



Modification Report
Section 4.56 Modification
Seniors Housing and Mixed Use Development
5 Skyline Place, Frenchs Forest



Prepared for Platino Properties Pty Ltd
Submitted to Northern Beaches Council

DA2021/0212
November 2023

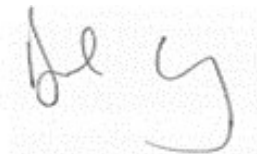


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Cover image: the site (Source: PA Studios)

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Revision	Prepared by	Reviewed by	Date	Revision Type
1	SH	DK	01/11/2023	Draft
2	SH	DK	06/11/2023	Final

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1 Introduction

This Modification Report has been prepared by *Keylan Consulting Pty Ltd* (Keylan) to accompany a section 4.56 application to modify the DA2021/0212 (the Development Consent) for demolition of the existing structures, construction of two buildings ranging in height from 3 storeys to 7 storeys and containing 98 independent living units (ILUs) including 10 units for disability housing to be operated by Project Independence, and 4 affordable units for seniors, at 5 Skyline Road, Frenchs Forest.

The application has been prepared on behalf of *Platino Properties Pty Ltd* (Platino) and is submitted to Northern Beaches Council (Council) pursuant to section 4.56 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

This report should be read in conjunction with the following documents:

- Original Consent issued for DA2021/0212
- Architectural Plans prepared by PA Architects
- Economic Justification Package
- Project Independence Letter

This application is the first modification sought to DA2021/0212, which was approved by the NSW Land and Environment Court (NSW LEC) on 20 April 2023. A copy of the original Development Consent is provided at Appendix 1.

The proposed modification seeks to:

- relocate the communal area from the Ground Floor of the western building to the ground level of the central building;
- delete commercial uses at Level 1 of the eastern building and replace with 8 ILUs;
- revise design of pool and recreation facilities on Level 2;
- revise landscape design;
- minor changes to floor levels at each level to ensure floor to floor heights comply with the National Construction Code 2023 (NCC 2023) resulting in an increase in height to the western building of 0.5m;
- minor changes to layout of Independent Living Units to improve amenity;
- minor changes to basement levels, including minor changes to floor levels, location of mechanical plant rooms, the waste collection and storage areas and deletion of garbage lift;
- relocate lift shaft in the eastern building to improve entrance and circulation; and
- reallocation of a minor area of communal space at Level 7 to apartment floor area in the eastern tower.

It is considered that the proposed modification to the approved development is acceptable as:

- the modification will result in substantially the same development as the development for which consent was originally granted;
- it will not result in any additional environmental impacts;

- it will facilitate additional apartments of varying types to meet future residents' needs;
and
- it will better serve the needs of future residents and the local community.

This report concludes that the proposal is substantially the same development and will not result in any significant environment impacts. Accordingly, we recommend that the proposed modification be supported by Council and approved.

2 The site and locality

2.1 Site description

The subject site is located at 5 Skyline Place, Frenchs Forest. The legal description of the site is Lot 11 DP 1258355.

The site is bound by the Stage 1 seniors housing and mixed use development to the north, Skyline Place to the east, and existing warehouse developments to the west and south. The site is accessible from its primary street frontage to Skyline Place which permits access to Frenchs Forest Road East.

Construction of the Stage 1 seniors housing and mixed use development on the site to the north has reached completion, providing 52 independent living units for seniors and 1,750m² of non-residential uses.

Large established trees run along the eastern, western and southern boundaries of the site.

The location of the site is shown in the figure below.



Figure 1: Site location and surrounding context (Base source: Nearmap)

2.2 Surrounding Locality

The site is located within the Frenchs Forest Business Park. The Business Park comprises warehouses, commercial/retail and health-related buildings ranging from single, three to five storeys.

To the north of the site, beyond Frenchs Forest Road East, is land comprising low density residential dwellings. The dwellings are typically 1-2 storey detached dwellings. To the immediate east of the site are commercial premises and large format warehousing ranging between 2 to 4 storeys in height within the business park. The business park has also seen an increase in medical related services, such as imaging, pharmaceutical and research uses that complement the locality's role as a Health and Education Precinct under the Greater Sydney Region Plan (Region Plan) and North District Plan (District Plan).

To the north-east are the Skyline neighbourhood shops offering a variety of convenience shops including small-scale supermarket, chemist, post-office and bakery. A number of medical suites also front Frenchs Forest Road. The site is also within 1 kilometre (to the west) of Forest Way Shopping Centre a strategic centre with full line supermarkets, convenience shopping, post office, banking, cafes and restaurants.

The Northern Beaches Hospital is situated approximately 240 metres to west of the site, beyond Wakehurst Parkway, within the broader Frenchs Forest Health and Education Precinct, which includes the subject site. The uses and character of this area are expected to transition into a variety of new housing and employment opportunities to support the ongoing operation of the new hospital, consistent with the Region Plan, District Plan, Northern Beaches Hospital Precinct Structure Plan (November 2016) and the Frenchs Forest 2041 Place Strategy.

3 Application history

The DA history for the site is summarised in the table below.

Date	Milestone
17 March 2021	The Applicant lodged a DA (DA2021/0212) seeking consent for subdivision of land into 2 allotments, demolition of existing structures, and construction of a 12-storey mixed use development containing 133 independent living units for seniors, affordable housing and disability housing, and 941m ² of commercial space.
18 August 2021	The Sydney North Planning Panel (SNPP) determined to refuse consent for the DA.
22 December 2021	<p>The Applicant lodged a request to review the determination under section 8.2 of the EP&A Act (REV 2021/0045) with relevant amendments. These amendments included, but were not limited to;</p> <ul style="list-style-type: none"> • reducing the height of the development to part 7/8 storeys; • provision of 108 apartments for seniors, affordable and disability housing; • reduction in the overall FSR from 2.42:1 to 1.93:1; • an increase in non-residential floor space to 973m²; and • reduction of site coverage (from 40% to 35.6%) and increase in landscaped area (33.8% to 36.2%).
30 May 2022	The SNPP considered the section 8.2 review request and again refused the DA.
31 August 2022	A Class 1 appeal was made to the New South Wales Land and Environment Court (NSWLEC).
20 April 2023	<p>The NSW LEC determined to uphold the appeal and approved the following works:</p> <ul style="list-style-type: none"> • demolition of the existing structures • construction of two buildings ranging in height from 3 storeys to 7 storeys and containing 98 independent living units including; <ul style="list-style-type: none"> ○ 10 units for disability housing to be operated by Project Independence and ○ 4 affordable housing units for seniors

Table 1: Summary of Original DA History

4 Proposed modification to the Development Consent

As detailed in the introduction of this report, the proposed modification seeks to:

- relocate the communal area from the Ground Floor of the western building to the Ground Floor of the central building;
- delete commercial uses at Level 1 of the eastern building and replace with 8 ILUs;
- revise design of pool and recreation facilities on Level 2;
- revise landscape design;
- minor changes to floor levels at each level to ensure floor to floor heights comply with the National Construction Code 2023 (NCC 2023) resulting in an increase in height to the western building of 0.5m;
- minor changes to layout of Independent Living Units to improve amenity;
- minor changes to basement levels, including minor changes to floor levels, location of mechanical plant rooms, the waste collection and storage areas and deletion of garbage lift;
- relocate lift shaft in the eastern building to improve entrance and circulation; and
- reallocation of a minor area of communal space at Level 7 to apartment floor area in the eastern tower.

A summary of the quantifiable amendments is provided in the table below and full details are provided in the amended architectural and landscape drawings.

Aspect	Approved	Proposed
Apartment mix		
Project Independence	10	10
Studio	4	2
1 bed	4	2
2 bed	16	10
2 bed + study	28	35
3 bed	36	45
Total	98 {total includes 4 affordable housing units (2 x Studio + 2 x 1 bed)}	104 {total includes 4 affordable housing units (2 x Studio + 2 x 1 bed)}
Allocation of floor area (m²)		
Employment generating uses	2,458	1,079

Table 2: Summary of quantifiable changes proposed

The relative amendments are a result of the detailed design process and response to market. It is considered that these modifications will better facilitate the mixed use development in servicing future senior residents and the surrounding locality.

4.1 Project Independence – Affordable and Disability Housing

There are no proposed changes to the affordable or disability housing aspect of the approved development, currently proposed to be operated and run by Project Independence (PI). A supporting letter which details the structure and operation of PI is provided at Appendix 4.

PI commenced operation in 2012 in Canberra and is a registered Community Housing Provider (CHP) as well as a registered NDIS provider. They are currently in the process of expanding into other areas of Australia and intend to be registered as a CHP in NSW.

The PI model enables residents to acquire equity in a property while enjoying the freedom of living independently. Each PI property has up to ten residents living in their own individual units with access to shared spaces, fostering a special inclusive environment that instils a sense of belonging.

To further support residents in progressing towards independent living, a Live-In Resident Coordinators lives onsite at every PI property, while an Operations Coordinator works across all locations to provide additional guidance.

It is noted that as PI is a CHP, this aspect of the development is exempt from contributions as per the *Northern Beaches Section 7.12 Contributions Plan 2022*.

4.2 Amendments to conditions

As a result of the proposed modifications, a number of conditions require amending to reflect the design changes.

The words proposed to be inserted are shown in *bold italics* and words proposed to be deleted are shown in ~~*bold italics strikethrough*~~. Words that will require amending subject to the submission of additional documents are shown in **bold red**.

4.2.1 Condition 1 – Approved Plans and Drawings

It is recommended that Condition 1 be amended as follows:

1. *Approved Plans and Drawings*

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) *Approved Plans*

<i>Architectural Plan</i>				
<i>Drawing No.</i>	<i>Issue</i>	<i>Drawing Name</i>	<i>Dated</i>	<i>Prepared by</i>
<i>DA101</i>	<i>F G</i>	<i>Site Plan</i>	<i>01.03.2023</i> <i>31.10.2023</i>	<i>PA Studio</i>
<i>DA201</i>	<i>F G</i>	<i>Lower Basement Carpark</i>	<i>01.03.2023</i> <i>31.10.2023</i>	<i>PA Studio</i>
<i>DA202</i>	<i>F G</i>	<i>Basement Plan Carpark</i>	<i>01.03.2023</i> <i>31.10.2023</i>	<i>PA Studio</i>
<i>DA203</i>	<i>F G</i>	<i>Ground Floor Plan</i>	<i>01.03.2023</i> <i>31.10.2023</i>	<i>PA Studio</i>
<i>DA204</i>	<i>F G</i>	<i>Level 1 Floor Plan</i>	<i>01.03.2023</i> <i>31.10.2023</i>	<i>PA Studio</i>
<i>DA205</i>	<i>E G</i>	<i>Level 2 Floor Plan</i>	<i>24.02.2023</i>	<i>PA Studio</i>

			31.10.2023	
DA206	E G	Level 3 Floor Plan	24.02.2023 31.10.2023	PA Studio
DA207	E G	Level 4 Floor Plan	24.02.2023 31.10.2023	PA Studio
DA208	E G	Level 5 Floor Plan	24.02.2023 31.10.2023	PA Studio
DA209	E G	Level 6 Floor Plan	24.02.2023 31.10.2023	PA Studio
DA210	E G	Level 7 Floor Plan	24.02.2023 31.10.2023	PA Studio
DA211	E G	Roof Plan	24.02.2023 31.10.2023	PA Studio
DA301	E G	Sections S1 & S2	24.02.2023 31.10.2023	PA Studio
DA302	E G	Sections S3 & S4	24.02.2023 31.10.2023	PA Studio
DA303	E G	Section S5	24.02.2023 31.10.2023	PA Studio
DA401	E G	East Elevation	24.02.2023 31.10.2023	PA Studio
DA402	E G	North Elevation	24.02.2023 31.10.2023	PA Studio
DA403	E G	West Elevation	24.02.2023 31.10.2023	PA Studio
DA404	E G	South Elevation	24.02.2023 31.10.2023	PA Studio
DA501	D	Materials and Finishes	01.11.2021	PA Studio
DA601	D	Details & Section Through Exit Ramp	01.11.2021	PA Studio
DA218	F G	Draft Stratum Plan	01.03.2023 19.09.2023	PA Studio

...

<i>Reports/Documentation – All recommendations/requirements contained within:</i>		
<i>Drawing No.</i>	<i>Dated</i>	<i>Prepared by</i>
Waste Management Strategy	09.07.2021	Platino Properties
Stormwater and Water Quality Management Report	25.05.2021	ING Consulting Engineers Pty Ltd
BASIX Certificate 1177693M_06	13 March 2023	Greenworld Architectural Drafting
Construction Management Plan	11.02.2021	Platino Properties
Construction Waste Management Plan	02.2021	Jack Prail
Traffic and Parking Assessment Report	24.02.2021	Vara Traffic Planning

Operational Plan of Management	-	Platino Properties
Geotechnical Assessment Report	23.02.2021	Douglas Partners
BCA Compliance Report	18.01.2021	Technical Inner Sight
Arboricultural Impact Assessment	21.01.2021	Naturally Trees
Acoustic Assessment Report	25.01.2021	Acoustic Logic
Access Report	17.02.2021	Code Performance
Sustainability Report	24.02.2021	Northrop
Detailed Site Investigation	22.02.2021	Foundation Earth Sciences

4.2.2 Condition 6 – Employment Generating Uses

It is recommended that Condition 6 be amended as follows:

6. Employment Generating Uses

This consent does not authorize the first use of the floor areas marked “Employment Generating Uses” on the Approved Plans. Separate development consent is required for the use of these area.

*A minimum gross floor area of **2,458 1,079m²** is to be retained on the site for “Employment Generating Uses”. The areas marked “Employment Generating Uses” must not be used for residential purposes, or communal purposes associated with the seniors housing development.*

Reason: To ensure that an appropriate amount of employment generating floor space is retained on the site.

4.2.3 Condition 22 – Building Code of Australia Report

It is recommended that Condition 22 be amended as follows:

22. Building Code of Australia Report

*The Building Code of Australia works and recommendations contained in the **"Capability Statement for DA" prepared by Technical Inner Sight, dated 18/1/2021, Report Ref No.d2021 - 005** are to be considered as part of the assessment of the Construction Certificate.*

Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

5 Statutory Planning Framework

5.1 Environmental Planning and Assessment Act 1979

The EP&A Act sets out the statutory planning framework for NSW. The Act aims to promote the orderly and economic use and development of land, facilitate ecologically sustainable development and integrate economic, environmental and social considerations as part of the decision-making processes for environmental planning and assessment matters.

5.1.1 Section 4.56(1) of the EP&A Act

Section 4.56(1) of the EP&A Act states:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if:

Section 4.56 Provision	Response
<p>(a) <i>it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and</i></p>	<p>The comparison is between the development originally approved and the development that would result from the proposed amendments. It is appropriate to consider the essential or material elements of the development itself, as well as the environmental impacts of the development (<i>Arrage v Inner West Council [2019] NSWLEC 85 at [28]</i>).</p> <p>The essential elements of the development are not to be identified from the circumstances of the grant of the consent, but rather from the development actually approved (and proposed), by comparison of the features or components of the approved and proposed developments (<i>Arrange at [25]</i>).</p> <p>The essential elements of the approved development are:</p> <ul style="list-style-type: none"> • two buildings ranging in height from 3 storeys to 7 storeys • provision of 98 independent living units including 10 units for disability housing to be operated by Project Independence and 4 affordable housing units for seniors • provision of 2,458m² employment generating uses

Section 4.56 Provision	Response
	<p>The essential elements of the development as proposed to be modified are:</p> <ul style="list-style-type: none"> • two buildings ranging in height from 3 storeys to 7 storeys • provision of 104 independent living units including 10 units for disability housing to be operated by Project Independence and 4 affordable housing units for seniors • provision of 1,079m² employment generating uses <p>The proposed modification is substantially the same development as the development for which consent was originally granted, i.e. a seniors living and mixed use development. Accordingly, there is no change to this categorisation of development.</p> <p>While there is a minor height increase proposed to the western building and changes to internal layouts and allocation of spaces, the development as modified continues to provide for seniors housing with non-residential uses at ground floor, including services which would assist future residents and the wider community. Whilst there is no applicable FSR control, the FSR remains the same as that approved (1.94:1) whilst the reallocation of space results in 1,079m² of employment generating uses and 14,066m² of residential floorspace.</p> <p>The development's built form presentation to the streetscape remains unchanged and the overall appearance of the development also remains largely unchanged from that approved by the Court.</p> <p>Furthermore, the proposed modifications do not give rise to any new or additional environmental impacts that were not addressed as part of the approved DA.</p> <p>On this basis, the proposal would result in development that is substantially the same as the originally approved development.</p>

Section 4.56 Provision	Response
(b) <i>it has notified the application in accordance with -</i> <ol style="list-style-type: none"> <li data-bbox="316 409 762 465">i. <i>the regulations, if the regulations so require, and</i> <li data-bbox="316 472 767 676">ii. <i>a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and</i> 	The application will be notified in accordance with Council's Community Participation Plan.
(c) <i>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, and</i>	Council will ensure all previous submitters are notified of the proposed modification subject to this application.
(d) <i>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.</i>	Consideration will be given to any submissions to the application.

Table 3: Response to section 4.56 Provisions

5.1.2 Section 4.56(1A) of the EP&A Act

Section 4.56(1A) of the EP&A Act states:

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.

The following section of the report provides an assessment against the statutory environmental planning instruments relevant to the development. The section also includes discussion and evaluation of the key issues and matters for consideration under section 4.15(1) of the EP&A Act.

5.1.3 Section 4.15(1)(a) Planning Instruments

This section provides an assessment against section 4.15(1) of the EP&A Act.

Relevant Provision	Comment
(a) <i>the provisions of:</i> <ol style="list-style-type: none"> <li data-bbox="288 1939 675 1998">(i) <i>any environmental planning instrument, and</i> 	The relevant environmental planning instruments are addressed at Section 5.

Relevant Provision	Comment
(ii) <i>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 Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and</i>	There are no proposed environmental planning instruments relevant to the proposal.
(iii) <i>any development control plan, and</i>	The Warringah Development Control Plan 2011 is addressed at Section 5.4.
(iiia) <i>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</i>	There are no known planning agreements relevant to the Site.
(iv) <i>the regulations (to the extent that they prescribe matters for the purposes of this paragraph),</i>	The requirements of the EP&A Regulations are addressed in Sections 5.5.
(v) <i>(Repealed)</i>	N/A
(b) <i>the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,</i>	The impacts of the proposal are addressed in Section 6.
(c) <i>the suitability of the site for the development,</i>	Site suitability is addressed at Section 6.8.
(d) <i>any submissions made in accordance with this Act or the regulations,</i>	Any submissions made on this subject application will be duly considered and addressed by Keylan Consulting. In addition, Council will consider any public submissions relating to the proposal during its assessment.
(e) <i>the public interest.</i>	Public interest is addressed at Section 6.11.

Table 4: Section 4.15(1) Assessment

5.2 State Environmental Planning Policies

The original application for the development addressed the proposal's compliance against relevant State Environmental Planning Policies (SEPPs) that were in force at that time, including:

- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, now under State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy No. 55 – Remediation of Land, now under State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*

- *State Environmental Planning Policy No. 19 – Bushland in Urban Areas*, now under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*

It is noted that since the lodgement of the original application, SEPPs have been consolidated and some of the above-listed SEPPs repealed.

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

Permissibility was established under the original application utilising the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors SEPP). It is noted that the site was previously zoned B7 Business Park, including at the time the original DA was lodged. Permissibility was established, noting:

- The development is seniors housing within the meaning of clause 10 of the Seniors SEPP.
- The site, being zoned for business park purposes under *Warringah Local Environmental Plan 2011* (WLEP 2011), is land zoned primarily for urban purposes within the meaning of clause 4 of the Seniors SEPP, and as hospitals are permissible in the zone, the site is land to which the Seniors SEPP applies (clause 4).
- The Seniors SEPP, pursuant to clause 15, permits seniors housing on the site despite the provisions of WLEP 2011.
- Accordingly, the proposed development is permissible with development consent pursuant to clause 16 of the Seniors SEPP.

Therefore, seniors housing remains permissible with consent in accordance with the above.

In addition to permissibility, the modification does not impact on the development's compliance with other relevant provisions of the Seniors SEPP with consideration to the nature of the proposed changes.

5.2.2 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

State Environmental Planning Policy 65 – Residential Apartment Development (SEPP 65) seeks to improve the design quality of residential developments and encourage innovative design. The *Apartment Design Guide* (ADG) is closely linked to the principles of SEPP 65 and sets out best practice design principles for residential developments.

The proposed modifications remain compliant with the following key aspects of the ADG:

- 73.5% of apartments achieve solar access for 2 hours or more during mid-winter;
- 76% of apartments achieve natural cross-ventilation; and
- only 1 apartment (0.95%) receives no solar access during mid-winter.

Accordingly, it is demonstrated that the proposed modifications result in sound amenity outcomes which surpass the minimum requirements of the ADG.

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

Given the original application was determined prior to 1 October 2023, the modification remains subject to the provisions of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* (SEPP BASIX).

An assessment against BASIX was undertaken and a BASIX certificate approved under the original consent. Notwithstanding, given the proposed changes as part of this modification, a revised BASIX certificate will be prepared and provided to Council.

5.3 Warringah Local Environmental Plan 2011

WLEP 2011 is the principal Environmental Planning Instrument applicable to the land. It aims to establish planning principles and development controls that will promote the orderly and economic use of land. The original DA assessed the proposal against the WLEP 2011.

5.3.1 Zoning

Under the WLEP 2011, the subject site is now zoned SP4 Enterprise (Figure 2) but was zoned B7 Business Park at the time the original DA was lodged (Figure 3).

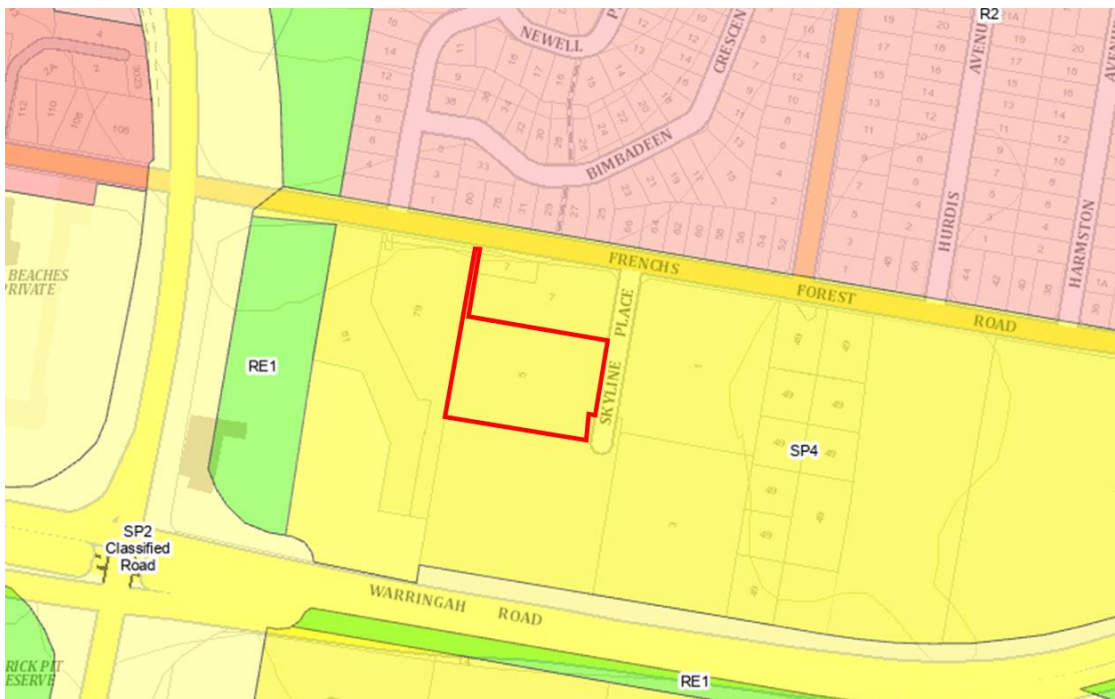


Figure 2: Land zoning under the WLEP 2011 (Source: Espatial Viewer)

As outlined in Section 5.2.1, permissibility of the seniors housing component was established utilising the provisions of the Seniors SEPP.

In addition, a range of non-residential uses, being potential uses of the employment generating floorspace, are permissible with consent in the B7 and SP4 zones, such as early education and care facilities, health services facilities, and take away food and drink premises.

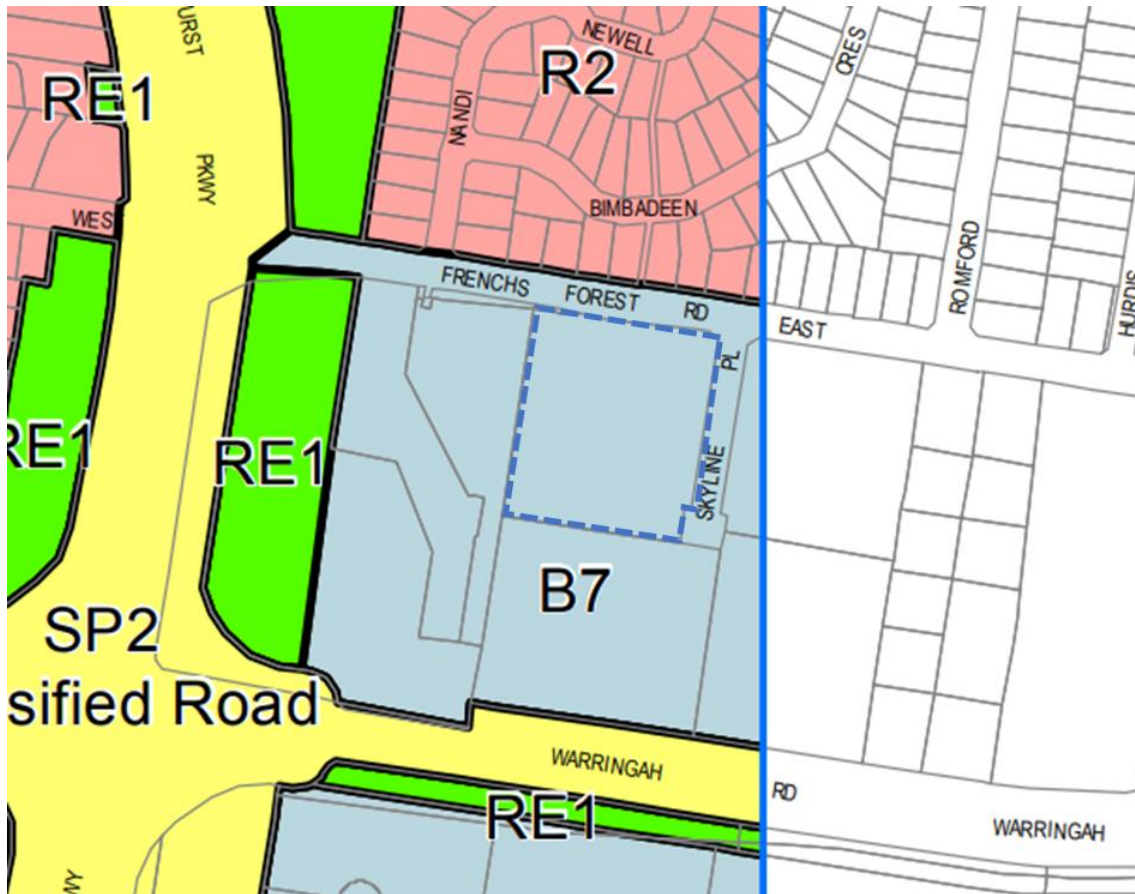


Figure 3: Previous site zoning prior to employment lands zoning reforms (Source: WLEP 2011)

5.3.2 Floor Space Ratio (FSR)

Clause 4.4 of the WLEP 2011 relates to FSR. There is no prescribed FSR for the site, indicating the capacity of the site and the surrounding SP4 area to accommodate larger and denser building forms.

The modified development maintains the approved FSR of 1.94:1. In the absence of a prescribed FSR, the proposal has been designed to optimise amenity, minimise its impacts and be complementary to the future character of the area as detailed in Section 6.1.

5.3.3 Height

Clause 4.3 of the WLEP sets out maximum building heights for buildings. There is no prescribed maximum height for the site, which also indicates the capacity of the Site and surrounding area to accommodate taller building forms.

The proposed modification results in a minor increase in height to the western building as a result of the required increase of floor to floor heights to ensure compliance with the new NCC 2023. The maximum building height of the western building has increased by 0.5m, resulting in an imperceptible height change.

5.3.4 Other matters

Relevant Clause	Comment	Compliance
Acid Sulphate Soils	The Site is not identified as containing any Acid Sulphate Soils.	Complies
Earthworks	The proposal will not result in any additional earthworks than those approved under the original development application.	Complies

Table 5: Other matters in the WLEP 2011

5.4 Warringah Development Control Plan 2011

The assessment within the original DA remains relevant given the proposal maintains the overall building footprint and approved setbacks.

5.5 Environmental Planning and Assessment Regulations 2021

There are no known matters prescribed by the *Environmental Planning and Assessment Regulation 2021* that are relevant to the consideration of this application.

6 Environmental Planning Assessment

The modification is generally consistent with the conclusions of the SEE submitted with the original DA, the proposal as described in the section 8.2 Review and the development as approved by the LEC.

Notwithstanding, Section 4.15(1) of the EP&A Act requires an assessment of the impact of development on environmental impacts (natural and built) and social and economic impacts. These are discussed in detail below.

6.1 Built Form, Design and Amenity

The proposed modification maintains the general built form outcome as approved, that is:

- two separate buildings, ranging in height from 3 to 7 storeys;
- common facilities including a pool provided within a centrally located position between the buildings;
- central community gardens; and
- basement car parking

The only perceived physical change relates to building height which is minor in nature, noting the western building is increased by 0.5m as shown in Figure 4 below.



Figure 4: South elevation showing increased height to western building (Source: PA Studios)

The proposed minor height increase is considered acceptable as:

- the increase in height is localised to one small portion of the development;
- the siting of the height increase has been located away from the site's frontage to Skyline Place, adjacent to the internal boundary; and
- the minor increase in height will be imperceptible from closest residential areas to the north along Bimbadeen Crescent, given as screening by the adjacent seniors living and mixed use development fronting Frenchs Forest Road and existing vegetation
- key aspects of the design of the approved development are unchanged including:
 - the setback of the northern end of the eastern building from Skyline Place retained at 12.5 metres;

- apartments on Level 6 of the eastern building remain setback 7 metres from the building’s northern elevation; and
- apartments on Level 6 of the western building remain setback 14 metres from the building’s northern elevation.

All other physical changes are generally contained within the existing building footprint. Minor changes occur at Level 1 within the eastern building, noting the new residential floorspace which replaces the employment generating space. This new residential floorspace will be provided with additional articulation of building façades through balconies as shown in Figure 5 below.

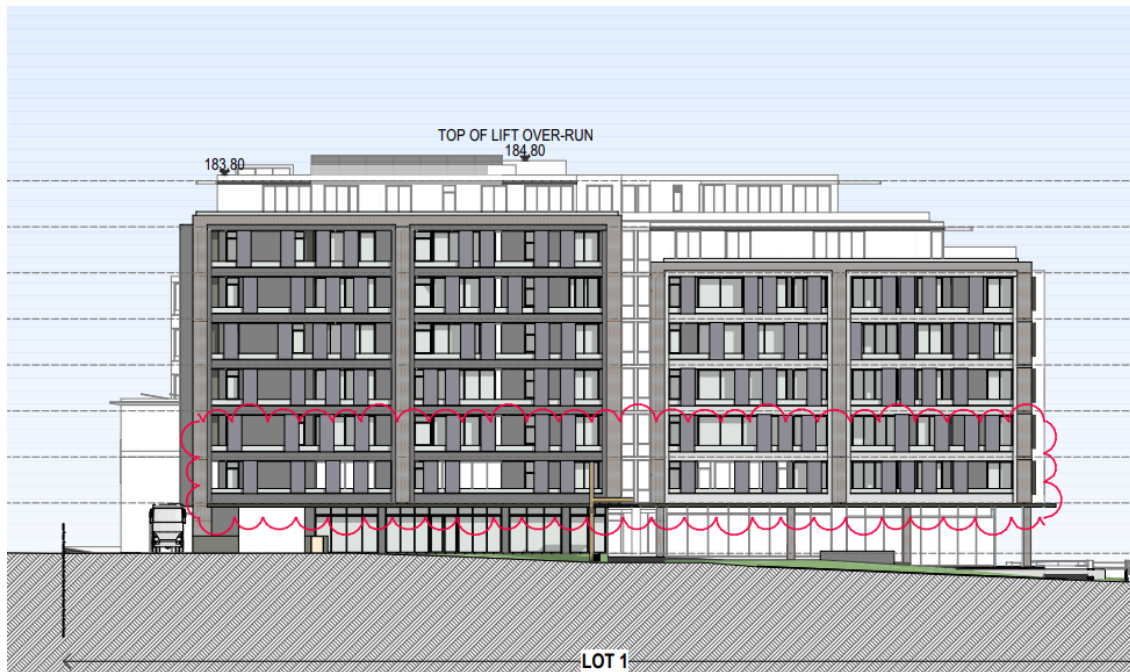


Figure 5: Eastern elevation showing changes clouded including additional balconies to Level 1 apartments (Source: PA Studios)

As noted in Section 5.2.2, the proposal remains compliant with key provisions of the ADG including solar access and cross ventilation.

6.2 Economic

An Economic Justification Package including an Economic Justification Report is provided at Appendix 3. The Economic Justification Report provides discussion and justification of the proposed conversion of the Level 1 non-residential floorspace to seniors housing. In summary, the report confirms that this conversion and the resultant reduction in non-residential floorspace is justified because:

- there is low demand for commercial floorspace as demonstrated by the low enquiry rate experienced for the commercial tenancies within the adjacent building at 7 Skyline Place (construction recently completed) in the three years that the tenancies have been marketed for lease;

- there is low demand for additional office space in the locality given the lack of amenity provided in Frenchs Forest which will not change unless improvements are made in access and amenities;
- there is an existing high vacancy rate of 36% for office spaces within Frenchs Forest,
- the constrained accessibility of the Frenchs Forest locality in terms of limited public transport options deters potential tenants;
- there is excessive capacity in the SP4 zone for commercial and light industrial uses;
- the changing nature of business parks into hybrid spaces which offer social opportunities which results only from more flexible planning provisions is not evident in the Frenchs Forest Business Park; and
- the reduced non-residential floorspace will continue to generate employment opportunities which exceed the previous development at the site.

The reduction in non-residential floorspace within the development is therefore both practical and responsive to the market realities, and is aimed at ensuring the development's viability and alignment with the character of the surrounding locality. Failing to adapt to the prevailing current and anticipated future market conditions will result in commercial floorspace that is unable to be leased, which does not further the objectives of the B7 (now SP4) zone. Furthermore, given the demonstrated excess employment capacity in the SP4 zone, there is sufficient capacity within the zone and the Frenchs Forest Business Park to accommodate well in excess of the strategic employment targets.

Conversely, the replacement of the Level 1 non-residential floorspace with 8 ILUs will further the objectives and principles of the Seniors SEPP and the Housing SEPP in relation to encouraging the development of seniors housing.

6.3 Traffic and Parking

A Traffic Impact Statement (TIS) is in the process of being finalised to assess the impact of the proposed modifications on trip generation and car parking demand.

As shown in Table 6, the modification results in a significant decrease to trip generation as a result of the reduction in non-residential floorspace and the additional seniors living units. This is considered to be a favourable outcome whereby the development will have a reduced impact on the surrounding road network.

	AM Peak	PM Peak
Approved	59	79
Proposed	30	51
Net total	-29	-28

Table 6: Net trip generation as a result of modification

The proposal does not seek to amend the approved number of car parking spaces provided within basement levels, being 202 car spaces. We note that the required provision of car parking for independent living units under Section 50 of the Seniors SEPP is “at least” (ie, a minimum):

0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider...

Accordingly, the minimum provision for the seniors housing component continues to be met.

In relation to non-residential uses, parking is provided in accordance with the relevant provisions of the Warringah DCP 2011. The DCP states:

Where the carparking rate is not specified in Appendix 1 or the WLEP, carparking must be adequate for the development having regard to the objectives and requirements of this clause.

The proposed floor area for ‘employment generating uses’ can potentially be used for a range of permissible uses in the SP4 zone under WLEP 2011, including office premises, early education and care facilities, health services facilities, take away food and drink premises, the parking requirements for which vary under the DCP. The proposed parking provision of 40 spaces allows flexibility and will ensure that sufficient on-site parking can be provided for the operation of a range of uses/businesses, as well as meeting the DCP requirements and reducing the potential demand for on-street parking in the surrounding locality as detailed in Council’s objectives under Part C3 Parking Facilities.

A breakdown of the allocation of car parking is provided in the table below.

Use	Proposed car parking spaces
Residential	146
Visitors	14
Car wash bays	2
Employment generating	40
Total	202

Table 7: Summary of allocation of car parking spaces to use

6.4 Landscaping

A revised landscape package is being finalised by Paddock Studio and will be submitted under separate cover. The amended landscape plan will provide for a range of landscaped open spaces across the site that relate to the mix of uses and will provide for high quality outdoor environments that can cater to a range of passive and active recreational uses.

6.5 Waste

The approved Waste Management Plan (WMP) remains relevant and outlines the process in which waste is managed within the development. Notwithstanding, further consultation has been undertaken with Council to bolster waste management and develop a Waste Management Strategy (WMS) to support the existing WMP.

The design accommodates and manages waste generated by the Seniors Housing, the Project Independence and Employment Generating Uses tenants separately, to allow

flexibility in the management of both of these uses. Strategies to manage each facet of the development are outlined below.

Seniors Housing

- every floor has a garbage chute and a recycling room (which includes 1 paper bin and 1 bottle bin);
- two separate Garbage Collection Rooms are in the basement (one for each building);
- all the bins are transported to street level at the garbage holding bay using a tug;
- the holding bay is an enclosed space and will be open when the council and private contractors collect the garbage; and
- we have also added two bulky rooms beside each building core for practicality.

Project Independence and Employment Generating Uses

- the project Independence and all the Employment Generating Uses tenancies are located on the Ground Floor; and
- there is a designated Project Independence & Employment generating uses garbage holding bay, so this will not impact the council's collection of the Seniors and disability housing waste.

The WMS ensures the effective implementation of the WMP and has been prepared in accordance with Council's Waste Management Guidelines.

6.6 Bushfire

It is noted that the site is identified as containing bushfire prone land. Accordingly, a Bushfire Assessment Report was provided with the original DA. Given the proposed modification does not seek to change the approved building footprint or siting of the proposal, the original bushfire assessment remains relevant. Notwithstanding, a Bushfire Statement is to be provided confirming that the proposed modifications do not result in any adverse impacts in terms of bushfire risk.

6.7 Access

An Access Report was provided with the original DA. An updated report will be prepared demonstrating the proposed modifications do not impact on compliance with relevant access requirements of the NCC and Australian Standards.

6.8 BCA Compliance

A BCA Report was provided with the original DA. As the design of the building has been modified as a result of new requirements under the National Construction Code, an updated. BCA Compliance Report is to be prepared demonstrating compliance with the relevant provisions of the BCA.

6.9 Suitability of the site for the development

The site remains suitable for the proposed development for the reasons outlined in the SEE submitted with the original DA and the section 8.2 Review Report.

6.10 Submissions

The proposed development will be notified in accordance with Council's notification policy. Council will consider any submissions received prior to the determination of the application.

6.11 Public interest

The proposal continues to be in the public interest as the modification will continue to facilitate the delivery of an innovative seniors housing development which meets a significant shortfall of such housing in the Northern Beaches LGA.

In addition, Council will consider any public submissions relating to the proposal during its assessment. Accordingly, it can be concluded that the proposed development is entirely in the public interest.

7 Conclusion

The modification proposes refinements to the design approved under DA2021/0212 resulting in a minor height increase to the western building, increase floor to floor heights, additional apartments, changes to non-residential floor area, and minor reconfigurations to the basement levels.

Following detailed consideration of the proposal in its legislative and physical context it has been determined that the modification is warranted on the basis that:

- the proposed modification results in substantially the same development as approved and demonstrated in the assessment against Clause 4.56(1)(a) of the EP&A Act;
- the proposal is suitable for the site and the area, after consideration against Section 4.15(1) of the EP&A Act;
- the proposal complies with the relevant objectives of State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004, the Warringah LEP 2011 and Warringah DCP 2011;
- the proposal continues to provide 1,079m² of non-residential GFA, ensuring a significant provision of employment generating uses;
- the proposed will have no significant impacts on the amenity of the area;
- the proposed amendments to the landscaping scheme do not alter the provided landscape area values, including the size of the deep soil zone;
- the proposal will enhance the characteristics of the Frenchs Forest locality of which it is part;
- the proposed use is suited to the site and area;
- the proposal will not result in any significant environmental impacts or adverse impacts on the amenity of surrounding land; and
- granting consent is considered to be in the public interest.

Consequently, approval of this modification application is recommended.