of 17.4m, which is centrally located, visually contained, recessed, and further moderated by the break between Buildings C1 and C2.  Minor height reductions to Buildings A2 and B (removal of pitched roofs) further reduce visible bulk across the site.	Consistent with surrounding building form envisaged for the site.  N/A (see Key Issues – Height of Building & Urban Design)
FSR (CI 4.4)	As per map there is no FSR maximum that applies to the site.  Approved FSR = 1.36:1 (14,807 m <sup>2</sup> GFA).	No mapped FSR control applies.  Approved FSR = 1.36:1 (14,807 m <sup>2</sup> GFA). No change to total GFA.  FSR remains 1.36:1.	Yes

Heritage (CI 5.10)	Applies if site contains a heritage item or adjoins an item or HCA.	Site is not a heritage item and does not adjoin a heritage item or conservation area.	N/A
Acid sulphate soils (CI 6.1)	Applies if works occur within mapped ASS areas.	Modification involves no new excavation beyond the approved works.	Not applicable
Design Excellence (CI 6.11)	Required where site >10,000 m <sup>2</sup> and/or parts >15 m in height.	Proposal reviewed by DEAP (non-statutory). Amended design incorporates DEAP recommendations (curved façades, deeper Mons Ave setback + C1–C2 Building break, recessed rooftop COS, enhanced landscape, improved outlook/solar/ventilation, access via Malabar Rd).  Design excellence satisfied.	Yes
Flood planning (CI 6.3)	Controls relate to safety, flood behaviour and FFL compliance.	Finished floor levels remain unchanged from the approved scheme and comply with Council's flood planning requirements.  Council's engineer raises no objection to the modification.	Yes
Stormwater Management (CI 6.4)	Requires appropriate drainage, on-site management and no adverse downstream effects.	Stormwater system upgraded and reviewed through the WSP Civil & Stormwater Engineering Report (Oct 2025) and WMS Flood Review (1 Oct 2025).  Updated design (including pipeline extension in Mons Ave) complies with Council requirements.  Development Engineering supports the proposal subject to conditions.	Yes

The proposal is considered to be generally consistent with the LEP.

**(b) Provisions of any Proposed Instruments (s4.15 (1)(a)(ii))**

There are no proposed environmental planning instruments currently on public exhibition or otherwise notified under the EP&A Act that are relevant to or alter the assessment of this Section 4.56 modification, and this matter is therefore not applicable to the proposal.

**(c) Provisions of any Development Control Plan (s4.15(1)(a)(iii))**

The relevant development control plan is the Randwick Development Control Plan 2013 (DCP 2013).

The modification has been assessed against Part F1 – Development in Recreation Zones, which requires consideration of the need for the development, impacts on recreation use, and compatibility with scenic and ecological values. Refer to Attachment B – compliance table for assessment.

The modified scheme remains consistent with these controls and does not introduce new non-compliances.

There is no applicable draft or proposed DCPs that affect the assessment of this modification.

Section 7.12 Contributions:

No new or additional contributions are triggered by the proposal. The applicable Randwick Section 7.12 Contributions Plan was applied at the time of the original consent. As the modification reduces overall resident numbers and intensity and redistributes the approved GFA, no further contributions are sought under the subject modification.

**(d) Planning agreements under Section 7.4 of the EP&A Act (s4.15(1)(a)(iiia))**

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

**(e) Provisions of Regulations (s4.15(1)(a)(iv))**

The Environmental Planning and Assessment Regulation 2021 has been considered.

Sections 62 (fire safety considerations) and 64 (upgrading safety measures) are not triggered, as the modification does not alter building classification, fire compartmentation, or essential fire safety measures beyond those addressed by standard conditions.

Any necessary matters under the Regulation are addressed through recommended conditions of consent.

**3.3.2 Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments include the following:

Section 4.15(1)(b) requires consideration of the likely impacts of the development, including impacts on the natural and built environments, and social and economic impacts in the locality. The proposed Section 4.56 modification has been assessed having regard to the relevant SEPPs, the Randwick LEP, the Randwick DCP, specialist reports, design excellence advice, and the key issues outlined in this report.

#### Context and Setting

The site is the former Maroubra Bowling Club and already carries approval for a Seniors Housing development through the Seniors SEPP pathway. The modified scheme maintains the approved land use, reduces overall resident numbers (164 to 99), and improves built-form outcomes through curved façades, an increased Mons Avenue setback, removal of the porte-cochere, and a visual break along the Mons Avenue frontage.

While some building elements reach four to five storeys, the overall built form remains within the approved building envelope and results in a reduced perceived bulk. The additional floor level to Building C2 and the new rooftop terrace are substantially recessed from the primary street-facing façades and located centrally within the development site, ensuring these elements present as secondary and visually recessive components of the overall composition. This treatment softens the apparent scale when viewed from public domain vantage points and strengthens the legibility of the Mons Avenue building break.

As modified, the development achieves a more articulated, contemporary, and human-scaled presentation that is compatible with the varied scale of community, institutional and residential buildings in the surrounding area.

#### Access and Traffic

The modification improves overall vehicle access and safety by consolidating all resident, staff and service vehicle movements to Malabar Road, thereby removing vehicular conflict from Mons Avenue, a street that directly adjoins two primary schools and experiences high pedestrian activity during peak periods. This change reduces the number of crossovers on Mons Avenue and provides a cleaner, safer pedestrian environment consistent with Council's broader school-zone safety objectives.

The reduction in resident numbers from 164 to 99 further lowers parking demand, trip generation and service vehicle frequency, resulting in a more efficient and less intensive traffic profile than the approved scheme.

Council's engineers have reviewed the Modification Application and confirm that:

- Parking provision meets or slightly exceeds the applicable benchmarks under the Seniors SEPP/Housing SEPP, and
- The local road network can safely and comfortably accommodate the revised traffic distribution associated with the modified design.

Overall, the amended access strategy represents an improvement to both site functionality and surrounding road safety conditions.

#### Public Domain

The removal of the porte-cochere and the increased Mons Avenue setback (6.8m greater than approved) enhance streetscape openness, pedestrian comfort and visual quality. The publicly accessible through-site link is retained and improved, strengthening local pedestrian connectivity and facilitating a net increase to landscaped area.

### Utilities

All necessary utilities (water, power, telecommunications, sewer) are available to the site and can support the modified development. No servicing agencies raised objections.

### Heritage

The site is not a heritage item, nor does it adjoin a heritage item or conservation area. No heritage impacts arise.

### Water, Air and Soil Impacts/Contamination

A Preliminary Site Investigation for the original approval confirmed the site could be made suitable following demolition and shallow soil removal. The modification introduces only minor excavation adjustments within the same general basement footprint and no significant additional ground disturbance. These changes do not alter contamination risk, and the previously established conclusions remain valid.

Standard unexpected-finds procedures will continue to manage any isolated contamination encountered during construction.

### Flora and Fauna

The modification involves landscaping enhancements only and does not require any additional vegetation removal beyond what was previously approved. The site is not mapped as habitat for threatened species, nor does it contain biodiversity-significant vegetation. As such, the proposal will not result in additional ecological impacts.

### Natural Environment

No alteration to natural landform is proposed. The modification remains within the approved earthworks footprint, with only minor adjustments that do not change the overall extent of disturbance.

### Noise and Vibration

Operational noise levels are expected to be lower than the approved scheme due to the reduced number of residents and associated vehicle and service activity. The updated Noise Impact Assessment (Pulse White Noise Acoustics, Sept 2025) confirms that the modified development can continue to meet the relevant internal and external acoustic criteria.

Construction noise and vibration will be temporary and managed under standard conditions consistent with the EPA Noise Policy for Industry. Given recent upgrades to the adjoining Seabreeze complex, updated dilapidation reporting and construction-phase vibration monitoring are required to ensure appropriate protection of neighbouring structures.

### Natural Hazards

The site is subject to localised flood planning controls, and the modification maintains compliant finished floor levels consistent with the approved scheme.

Council's engineers confirm that the proposal does not worsen flood behaviour or increase risk to neighbouring properties. The site is not bushfire-prone, and no additional natural hazard risks arise from the modification.

### Safety, Security and CPTED

CPTED principles have been incorporated into the modified design. The removal of gates, combined with improved lighting, clearer sightlines and increased activation along the through-site link, enhances passive surveillance and strengthens after-hours safety for residents and visitors.

### Social Impact

The development continues to deliver a valuable community benefit through the provision of Seniors Housing and RACF accommodation. The reduced resident numbers, improved amenity, and enhanced accessibility support positive social outcomes and do not give rise to any adverse impacts on the surrounding community.

### Economic Impact

The modification supports local employment during construction and operation. The refined seniors housing model responds to demographic demand and contributes positively to the local economy.

### Site and Internal Design

The amended layout provides clearer circulation, safer and more consolidated access arrangements, improved building separation, and more functional communal spaces.

Curved façades and recessed upper levels reduce visual bulk and soften massing impacts on adjoining properties, resulting in a more refined and contemporary built-form outcome.

### Construction Impacts

Construction-related impacts including noise, vibration and traffic will be temporary and can be effectively managed through a detailed Construction Environmental Management Plan, Construction Traffic and Pedestrian Management Plan, updated dilapidation reports, and standard conditions regulating hours of work.

No extraordinary or unacceptable construction impacts are anticipated.

### Cumulative Impacts

The modification remains generally within the approved envelope, reduces overall development intensity, and improves architectural presentation and landscape quality.

As such, no adverse cumulative impacts are expected when considered alongside existing and future development in the locality.

Accordingly, the proposed modification will not result in any significant adverse environmental, social or economic impacts, and all potential impacts can be satisfactorily managed through the design refinements and the standard conditions of consent.

### **3.3.3 Section 4.15(1)(c) - Suitability of the site**

The site remains suitable for both the approved and modified Seniors Housing development. The proposal continues to integrate comfortably within the locality, which contains a mix of residential, community, educational and recreational land uses. The amended built form featuring curved façades, an increased setback to Mons Avenue, a clear building break, and refined massing provides an improved relationship to the surrounding streetscape and adjoining development compared with the previously approved rectilinear scheme.

The site is well serviced by public transport, local centres, schools, health facilities and public open space. The enhanced through-site link strengthens pedestrian permeability and accessibility within the precinct. All necessary utilities and urban services are available to support the development.

The land is subject to localised flood planning controls; however, the modification maintains compliant finished floor levels consistent with the original approval. Council's engineering specialist confirms that the revised design does not introduce any additional flood risk. The

site is not bushfire-prone, not affected by coastal hazards, and does not present geotechnical, stability or landslip constraints based on previously accepted investigations.

The site's attributes including its size, corner configuration, dual street frontages and former recreational land use remain well suited to Seniors Housing. The proposal does not generate land use conflicts with adjoining or nearby development, and the existing approval has already established that the site is an appropriate location for this form of accommodation.

Accordingly, the site is considered highly suitable for the modified development.

### 3.3.4 Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 4.3 of this report.

### 3.3.5 Section 4.15(1)(e) - Public interest

The site remains suitable for both the approved and modified Seniors Housing development.

The proposal continues to integrate comfortably within a locality characterised by a mix of residential, community, educational and recreational land uses. The amended built form featuring curved façades, an increased setback to Mons Avenue, a clear building break, and refined massing provides an improved relationship to the surrounding streetscape and adjoining development compared with the previously approved rectilinear scheme.

The proposal does not generate appreciable environmental impacts to neighbouring development and is generally considered to improve the originally approved senior housing scheme in terms of design integrity and the amenity afforded to future occupants. As such, the modification is considered to be worthy of support and in the public interest for the reasons detailed throughout this assessment report.

## 3.4 Part 5 of the 2021 EP&A Regulation

There are a number of matters required to be addressed in an application for modification of development consent pursuant to Division 1, 2 and 3 of Part 5 of the 2021 EP&A Regulation. These matters are considered in **Table 7** below.

**Table 6: Consideration of the Requirements under the Regulation**

Matter	Comment	Comply
<b>Clause 100 Application for modification of development consent</b>		
May be made by— (a) the owner of the land to which it relates, or (b) another person, with the consent of the owner of the land (CI 98(1))	The modification application was made by the applicant with the required owner's consent provided through the NSW Planning Portal.	Yes
NSW Aboriginal Land Council consent required for land owned by a Local Aboriginal Land Council (CI 98(6)).	The land is not owned by a Local Aboriginal Land Council and consent is not required.	N/A

Form approved by Planning Secretary and on portal (CI 99).	The application has been provided in accordance with the Regulation.	Yes
Applicant details (CI 100(1)(a))	Provided on the NSW Planning Portal ('the Portal').	Yes
Description of the development (CI 100(1)(b))	Provided on the Portal and outlined in Section 2 of this Report.	Yes
Address and title details (CI 100(1)(c))	Provided on the Portal and outlined in Section 1 of this Report.	Yes
Description of the proposed modification (CI 100(1)(d))	Provided on the Portal and outlined in Section 2 of this Report.	Yes
Whether to correct a minor error, mis-description or miscalculation, or some other effect (CI 100(1)(e))	The proposed modification is to modify the original consent under Section 4.56 to allow substantive design and operational amendments and is not to correct a minor error, misdescription or miscalculation.	N/A
Description of the expected impacts of the modification (CI 100(1)(f))	Impacts have been fully assessed in this report. The modification does not introduce significant adverse impacts, and key matters (height, bulk, traffic, overshadowing, views and privacy) are addressed in Sections 3.1, 3.2 and the Key Issues analysis.	Yes
Undertaking that modified development will remain substantially same as development originally approved (CI 100(1)(g))	The modified development remains substantially the same as the Court-approved scheme. See Section 3.1 of this report.  The applicant has also provided independent legal advice from Allens (5 March 2026) supporting this conclusion.	Yes
If accompanied by a Biodiversity development assessment report, the biodiversity credits information (CI 100(1)(h))	No BDAR is required. The modification does not result in additional vegetation removal or trigger the Biodiversity Offset Scheme.	N/A
Owner's consent (CI 100(1)(i))	Owner's consent has been provided via the NSW Planning Portal.	Yes
Whether the application is being made to the Court (under section 4.55) or to the consent authority (under section 4.56) (CI 100(1)(j)).	This Application is made to the consent authority pursuant to 4.56(1) of the EP&A Act.	Yes
BASIX Certificate (CI 100(3))	BASIX applies to the ILU component.  An updated BASIX Certificate has been provided No. 1818349M, dated 22 October	Yes

	2025 confirming compliance with the approved commitments as modified.	
Notification and exhibition requirements (CII 105-112)	Notification undertaken in accordance with Council's Community Participation Plan from 14-28 November 2025 (refer Section 4.3).	Yes
Notification of concurrence authorities and approval bodies (CI 109) (to be undertaken by Council)	No concurrence or external approvals required for this modification.	N/A

### Summary

All relevant procedural requirements under Part 5 of the EP&A Regulation 2021 have been met. No outstanding information or jurisdictional prerequisites prevent determination of the application.

## 4. REFERRALS AND SUBMISSIONS

### 4.1 Council Referrals

The modification application was referred to various Council officers for technical review as outlined **Table 9**. The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

**Table 7: Consideration of Council Referrals**

Officer	Comments	Resolved
Engineering	Council's Engineering Officer reviewed the updated drainage and civil documentation, including the WSP Civil & Stormwater Engineering Design Report (Rev C, 24/03/2026) and WMS Section 4.56 Modification Flood Review (1 October 2025). Following revisions including updated OSD arrangements, allowance for ARR 2019/2024 methodology, and acceptance of the proposed stormwater pipeline extension along Mons Avenue. No objections are raised.	Yes

	<p>Outcome: Requires amendments to Condition 1, deletion of Condition 28, and updates to Conditions 29, 44c, 44d and 102.</p>	
Traffic	<p>Council's Traffic Engineering Officer reviewed the Traffic Impact Assessment (Rev 03, 24/09/2025).</p> <p>Revised parking provision (96 spaces) exceeds the minimum required under the Seniors SEPP and Council's DCP. Access consolidated to Malabar Road (ambulance only via Mons Avenue). Precinct Committee request for 25 extra spaces was assessed but not feasible.</p> <p>Outcome: Outcome: Addressed in Key Issues section; Conditions 28 and 29 updated.</p>	Refer to Attachment 1 & Key Issues section of this report.
Waste	<p>The proposal was not referred to Waste Services. The only waste-related outcome is that Condition 1 has been updated to reference the revised Waste Management Plan (WMP), as part of the broader engineering updates.</p> <p>No further waste amendments are required.</p> <p>Outcome: Updated Condition 1 to reference the revised Waste Management Report.</p>	Yes
Landscape Officer	<p>The Landscape Officer supports the modification subject to updates to Conditions 18, 19, 20, 49, 113 and 116 to reflect the revised arborist report and landscaping plans.</p> <p>Outcome: Resolved through updated conditions.</p>	Yes
Design Excellence Advisory Panel	<p>The DEAP reviewed the proposal at its meeting on 23 September 2024 and issued endorsed recommendations dated 26 September 2024.</p> <p>The Panel was broadly supportive of the updated design direction, highlighting improvements in architectural expression, building separation, the Mons Avenue frontage, through-site link activation, removal of the porte-cochere, and refined massing to Buildings C1 and C2.</p> <p>The Panel also encouraged continued refinement of materials, rooftop design, landscaping, and visual/solar analysis.</p> <p>Outcome: The final modification incorporates the Panel's recommendations (refer Attachment D: DEAP for comments).</p>	Yes

## 4.2 Notification and Community Consultation

The modification application was notified in accordance with Council's Community Participation Plan and the Randwick DCP from 14 November 2025 to 28 November 2025. Notification included:

- A site notice placed on the property;
- Publication on Council's website;
- Notification letters issued to adjoining and nearby properties;
- Online exhibition on Council's website.

During the notification period, fourteen (14) submissions were received. Of these, seven (7) were unique submissions, and seven (7) were identical template submissions, which because the content was the same are counted collectively as one (1) submission for the purposes of issues analysis.

### Breakdown of submissions

Unique submissions (7 total):

1. Unknown address - Submission 1
2. Unknown address - Submission 2

Note: Submissions 1 & 2 are both from the same person; each contains different wording and raises different points; therefore, counted separately as unique submissions.

3. Unit 1, Seabreeze, 150–170 Mons Avenue, Maroubra

Near-template format but with sufficiently amended wording to be treated as a unique submission.

4. Unit 7, Seabreeze, 150–170 Mons Avenue, Maroubra

A substantial, multi-page submission raising detailed overshadowing, privacy and amenity impacts.

5. 20 Chapman Avenue, Maroubra

Raises distinct concerns regarding the reduction in RAC beds, removal of dedicated dementia care, and shift to larger ILU typologies.

6. Maroubra Precinct Committee (site-wide request).

7. Template/identical submissions (7 total, counted as one submission)

A total of seven (7) submissions used an identical template letter. These comprised:

- Unit 8, Seabreeze – three (3) signatories – Counted as one (1) submission
- Unit 10, Seabreeze
- Unit 11, Seabreeze
- Unit 12, Seabreeze
- Unit 14, Seabreeze
- Unit 15, Seabreeze
- Unit 16, Seabreeze

Although, these seven individual submissions were received, each of them contained identical wording, and are therefore counted as one submission for analysis of issues.

The issues raised across submissions are summarised in Table 10, grouped by planning themes. All matters have been considered and are addressed through the detailed assessment in this report, including the application of conditions of consent where relevant in Attachment A.

**Table 8: Community Submissions**

Issue	No of submissions	Council Comments
Height, bulk, scale & character	<p><u>Unique:</u> Unknown A; Unknown B; Unit 1; Unit 7 &amp; 20 Chapman.</p> <p><u>Template group:</u> Units 8, 10, 11, 12, 14, 15 &amp;16.</p>	<p>Concerns compared the modified form to surrounding 1–3 storey development and the “Maroubra Bay bowl.”</p> <p>The modification introduces curved façades, a larger Mons Avenue setback and a frontage break between C1 and C2, which together reduce perceived mass and present a more recessive frontage than the approved rectilinear scheme.</p> <p>The built form is assessed against the Court-approved envelope rather than a LEP numeric height.</p> <p>Resolution: Bulk and scale are acceptable. (See detailed assessment in the Key Issues section under Urban Design and Clause 4.3 - Height of Buildings (Randwick LEP 2012)</p>
Overshadowing & privacy	<p><u>Unique:</u> Unknown A; Unit 1; Unit 7 &amp; 20 Chapman;</p> <p><u>Template group:</u> Units 8, 10, 11, 12, 14, 15 &amp; 16.</p>	<p>Updated mid-winter (21 June) shadow modelling confirms no unreasonable additional overshadowing relative to the approved scheme. The modified massing produces net reductions in overshadowing for most hours of the day, with minor early-morning additions confined mainly to road reserves. ADG-aligned setbacks and building separations are maintained or improved.</p> <p>Curved façades, increased separation between C1–C2, and articulated balcony forms reduce oblique overlooking. The recessed rooftop communal terrace further limits visual impacts. Internal solar access for dwellings meets Seniors SEPP/ADG expectations: ≥70% (80%) of ILU/ALA units receive ≥2 hours of sun and ≤15% receive none.</p> <p>Resolution: Accepted, overshadowing and privacy outcomes are equal to or improved relative to the approved scheme. (See Key Issues – Solar Access &amp; Overshadowing; Visual Privacy.)</p>

Visual dominance	<p><u>Unique:</u> Unknown A; Unit 1; Unit 7 &amp; 20 Chapman.</p> <p><u>Template group:</u> Units 8, 10, 11, 12, 14, 15 &amp; 16.</p>	<p>Concerns focused on dominance and elevated FFLs. Increased Mons Avenue setback, façade curvature, and landscape integration reduce the visual presence of buildings.</p> <p>Flood planning requirements determine FFLs and do not add discretionary height. Council's flooding engineers confirm no adverse impacts.</p> <p>Resolution: Accepted - no unacceptable dominance. (See Key Issues below under 5.1 Urban Design.)</p>
Flooding & stormwater	<p><u>Unique:</u> Unit 7 &amp; 20 Chapman.</p> <p><u>Template group:</u> Units 8, 10, 11, 12, 14, 15 &amp; 16.</p>	<p>Objectors raised concerns about increased flooding.</p> <p>The modification retains the approved stormwater strategy, including OSD and lawful discharge controls. Engineering review confirms the system continues to meet Council's requirements and does not worsen downstream impacts.</p> <p>Resolution: Accepted - re-apply OSD and lawful discharge conditions.</p>
Traffic & parking	<p><u>Unique:</u> Unknown A; Unit 1; Unit 7 &amp; 20 Chapman</p> <p><u>Template group:</u> Units 8, 10, 11, 12, 14, 15 &amp; 16.</p>	<p>Concerns related to congestion near two primary schools, parking adequacy, and traffic survey timing. Resident numbers are reduced, lowering trip generation.</p> <p>Vehicle access is now fully consolidated to Malabar Road, removing conflicts with Mons Avenue's school frontage.</p> <p>Parking provision meets or exceeds Seniors SEPP and DCP rates.</p> <p>Resolution: Accepted, subject to updated Traffic Impact Assessment and associated conditions.</p>
On-site parking provision – Precinct Committee request (add ~25 spaces or second basement beneath SE corner park)	<p><u>Unique:</u> Maroubra Precinct Committee (site-wide request).</p>	<p>The development complies with the applicable Seniors Housing parking rates and the approved traffic framework.</p> <p>Introducing ~25 additional spaces or a second basement under the south-eastern open-space area at this stage would:</p> <ul style="list-style-type: none"> <li>(i) fall outside the scope of a s4.56 modification linked to an approved envelope;</li> <li>(ii) require material excavation/design changes with potential impacts to landscaping, trees,</li> </ul>

		<p>OSD/flood routing, and construction duration; and</p> <p>(iii) is not warranted on traffic grounds given compliance.</p> <p>Resolution: Not supported. Maintain compliant parking provision; manage peaks through CTMP. Council may monitor parking post-occupation.</p>
Noise, construction impacts & dilapidation	<p><u>Unique:</u> Unknown A; Unit 1; Unit 7 &amp; 20 Chapman;</p> <p><u>Template group:</u> Units 8, 10, 11, 12, 14, 15 &amp;16.</p>	<p>Construction impacts (noise, dust, vibration) were raised. These impacts are temporary and managed under standard EP&amp;A Act and POEO Act conditions. Given the proximity of the recently improved Seabreeze townhouses, updated dilapidation reporting is appropriate, and CEMP/CTMP controls will apply.</p> <p>An updated Noise Impact Assessment (Pulse White Noise Acoustics, Sept 2025) accompanies the modification, addressing operational and construction noise and vibration. Operational noise levels will be equal to or lower than the approved scheme, and construction impacts can be acceptably managed through a Construction Noise and Vibration Management Plan, vibration monitoring and community notification protocols.</p> <p>Outcome: Condition 1 has been updated to reference the revised Noise Impact Assessment. Comprehensive CEMP/CTMP, CNVMP and dilapidation requirements will manage construction impacts.</p> <p>Resolution: Accepted, impacts can be managed via updated and existing conditions.</p>
Reduction of RACF beds	<p><u>Unique:</u> 20 Chapman &amp; Unknown A/B.</p>	<p>Concern about reduction in RACF beds.</p> <p>The site retains a valid Seniors Housing approval; operational service mix is not determinative under this s4.56 modification.</p> <p>Resolution: Not a matter for consideration within scope.</p>
Loss of dementia care Increase in ILU mix/ shift to "luxury market"	<p><u>Unique:</u> 20 Chapman &amp; Unknown A/B.</p>	<p>Removal of a dedicated dementia unit raised.</p> <p>As above, unless tied to consent conditions, this is an operational/service model matter.</p> <p>Observations about larger ILUs and perceived market positioning.</p>

		<p>Where SEPP/ADG controls are met, product mix is not a refusal ground.</p> <p>Resolution: Not a planning matter for the modification unless a breach of existing conditions is demonstrated.</p>
Suitability of RACF use / preferred alternative uses	<p><u>Unique:</u> 20 Chapman; Unknown A/B.</p>	<p>Some submissions argued RACF/seniors housing is unsuitable and should be replaced with townhouses, affordable housing or smaller-scale development.</p> <p>The site carries an existing approval for Seniors Housing (Seniors SEPP pathway), and the modification reduces intensity and improves design quality. Alternative uses are outside the scope of a s4.56 modification.</p> <p>Resolution: Not a matter for consideration under the subject modification scope.</p>
Removal/replacement of community facilities	<p><u>Unique:</u> Unit 7.</p> <p><u>Template group:</u> Units 8, 10, 11, 12, 14, 15 &amp; 16;</p>	<p>Rooftop communal space considered small/not public.</p> <p>The space is ancillary to the development, not a public facility; acoustic/operational controls apply.</p> <p>Resolution: Accepted - compliant with SEPP/ADG; managed via Plan of Management where relevant and accessible to all occupants of the development.</p>
RSL "in-perpetuity" dedication	<p><u>Unique:</u> Unit 7.</p> <p><u>Template group:</u> Units 8, 10, 11, 12, 14, 15 &amp; 16;</p>	<p>Several objectors referenced an alleged historical RSL dedication to Vietnam Veterans.</p> <p>This is not a planning matter under the EP&amp;A Act. No evidence was provided of a statutory restriction, covenant or encumbrance that would affect permissibility or Council's assessment role.</p> <p>Resolution: Not determinative under the EP&amp;A Act.</p>
Short exhibition period / consultation	<p><u>Unique:</u> Unknown A/B.</p> <p><u>Template group:</u> Units 8, 10, 11, 12, 14, 15 &amp; 16.</p>	<p>Concerns about the 14-day exhibition period given document volume. Notification complied with Council's CPP and statutory requirements.</p> <p>Resolution: Noted that notification occurred in accordance with Council's notification guidelines.</p>

## 5. KEY ISSUES

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The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

### 5.1 Urban Design

The proposed modification results in a substantially improved urban design outcome compared with the approved 2019 scheme. The revised architectural approach incorporates curved façades, increased façade modulation and a more articulated building profile, replacing the hard-edged, rectilinear forms of the original approval.

These changes soften the overall appearance of the development and improve compatibility with the surrounding streetscape, which contains a mix of residential, community and school buildings of varying scales.

A key improvement is the increased Mons Avenue setback, facilitated by the removal of the porte-cochere and the realignment of Building C1. This deeper frontage, combined with enhanced landscaping and the introduction of a visual break along the Mons Avenue elevation, significantly reduces perceived bulk and improves the pedestrian experience. The modified form presents a more recessive and visually permeable frontage, directly addressing concerns previously raised by the community and the DEAP.

The separation of Buildings C1 and C2 into more distinct elements reduces horizontal massing and improves visual legibility across the site. Although some parts of the development reach four to five storeys, the building mass predominantly remains within the Court-approved building envelope, and the additional height is visually moderated through upper-level recessing, curved geometry and increased separation through the redistribution of GFA more centrally within the proposal site. The rooftop communal terrace is similarly recessed and does not result in visual dominance when viewed from surrounding streets or neighbouring properties.

The architectural revisions strengthen the design narrative through the use of warmer, coastal-appropriate materials such as timber and sandstone-influenced tones, and through improved integration between buildings and landscape. These outcomes respond positively to DEAP advice and deliver a more contemporary, sculpted architectural language that aligns with the local coastal character.

The public domain interface is also improved. The through-site link between Mons Avenue and Malabar Road has been retained and enhanced with improved legibility, planting and passive surveillance.

Resolution:

The urban design impacts are acceptable. The modification delivers a built-form outcome generally within the approved envelope, reduces perceived bulk, improves articulation and enhances landscape integration, consistent with the Seniors SEPP (savings), Housing SEPP Chapter 4 and Randwick DCP Part F1.

### 5.2 Clause 4.3 - Height of Buildings (Randwick LEP 2012)

The Randwick LEP Height of Buildings Map does not assign a maximum building height to the subject site. As the proposal constitutes Seniors Housing, height is assessed under the saved Seniors Housing provisions of the Housing SEPP and the Court-approved building envelope

established through the 2019 Class 1 proceedings. Clause 4.3 therefore does not regulate building height for this development, and no Clause 4.6 variation is required.

A comparison of the approved and proposed RLs confirms that the modified scheme achieves a height outcome that is consistent with, or improves upon, the approved envelope in most locations, with only one numerically taller element that remains visually contained and is centrally located within the redevelopment site to ameliorate environmental impacts.

**Building A1:**

- Proposed roof and lift over-run heights remain unchanged.
- Fully aligned with the approved envelope.



Figure 10: Approved BLD A – South Elevation    Figure 11: Proposed BLD A – South Elevation

**Building A2:**

- Removal of the pitched roof reduces the overall building height to 12.6m.
- Lift over-run remains at RL 23.5.
- Results in a reduced and softened roof profile.



Figure 12: Approved BLD A2 – South Elevation    Figure 13: Proposed BLD A2 – South Elevation

**Building B**

- Removal of the pitched roof reduces the overall height to 12.7m.
- Lift over-run remains at 13.9m.
- Generates a noticeable reduction in massing.



Figure 14: Approved BLD B – East Elevation    Figure 15: Proposed BLD B – East Elevation

### Building C1 (RACF)

- Height remains generally consistent with the previously endorsed 14.1m form.
- Changes do not affect the perceived scale due to its central site position.



Figure 16: Approved RACF – West Elevation



Figure 17: Proposed RACF – West Elevation

### Building C2 (ALA)

- Proposed height of 17.4m, with a lift over-run at RL 28.25.
- The additional height is centrally located, recessed, and shaped with curved façades that limit visibility from surrounding streets.
- The element sits comfortably within the perceived Court envelope when viewed externally from the site curtilage.



Figure 18: Approved RACF – East Elevation



Figure 19: Proposed RACF – East Elevation

The modified scheme delivers a more refined and recessive built form compared with the approved layout through:

- Increased setbacks to Mons Avenue;
- Removal of the porte cochere;
- A clear separation between Buildings C1 and C2;
- Curved façades and improved articulation;
- Reduced visible roof mass on Buildings A2 and B.



Figure 20: approved RACF – North Elevation



Figure 21: Proposed RACF – North Elevation



Figure 22: Approved Streetscape elevation along Mons Avenue



Figure 23: Proposed Streetscape elevation along Mons Avenue

These changes reduce bulk, soften the skyline, and improve the relationship of the development to the surrounding streetscape.

The submitted shadow analysis demonstrates that the proposal does not result in unreasonable additional overshadowing compared with the approved scheme. The reductions in roof mass on Buildings A2 and B and the recessed upper level on Building C2 assist in maintaining acceptable solar access outcomes for neighbouring properties and public domain areas.

Having regard to the objectives of Clause 4.3, the proposed built form achieves an appropriate scale for the site and surrounding locality. The development integrates effectively with its setting through increased setbacks, recessive upper-level elements, improved articulation, and reduced visible bulk. The proposal protects amenity by avoiding undue visual prominence, maintaining reasonable solar access, and presenting a built form that is consistent with the expected scale for Seniors Housing on a larger landscaped site transitioning the built form to neighbouring interfaces.

While one building element incorporates a numerical height increase, that component is centrally located, recessed, curved in form, and contained within the perceived Court-approved envelope when viewed from surrounding streets. The modified development overall presents as less bulky, more articulated, and more visually recessive than the originally approved design.

#### Resolution:

The proposed building heights are appropriate when assessed under the Housing SEPP provisions and the Court-approved envelope. The modified scheme presents a built form that is more recessive, better articulated, and of reduced perceived bulk compared with the approved design. Clause 4.3 does not apply to the determination of height noting the site is not mapped with a height limit, and as such no Clause 4.6 variation is required in this instance.

### **5.3 Clause 6.11: Design Excellence**

Clause 6.11 of the Randwick LEP 2012 applies because the site exceeds 10,000m<sup>2</sup> and parts of the development exceed 15m in height. The consent authority must therefore be satisfied that the proposal exhibits design excellence.

The modification achieves an acceptable design excellence outcome for the following reasons:

- High-quality architectural design: The amended scheme adopts curved, softened façades, increased modulation, and an improved materials palette appropriate to the coastal setting and surrounding residential character.
- Improved public domain interface: The significantly increased Mons Avenue setback, removal of the porte-cochere, enhanced landscaping, and introduction of a visual break along the frontage materially improve the amenity and openness of the public domain.

- Positive response to context: The proposal responds appropriately to the site's environmental and urban context, maintaining the approved building envelope while delivering a more recessive and articulated built form, better separation between buildings (C1–C2), and improved integration with surrounding development.
- Enhanced amenity and environmental performance: The design improves solar access, cross-ventilation, visual privacy, and outlook. Sustainability commitments (4 Star Green Star, Silver Livable Housing) strengthen energy, water and heat-island performance.
- Recessed upper level with minimal visual impact: Although an additional upper level is introduced on part of the building, it is substantially recessed, visually contained, and does not appear dominant from the street, remaining within the Court-approved envelope.
- No adverse view or skyline impacts: The proposal does not detrimentally affect view corridors or key public vantage points.

#### Resolution:

The proposal exhibits design excellence under Clause 6.11 of the Randwick LEP 2012. The revised architectural form demonstrates clear improvement in design quality, articulation, materials, amenity and public domain integration. No further changes are required.

#### **5.4 Solar Access and Overshadowing (Seniors SEPP - Savings/Housing SEPP Ch.4 ADG)**

##### Assessment approach

The modification has been assessed against the seniors-housing performance benchmarks (applying via the Housing SEPP savings framework) and the Apartment Design Guide (ADG) design considerations, namely:

- Dwellings (ILU/ALA): at least 70% of dwellings to receive  $\geq 2$  hours of direct sun to living rooms and private open space between 9am and 3pm at mid-winter; no more than 15% to receive none.
- Communal open space (COS): the principal usable COS to receive  $\geq 2$  hours of sun between 9am and 3pm at mid-winter.
- Neighbouring land and public domain: no unreasonable additional overshadowing, assessed comparatively against the approved Court envelope.

The assessment relies on the submitted 21 June (mid-winter) hourly shadow study (8am-4pm) that overlays approved versus proposed shadow footprints green indicating reduction and red indicating additional overshadowing together with apartment-level solar schedules and a focused 9am analysis of St Mary–St Joseph Catholic Primary School (Mons Avenue frontage).

##### 1) Site-wide outcomes (relative to the approved development)

The modified massing achieves consistent net reductions in overshadowing across the day. Typical net improvements (reduction minus addition) are approximately 100–140m<sup>2</sup> per hour, with the most pronounced gains around 12–1pm and again at 4 pm. Early-morning additions (8–9am) are small, largely confined to the road reserve or the edges of neighbouring land, and are outweighed by reductions from 10am onward.

These results stem from:

- removal of pitched roofs to Buildings A2 and B, which lowers ridgelines and shortens afternoon shadow length;
- a significantly increased Mons Avenue setback and the visual break between Buildings C1 and C2; and
- curved façade geometry, which interrupts the long, oblique shadow sweeps typical of the previously rectilinear form.

Finding: Relative to the 2019 approval, the modification achieves a net reduction in overshadowing and improves mid-day solar availability.

## 2) Sensitive interfaces

### (a) School frontage (Mons Avenue).

At 9am, there is approximately 36.5m<sup>2</sup> of additional overshadowing but approximately 77.8m<sup>2</sup> of reduction, yielding a net improvement of approximately 41.3m<sup>2</sup> compared with the approved scheme. The analysis also notes that existing street trees contribute greater early-morning shade than the building addition at 9am. From 10am–2pm, reductions predominately improve winter sun availability when the frontage is most used.

Assessment: No unreasonable additional overshadowing to school open space; conditions are improved overall through the middle of the day.

### (b) Seabreeze and Rossiter Lane dwellings.

Lower rooflines on Buildings A2 and B and the C1–C2 Building break diminish afternoon shadows toward Rossiter Lane. The additional level on Building C2 is substantially recessed behind primary façades and does not produce measurable new overshadowing beyond the approved outcome at key times.

Assessment: Overshadowing is equal to or less than the approved scheme for most hours; no unreasonable impact to north-facing windows, principal living rooms or private open spaces is identified.

### (c) Public domain (Mons Avenue / Malabar Road).

The approximately 6m (and great) deeper Mons Avenue setback and softened edges pull the midday shadow line away from the verge, improving pedestrian winter sun between roughly 11am and 2pm. Early-morning shadow additions remain minor and occur predominantly over the carriageway.

Assessment: Improved public-domain solar conditions during peak pedestrian hours.

## 3) Internal solar performance (dwellings and COS)

### Apartments (ILU/ALA)

The solar schedules confirm ≥70% (80%) of dwellings receive ≥2 hours of direct sun at mid-winter and ≤15% receive none. Gains are attributable to curved geometries, increased building separation between Buildings C1–C2, and the lowered ridgelines on Buildings A2 and B.

### Communal open space (COS)

The principal COS comprising the central landscaped courtyard and the recessed rooftop terrace receives  $\geq 2$  hours of sun between 9am and 3pm, supporting usability and equitable access for residents.

#### 4) Why overshadowing improves despite an added level on C2

The upper level on Building C2 is substantially recessed and internally located, so any incremental shadow is not expressed at the street edge. Concurrently, the removal of pitched roofs on A2 and B shortens afternoon shadows, and the curved edges plus the C1–C2 break reduce oblique shadow footprints. The net effect is a quantifiable reduction in overshadowing against the approved baseline.

### Conclusion and resolution

The modification delivers better solar access and overshadowing performance than the approved scheme. Sensitive receivers (the school frontage and nearby dwellings on Seabreeze/Rossiter Lane) are not unreasonably affected; early-morning additions are minor and are offset by material reductions across the remainder of the day.

Apartment and communal solar outcomes meet seniors/ADG expectations.

#### Resolution

Solar access and overshadowing impacts are acceptable. The modification achieves measurable net reductions in overshadowing relative to the approved scheme and maintains compliant solar access for dwellings and communal open space. Sensitive receivers are not adversely affected. Refer to shadow diagrams below in Figure 22.



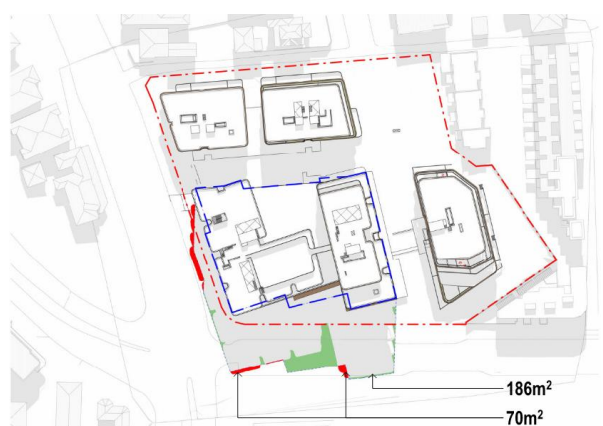
DA2 JUNE 21 - 8AM - PROPOSED



DA2 JUNE 21 - 9AM - PROPOSED



DA2 JUNE 21 - 10AM - PROPOSED



DA2 JUNE 21 - 11AM - PROPOSED

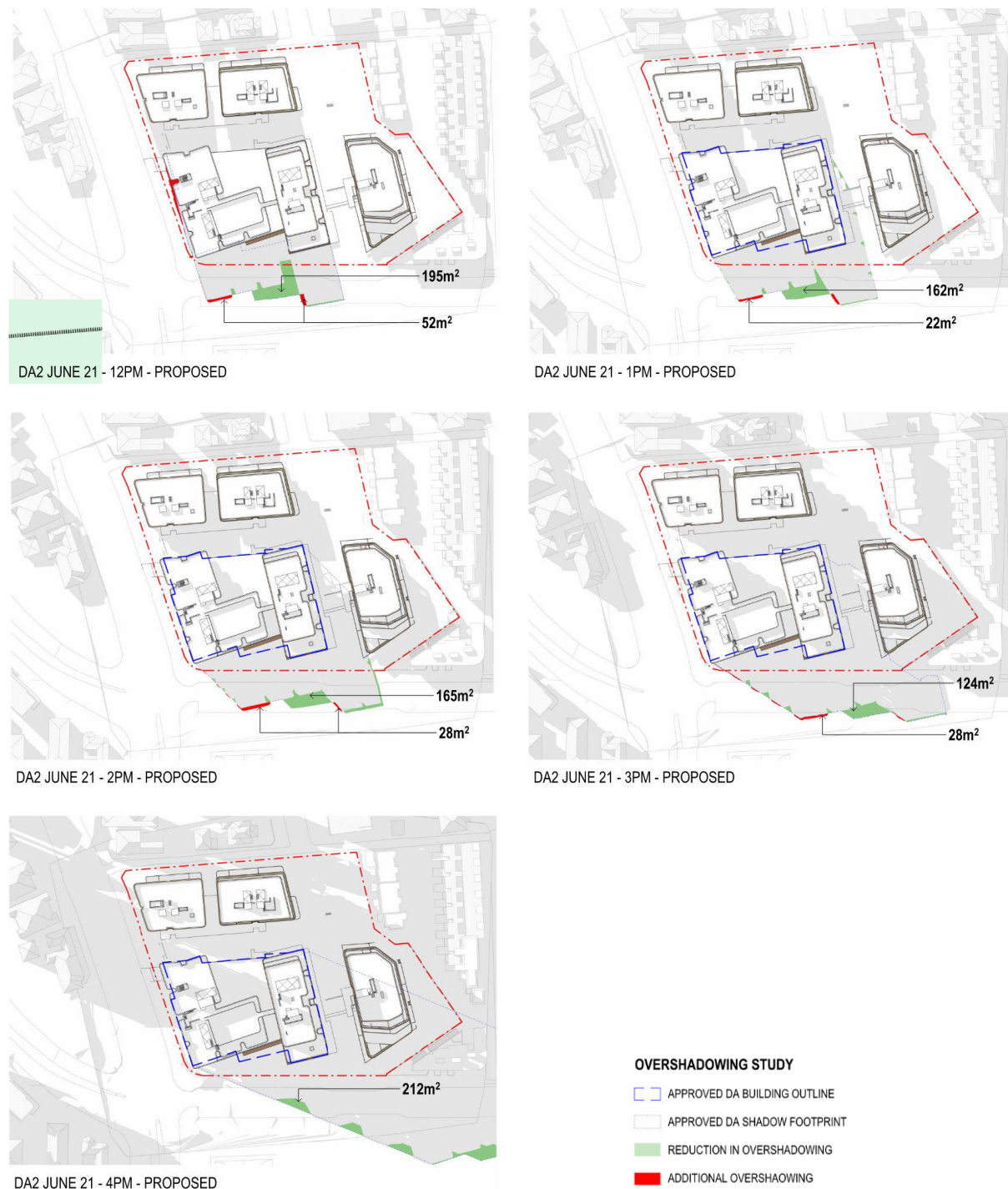


Figure 24: Shadow Diagrams on 21 June

### 5.5 Visual Privacy & Building Separation

A review of the Court-approved elevations against the modified elevations confirms that the proposal achieves equal or improved visual privacy outcomes. The modification introduces several design refinements that minimise overlooking, including curved façades, shorter and more articulated balcony fronts, and a more pronounced visual break between Buildings C1 and C2. These changes soften oblique viewing angles and interrupt longer sightlines that were possible under the rectilinear approved form.

Side and internal building separations meet or are near compliant with ADG guidance, and any tighter relationships are appropriately mitigated through façade articulation, louvred or opaque screening, planter depths and balcony treatments. Along Mons Avenue and Malabar Road, window and balcony placements are more modulated and recessive, reducing opportunities for direct overlooking. Along the Rossiter Lane interface, upper-level recessing, screening and opaque balustrades limit downward views towards neighbouring private open spaces.

Within the site, separations between buildings have improved. The increased distinction between Buildings C1 and C2 and the use of curved corners reduce habitable-to-habitable intervisibility across internal courtyards. Ground-floor ILUs are buffered by landscaping, and upper-level balcony profiles do not introduce new line-of-sight conflicts. The recessed rooftop communal terrace, enclosed by parapets and planters, similarly limits outward views to surrounding dwellings.

### Resolution:

The visual privacy impacts are acceptable. The modified design improves privacy outcomes through increased articulation, recessed upper levels, curved façades, landscaping and greater building separation. No unreasonable overlooking is introduced, and privacy outcomes are equal to or better than the Court-approved scheme. No additional privacy measures are required under the modification proposal.

#### 04 | Pulling Back from the Neighbour (Building B)

The built form steps back from Mons Avenue and the neighbours at 150-170 Mons Avenue to reduce the perceived scale of the building from the street and its neighbour, and to respect the amenity of its neighbour by minimising overshadowing.

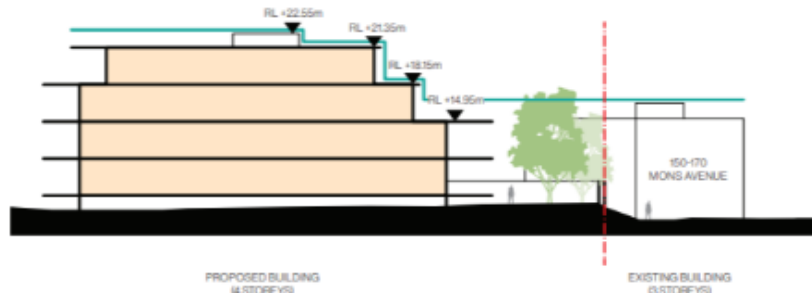


Figure 25: Section Building B and 150-170 Mons Avenue (Source: Group GSA Design)

## 5.6 Noise and vibration Assessment

An updated Noise Impact Assessment (Pulse White Noise Acoustics, September 2025) accompanies the modification. The assessment addresses both operational and construction noise and vibration having regard to the EPA Noise Policy for Industry and relevant guidance.

- Operational noise: The reduction in resident numbers (164 - 99) and the consolidation of all vehicle access and servicing to Malabar Road reduce operational activity and potential noise emissions.

The assessment confirms that the modified scheme can meet the applicable internal and external acoustic criteria, with operational noise levels predicted to be equal to or lower than those of the approved scheme. Relocation of vehicle access away from Mons Avenue also provides improved acoustic amenity for school approaches and pedestrian areas.

- Construction noise and vibration: Construction noise and vibration impacts will be temporary but require management given proximity to sensitive receivers, including the recently upgraded Seabreeze complex. The Noise Impact Assessment

recommends preparation of a Construction Noise and Vibration Management Plan (CNVMP) incorporating:

- permitted hours of work
- selection and maintenance of quieter plant and equipment
- sequencing to minimise high-noise activities
- community notification protocols
- vibration monitoring where vibration-intensive plant is used
- adoption of alternative methods if trigger levels are approached

The report also recommends pre- and post-construction dilapidation surveys of Seabreeze and any other structurally sensitive adjoining buildings.

Conclusion: Council's assessment of the 2025 Noise Impact Assessment has demonstrated a satisfactory outcome. Predicted operational levels comply, and construction impacts can be acceptably managed through conditions.

Resolution:

The issue is resolved through recommended conditions of consent, including implementation of a Construction Noise and Vibration Management Plan, vibration monitoring, construction hours, and updated dilapidation reporting for the Seabreeze complex (see Attachment 1).

## 5.7 Landscape, Communal Open Space (COS) & Deep Soil

It is noted that the landscape area increases by ~1,166m<sup>2</sup> (+21.66%) to 6,550m<sup>2</sup>, improving overall greenness and amenity across the site. In addition Deep soil increases to ≥15% of the site, with typical widths of 3–6m along the northern and eastern edges and a central deep-soil courtyard between Buildings C1–C2. This supports canopy growth, infiltration, and urban heat mitigation.

Communal Open Space (COS) will exceed 25% of site area and is functionally distributed between the central ground-level courtyard and the recessed rooftop terrace (Building C2), delivering improved usability, permeability, seating, outlook and equitable access.

Tree management outcomes are improved through amendments to Conditions 18, 19 and 20, including removal of tree TF to facilitate the through-site link and compensatory planting of 7 new Banksia trees across Malabar Road and Mons Avenue. This results in increased street canopy cover and better spacing along both frontages and was supported by Council's Landscape Officer subject to revised conditions referencing the updated Tree IQ Arboricultural Impact Assessment (Rev E, 23/09/2025), and Place Design Group Landscape Plans (Rev A, 26/09/2025). The through-site link benefits from enhanced planting, improved legibility and CPTED-compliant openness following removal of gates.

Further, trees located on the adjoining eastern property (150–170 Mons Avenue) are to be retained with mitigation measures outlined in the updated Arborist Report.

Conclusion:

Landscape, deep-soil and communal open space outcomes are strong, functional and improved relative to the approved scheme, with enhanced public domain and canopy outcomes secured through updated conditions.

Resolution:

The landscape, COS and deep-soil impacts are acceptable and are fully resolved through the Landscape Officer's required updates to Conditions 18, 19, 20, 49, 89, 113 and 116, ensuring tree protection, planting, landscaping and certification align with the revised plans.



**DA Approved**

\  
**Community Lawn**



Figure 26: 3D Artist impression of DA approved and modified Community Lawn

## Landscape



Figure 27: Proposed landscape area, overall plan, roof plan & communal space plan

### 5.8 Accessibility, Safety & CPTED

Universal access is maintained or improved through clearer internal pedestrian routes, more legible building entries, and the retention of the through-site link, which is now fully open, publicly accessible and unobstructed by gates or time-restrictions.

CPTED outcomes are strengthened relative to the approved scheme. The removal of gates increases permeability and improves natural surveillance along the link, consistent with the CPTED principles in Schedule 8 of the Housing SEPP (Seniors).

The applicant's detailed CPTED assessment confirms improvements to:

- Natural surveillance - clear sightlines along the through-site link, increased visibility to entries, lighting to minimise concealment, and passive observation opportunities from communal spaces.
- Access control - residential entries remain controlled and monitored; public and semi-public routes are clearly distinguished; service and private areas are separated.
- Territorial reinforcement - landscape and paving treatments support intuitive wayfinding and a clear transition between public and private zones.
- Space management - the management framework, maintenance regimes and surveillance arrangements minimise opportunities for misuse and support ongoing safety.

Landscape treatments along the link and building edges have been designed to support visibility and movement without creating concealment points or obstructing sightlines.

The modified scheme delivers improved accessibility, safer pedestrian movement and a stronger CPTED outcome than the approved development. The removal of gates, improved lighting and planting configuration, clearer sightlines, and more legible access routes

collectively enhance safety for residents and passers-by without introducing barriers or secluded areas.

Resolution: Accessibility, safety and CPTED impacts are acceptable and are resolved through the revised design, which strengthens natural surveillance, improves sightlines, enhances access legibility and maintains safe public permeability without reintroducing gates or physical barriers that restrict site permeability.

## 5.9 Views loss & Outlook

### 1) Street-level public views (local)

- Mons Avenue (Views – Figure 27):

The recessed top level of C2 is not visually prominent from typical eye-level positions on Mons Avenue. The increased setback, combined with the C1–C2 Building break and curved corners, delivers a more visually recessive frontage than the previously rectilinear scheme. Foreground street trees and topography intercept and further soften visibility of upper-level mass. The built form presents as a lower and more recessive composition despite the additional recessed level.

- Malabar Road (Views – Figure 28):

From south of the site, the modified bulk reads no greater, and in places less, than the approved envelope due to the lowered roof profiles (A2, B) and curved edges. The additional level to C2 Building is setback from primary façades and is visually absorbed by the deeper mid-block siting and intervening elements.

- Rossiter Lane (Views – Figure 26):

Along Rossiter Lane, the lowered ridgelines to A2 and B, combined with articulation, reduce the scale of upper silhouettes in afternoon oblique views. The break between C1–C2 Buildings prevents a continuous wall-like backdrop and improves view permeability across the site.

Conclusion (local public views):

Compared with the approved scheme, the proposal does not increase visual prominence and, in several key perspectives, reduces apparent bulk due to recessing, setbacks and roof simplification. The link bridge to COS is slight, internal to the composition, and not visually dominant in street views.

### 2) Regional/long views:

- The applicant's regional view diagram (Figure 30) shows outward view paths toward the Maroubra bowl and coast. Given the site's low-lying context, long views are typically over and beyond the building line from higher elevations in the locality.
- The recessed building C2 level sits inboard and below distant horizon lines; with pitched roofs removed on A2 and B, the skyline effect is equal or improved relative to the approval.
- The photomontage for Regional View 4 in Figure 30 below indicates no additional obstruction of sea/sky bands when compared to the approved condition; intervening vegetation and utilities remain the primary near-field filters in these long views.

### Finding (regional views):

The modified scheme does not introduce adverse regional view loss. Any change is imperceptible or minor against the approved envelope and does not affect identified public view corridors or valued long views noting the topography and generally lower scale of development to the west of the subject site.

### 3) Private outlook / neighbouring interfaces

- Seabreeze / Mons Avenue / Rossiter Lane:
  - The C1–C2 Building separation, curved façades, and recessing reduce horizontal mass in oblique sightlines.
  - The recessed COS rooftop is contained by parapets/planters and does not read as dominant from surrounding private properties. The removal of pitched roofs reduces the upper roof silhouette in near-field oblique views.
  - Internal outlook through the site is enhanced by the building break and courtyard shaping, improving view lines and daylight to internal spaces.

### Finding (private outlook)

Relative to the 2019 approval, outlook conditions are equal or improved. No new or aggravated view loss to neighbouring dwellings is identified based on the submitted visual analysis.

### Response to Applicant's View Claims

The applicant asserts “imperceptible visual impact compared to the approved development” and that the C2 building additional level is setback and recessive, with no material change to the development’s relationship to the street. On review of the supplied photomontages and the modified massing strategy (setbacks, break, curved edges, removal of pitched roofs), Council’s assessment agrees in substance:

- Any additional visibility of the recessed level is intermittent and minor, often filtered by trees, power poles at grade.
- The net street presentation is softer and less continuous than the approved rectilinear scheme.
- The link bridge to rooftop COS presents as a lightweight, internal element with negligible public-view impact.

### Findings:

- The recessed top level is not prominent from key public vantage points; minor increases in some roof RLs are contained within or visually read as within the approved envelope due to recessing and setbacks.
- Internal outlooks and view lines through the site are enhanced by the C1–C2 visual break and courtyard shaping.
- Regional views (coastal/Maroubra bowl) are not materially affected; any change is imperceptible or minor relative to the approved condition, given the scale of development within the immediate locality and the generally flat topography at the site curtilages.

### Conclusion:

Acceptable - The modified scheme does not cause unreasonable view loss to public or private receivers when assessed against the approved Court envelope. In several key perspectives, perceived bulk and skyline effect are reduced due to the recessed C2 level, increased Mons

Avenue setback, Buildings C1–C2 separation, curved façades, and removal of pitched roofs to Buildings A2 and B.

Resolution:

Views and outlook impacts are acceptable. The matter is resolved on the basis that the recessed upper level and refined massing produce no appreciable view loss impacts beyond the approved scenario, with equal or improved outcomes in key public and private viewpoints.



Figure 28: local view looking south down Rossiter Lane (Source: Group GSA Design)



Figure 29: Local view looking north west from Mons Avenue (Source: Group GSA Design)



Figure 30: Local view looking north east from Malabar Road, south of the site (Source: Group GSA Design)



Figure 31: Local view looking east from Mons Avenue (Source: Group GSA Design)



Figure 32: indicative location of regional view location 4 and the site (Source: Group GSA Design)



Figure 33: Regional View 4 from the west (Source: Group GSA Design)

### 5.10 External Colours, finishes and materials

Council raised concerns that the original concrete bridge/link between Buildings C1 and C2 appeared visually heavy and did not integrate with the modified building or rooftop terrace.

In response, the applicant provided revised bridge drawings and renders, a refined external colours/finishes/materials schedule, and product notes showing a lightweight palisade system with slimmer members, recessed alignment from the street façades, side screening, and coordinated bronze/mid-tone finishes consistent with the building palette.

The palisade system, slimmer sections and set-back position make the link read as a secondary, recessive element; vertical rhythm aligns with the curved façade language; side screening limits oblique views; and integrated lighting resolves CPTED without creating concealment points. Finishes are non-reflective, bronze/mid-tone and consistent with the broader palette, improving cohesion with the rooftop terrace and adjacent façades. No further changes are required to the bridge design based on the detailed submission.

The external colours, finishes and materials for the whole development are appropriate and coherent. The palette is muted and coastal-appropriate (light-mid warm neutrals with sandstone/bronze accents) in matte/satin finishes to control glare. Colour placement supports the massing strategy lighter body colours on primary planes, darker recessive tones to balcony reveals and undercrofts to visually thin the upper levels and emphasise the C1–C2 building break and deeper Mons Avenue setback.

Deletion of pitched roofs to A2 and B, together with the recessed C2 upper level and rooftop terrace, is reinforced by the finishes strategy so the apparent bulk is reduced in public views.

Balustrades and screens are specified as opaque or semi-opaque where privacy is needed (with clearer sections selectively used for outlook), and the detailing avoids visual clutter.

Materials are suitable for the coastal environment (powder-coated/aluminium, anodised metals, UV-stable coatings), with joints/soffits and ground interfaces detailed for durability,

anti-glare and ease of maintenance; ground-level finishes coordinate with landscape treatments along the through-site link.

Overall, the scheme presents a consistent residential character, integrates well with the modified architecture and landscape, manages privacy and CPTED, and avoids reflectivity issues.

Resolution: The concerns in relation to the C1–C2 bridge have been addressed through a lighter, recessive, well-detailed link and the external colours/finishes/materials schedule is acceptable for coastal durability, visual cohesion and amenity reasons. In addition, new Condition 2A is imposed that requires the development is carry out in accordance with the external colours, materials and finishes as contained in the Response to Submissions report.



Figure 34: Proposed changes from the original concrete bridge/link between Buildings C1 and C2 to light weight metal palisade balustrading.

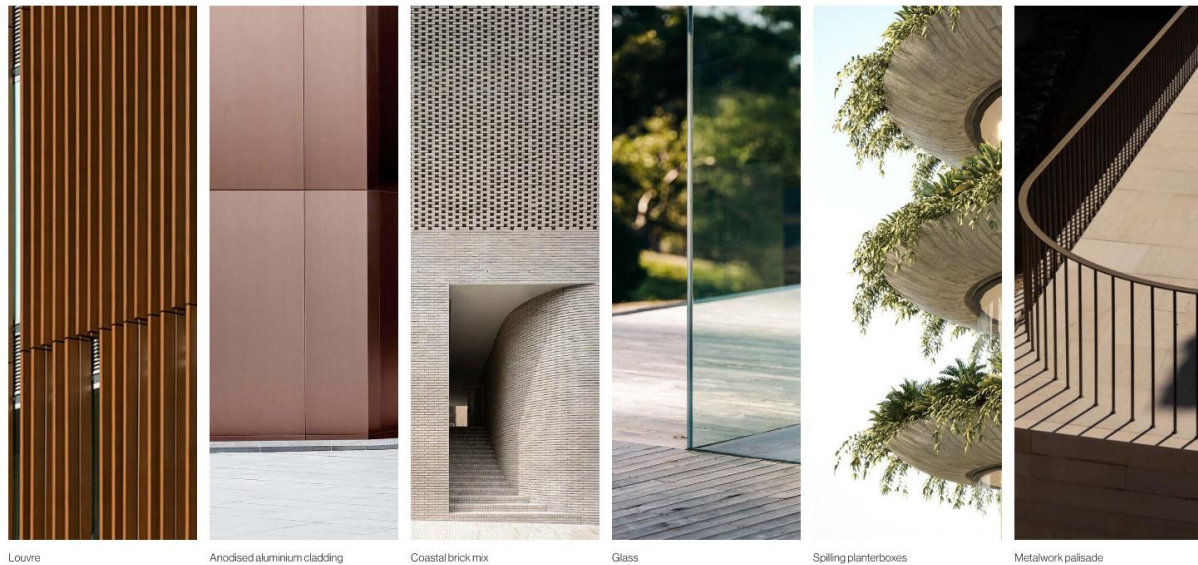


Figure 35: Proposed external façade Elements

## Key Issues Summary

The proposed modification results in a materially improved planning outcome when compared with the Court-approved scheme. The amended design achieves demonstrable enhancements to solar access, ventilation, visual privacy, landscape quality, and streetscape presentation, while retaining the overall building massing within the parameters of the Court-approved envelope. Key refinements including increased setbacks, a clear building break, recessed upper levels, curved façades and improved articulation reduce perceived bulk and improve integration with the surrounding residential and community context.

Any residual amenity impacts relating to traffic, construction, noise, privacy, overshadowing, tree management and public domain works can be appropriately managed through targeted and standard conditions of consent. In aggregate, the modification provides a superior urban design, landscape and public domain outcome and delivers a more contemporary, softened and contextually responsive built form without generating unreasonable external impacts.

## 6. CONCLUSION

The modification is considered to be substantially the same development as that originally approved by the Land and Environment Court in 2019. The proposal retains the approved land use, site organisation and overall built-form logic. While certain roof RLs change due to a recessed additional upper level on Building C2, the building mass remains within the Court-approved envelope, and the increased Mons Avenue setback, curved façades, enhanced articulation and landscape improvements result in a reduced perceived bulk and a materially improved streetscape outcome.

The site remains highly suitable for Seniors Housing, consistent with its established planning history under the Seniors SEPP SCC pathway. The modified design improves integration with the surrounding residential and community setting, strengthens landscape and deep-soil provision, enhances solar access and cross-ventilation, and achieves a safer and more logical access arrangement through the consolidation of vehicle movements to Malabar Road. The

proposal is therefore compatible with the locality and will deliver improved amenity for both existing and future residents.

The key issues identified above in Section 5 of this report relating to height/urban character, overshadowing, privacy, traffic, design quality and landscape provision have been satisfactorily resolved through design refinements submitted during assessment and/or through the recommended draft conditions in Attachment A.

The application meets all relevant jurisdictional prerequisites, including permissibility under the Seniors Housing transitional framework, contamination considerations under the Resilience & Hazards SEPP, and the design excellence requirements of Clause 6.11 of the Randwick LEP 2012.

Having regard to the matters for consideration under Section 4.15(1) of the EP&A Act, the modification will not result in any unreasonable environmental, social or economic impacts. The proposal is in the public interest, delivering improved Seniors Housing accommodation, enhanced open space and landscaping, a higher standard of architectural design, reduced resident numbers, and improved access and safety outcomes.

## 7. RECOMMENDATION

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It is recommended:

- That the Modification Application No. DA/631/2018/A for modification to an approved Seniors Housing Development including reduction from 164 beds (comprising 108 Residential Aged Care Units and 56 Independent Living Units) to 99 beds (comprising 41 Independent Living Units, 44 Residential Aged Care Units and 14 Assisted Living Units), removal of gates, introduction of visual break-up of the built-form along Mons Avenue elevation, removal of porte-cochere and basement access from Mons Avenue, consolidated loading and basement vehicle access from Malabar Road, conversion of Residential Aged Care Facility (RACF) rooms, provision of a rooftop communal open space, relocation of café and provision for business identification signage at 481-499 Malabar Road, Maroubra be APPROVED pursuant to Section 4.56 of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A; and
- Pursuant to Clause 118 of the *Environmental Planning and Assessment Regulation 2021*, a notice of determination is to be prepared by Council following the Panel's determination of this modification application.

The following attachments are provided:

- Attachment A: Draft Conditions of consent
- Attachment B: Tables of Compliance
- Attachment C: Architectural Plans
- Attachment D: Referral Comments