

12 October 2021

2190970

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Dear Mr Evans,

DA 2020/567 – 7 MARTIN CLOSE AND 42 STRONACH AVENUE, EAST MAITLAND SECTION 4.55(2) MODIFICATION APPLICATION

On behalf of Churches of Christ (Fresh Hope) we hereby submit an application pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify DA/20/567 approved on 9 April 2021 relating to the redevelopment of the existing Greenhills residential aged care facility.

As discussed in **Section 2.0**, this Modification Application relates to design development changes including minor design changes, internal reconfiguration, revised landscaping scheme, onsite parking and minor realignment of the approved maintenance track. This modification application should be read in conjunction with the following consultants reports:

- Architectural Plans prepared by Calderflower Architecture (**Attachment A**);
- Landscape Plans prepared by Context (**Attachment B**);
- Traffic Statement prepared by Ason Group (**Attachment C**);
- Acoustic Impact Assessment prepared by RWDI (**Attachment D**);
- Access Statement prepared by Morris Goding Access Consultants (**Attachment E**);
- Bushfire Assessment Statement prepared by Bushfire Hazard Solutions (**Attachment F**); and
- BCA Statement prepared by City Plan (**Attachment G**).

This application identifies the consent, describes the proposed modifications and provides an assessment of the likely impact in terms of the matter for consideration contained in section 4.55(2) of the EP&A Act.

1.0 Background to the Consent

7 Martin Close and 42 Stronach Avenue are subject to a development consent (DA2020/567) relating to the redevelopment of the existing aged care facility into a 168 bed residential aged care facility (RACF) with associated car parking and landscaping works. The application was approved by the Hunter and Central Coast Regional Planning Panel on 9 April 2021 (PPSHCC-49).

Since the determination, ongoing design development has been undertaken to the approved development as a result of further detailed design improvement and revised operational requirements arising out of the Royal Commission review. In this sense, the proposal seeks minor modifications to the built form and internal configuration of the facility, while improving the landscape design to provide an optimal experience for future residents, staff and visitors. The proposed modifications are sought to address the recommendations of the Royal Commission and will improve the resident experience and quality of life through its architectural design.

This modification application represents the first application to date.

2.0 Description of the Proposed Modifications

The proposed modifications to DA2020/567 are illustrated in the Architectural Plans at **Attachment A**. The proposed modification application includes:

- Minor increase in GFA and resultant FSR from 11,377.11m² to 11,741.9m² (0.81:1 to 0.88:1) as a result of internal reconfiguration works;
- Reduction of 2 beds from 160 beds to 158 beds;
- Removal of the family room and respite centre reconfigured;
- Change to the roof form as a result of building form changes;
- A revised landscaping scheme, including the deletion of a section of the pathway near the Stronach Avenue boundary of the property as required by the Planning Panel;
- Minor changes to the materiality schedule;
- Changes to the access to the onsite parking, including a new security checkpoint and relocation of one car parking space;
- Minor realignment of the maintenance track on 42 Stronach Avenue; and
- Remove the requirement to amalgamate 42 Stronach Avenue with 7 Martin Close.

2.1 Built Form

As a result of the modifications to the internal configuration, the building footprint will increase from that which was approved under the original DA. Overall, the GFA of the proposal will increase marginally by 364.79m². As shown on the Architectural Plans at **Attachment A**, the following amendments are proposed which results in minor changes to the built form:

- Amendments to the back of house areas including 2 x additional dirty utility rooms, 10 x additional bathrooms and 10 x additional staff rooms;
- Deletion of the family room;
- Minor increase to the circulation space in Wing B;
- Minor increase to Wing A adjacent to the loading dock over three floors; and
- Increase to the end of Wing D due to additional staff rooms over two levels.

The breakdown of GFA across each level is shown in **Table 1** below. It is noted Lot 5 DP 258655 (42 Stronach Avenue) is excluded from the site area. The site area of Lot 57 DP 260833 is 13,298m².

Table 1 Approved and Proposed Building GFA

Level	Building GFA – Approved Development	Building GFA – Proposed Development
Lower Ground	2,056.99m ²	2,072.1m ²
Ground Floor	3,288.94m ²	3,324.8m ²
Level 1	3,304.30m ²	3,471.1m ²
Level 2	2,726.88m ²	2,873.9m ²
Total	11,377.11m²	11,741.9m²
Corresponding FSR	0.81:1	0.88:1

These changes are primarily a result of the outcomes of the Royal Commission and a review into staffing requirements for RACF developments. The proposed modifications will provide an improved design outcome, improving resident and visitor experiences on site.

2.2 Landscaping

While the proposed landscaping strategy has been further refined, the overall concept and design intent remains the same as that which was originally approved. The proposed landscape design seeks to further enhance user experience and create connections with the surrounding community. Specifically, the proposal will retain the key features of the approved development, including the entry forecourt plaza, dementia courtyard, sensory garden, grassed lawn areas and terrace areas. The Project Team undertook workshops with Dementia Training Australia to ensure the proposed landscape design incorporated design principles for dementia-friendly environments. As a result, some changes have been made to activity provision within the Backyard, amenity, circulation, paving materials and planting.

Additional landscaping has been incorporated in the location of the deleted pathway between RL 20.9 and the emergency access point on the northern side of the building. The proposed amendments to the landscaping is in accordance with Condition 18 of the development consent and are shown at **Figure 1** below and included in the Landscape Plans at **Attachment B**.



Figure 1 Proposed site plan
 Source: Context Landscape Architecture

At the site’s north-eastern corner, adjacent to the interface with 44 Stronach Avenue, the proposed modification seeks to introduce a new aviary. The aviary will have an area of 17m². At its interface with 44 Stronach Avenue, a 3m callistemon hedge will provide separation and a buffer between the aviary and existing dwelling. The total setback from the boundary of 44 Stronach Avenue will be 6m. This will be in addition to the 1.8m high fence on the boundary of the existing property.

The indicative location and elevation of the aviary is shown at **Figure 2** and **Figure 3**.

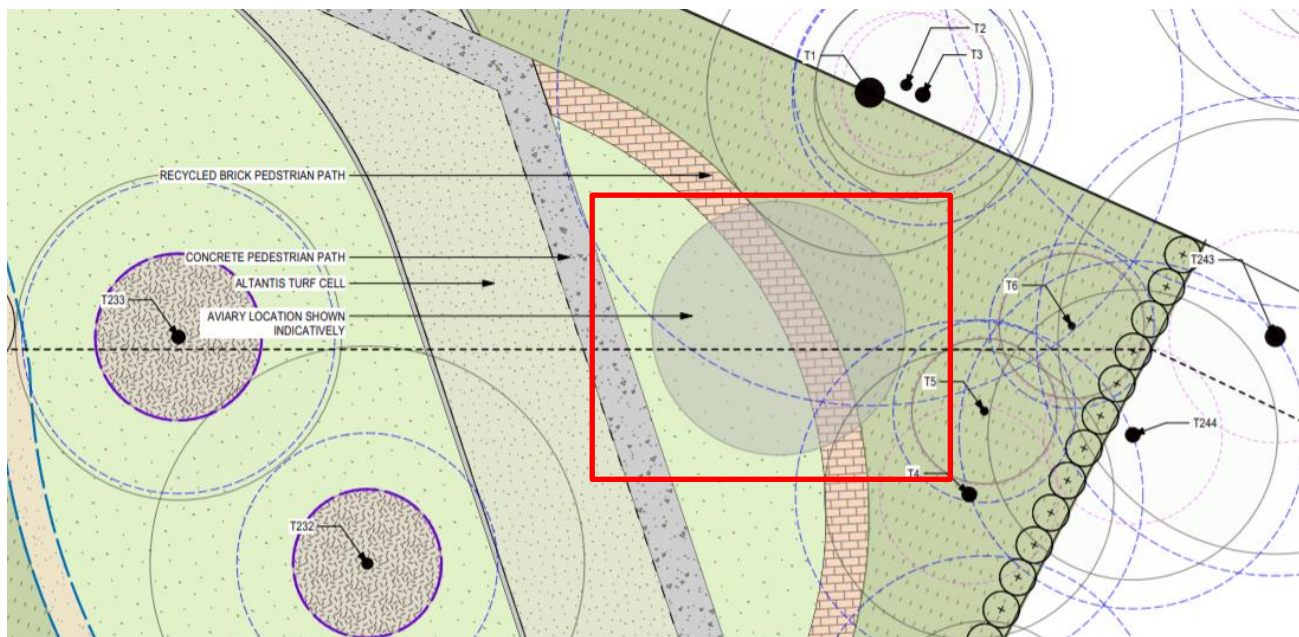


Figure 2 Proposed aviary location outlined red

Source: Context Landscape Architecture

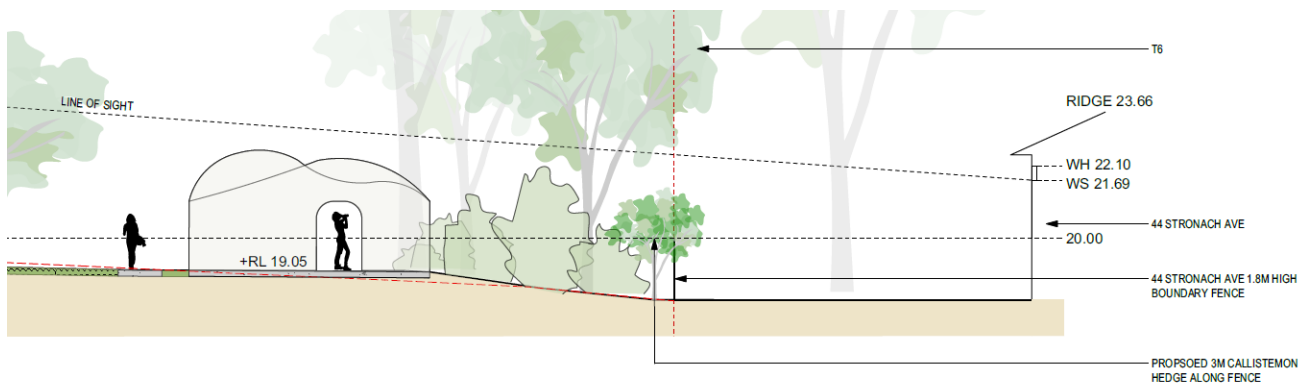


Figure 3 Proposed aviary location and elevation outlined red

Source: Context Landscape Architecture

2.3 Materials

The proposed modification seeks to amend the materials schedule as a result of further design refinement and to improve the architectural design of the RACF development, integrating it with the surrounding landscape and adjoining development. The fenestrations and materiality generally remains unchanged from that which was previously approved, however, the proposal now seeks to incorporate warm, earthy tones and finishes to reflect the surrounding area.

The proposed materials schedule is shown at **Figure 4** below.

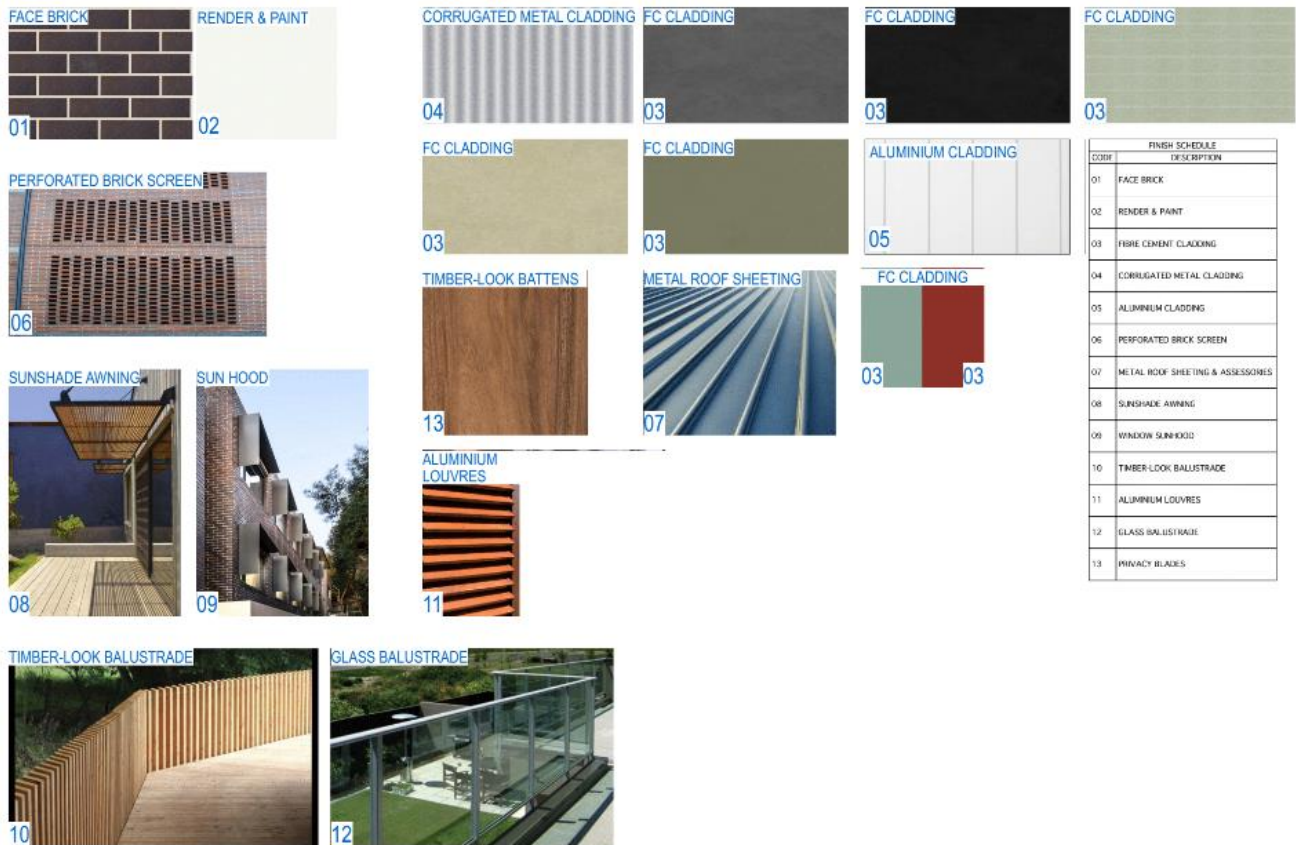


Figure 4 Proposed materials schedule

Source: *Calderflower Architecture*



Figure 5 Photomontage of the proposed development

Source: *Calderflower Architecture*

2.4 Maintenance Track

The maintenance track approved on Lot 5 in DP 258655 (42 Stronach Ave) is proposed to be realigned to be moved further south towards the boundary of 40 Stronach Avenue. The proposed realignment is consistent with Condition 26, which requires a minimum setback of 3m to the boundary of 44 Stronach Avenue. The carriageway of the track will be provided with a narrower width of 4.105m. This remains in accordance with the NSW Fire Safety Guideline.

A section of the fire track surface is proposed to be provided as 'Tuff Cell', as opposed to the compacted gravel as required by Condition 26. This has been reviewed by Bushfire Hazard Solutions and is acceptable from a bushfire perspective.

As this application seeks to delete the requirement to amalgamate 42 Stronach with 7 Martin Close, it is proposed to impose a requirement for the accessway to be the subject of a Right of Way easement that guarantees emergency access via the track across 42 Stronach Avenue at all times. Evidence of registration of the easement will be

provided to the relevant authority identifying the use of the access track and its limitations to emergency service vehicles only prior to the issue of an occupation certificate.

2.5 Access and Car Parking

The proposed modification will result in minor amendments to the turning bay within the at-grade car park. The turning bay will have a minimum space length of 5.4m with a width of 3m and aisle width of 5.8m. The turning bay has been assessed by Ason Group and has been designed in accordance with the relevant Australian Standards.

As a result of the changes to the built form, the façade line of the loading dock below has been realigned.

Further, one visitor parking space on the basement level is proposed to be relocated to the at-grade car park. As confirmed by Ason Group, the space has been designed in accordance with the relevant Australian Standards with a minimum space length of 5.4m and width of 2.6m. The at-grade parking will therefore provide accessible and visitor parking only with the basement level parking dedicated to staff.

The total number of car parking spaces remains unchanged. The proposed amendments to the traffic and parking arrangements is provided in the Traffic Statement at **Attachment C** and shown in the Architectural Plans at **Attachment A**.

3.0 Proposed Modifications to the Consent

3.1 Modifications to Conditions

The proposed modification necessitates amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in **bold italics**.

Condition 1. Approved Plans and Documentation

The development shall be carried out in accordance with the stamped approved plans and documentation as detailed in the following schedule and any amendments arising through conditions to this consent or as shown in red colour on the plans:

Plan Ref No.	Sheet No.	Revision No.	Revision Date	Prepared by
Architectural Plans				
Title Page	A000	B <i>D</i>	4/09/2020 <i>7/10/2021</i>	Calderflower Architecture
Site Analysis	A001	B <i>D</i>	4/09/2020 <i>7/10/2021</i>	Calderflower Architecture
Site Plan	A004	B <i>D</i>	4/09/2020 <i>7/10/2021</i>	Calderflower Architecture
Ground Floor Plan	A101	B <i>D</i>	4/09/2020 <i>7/10/2021</i>	Calderflower Architecture
Elevations	A200	B <i>D</i>	4/09/2020 <i>7/10/2021</i>	Calderflower Architecture
Existing/Proposed Site	A002	A <i>D</i>	16/06/2020 <i>7/10/2021</i>	Calderflower Architecture
Demolition Plan	A003	A <i>D</i>	16/06/2020 <i>7/10/2021</i>	Calderflower Architecture
Height Plane Diagrams	A005	A <i>D</i>	16/06/2020 <i>7/10/2021</i>	Calderflower Architecture
Area Calculations	A006	A <i>D</i>	16/06/2020 <i>7/10/2021</i>	Calderflower Architecture

Plan Ref No.	Sheet No.	Revision No.	Revision Date	Prepared by
Site Analysis 02	A007	A	16/06/2020	Calderflower Architecture
Level 1 Floor Plan	A102	A D	16/06/2020 7/10/2021	Calderflower Architecture
Level 2 Floor Plan	A103	A D	16/06/2020 7/10/2021	Calderflower Architecture
Roof Plan	A104	A D	16/06/2020 7/10/2021	Calderflower Architecture
Sections	A210	A D	16/06/2020 7/10/2021	Calderflower Architecture
Shadow Diagrams	A700	A D	16/06/2020 7/10/2021	Calderflower Architecture
Materials	A800	A D	16/06/2020 7/10/2021	Calderflower Architecture
Lower Ground Floor Plan	A100	C D	4/09/2020 7/10/2021	Calderflower Architecture
Privacy Analysis No 44 Stronach Avenue	A1005 A1002	A D	11/12/2020 7/10/2021	Calderflower Architecture
Privacy Analysis for Erin Close	A1006 A1003	A D	11/12/2020 7/10/2021	Calderflower Architecture
Privacy Analysis for Martin Close House	A1007 A1004	A D	11/12/2020 7/10/2021	Calderflower Architecture
Landscape Plans				
Overall Landscape Plan	L-SD-02 L_1001	B A	4/9/2020 7/10/2021	Arterra Context Landscape Architecture
Landscape Area Diagrams	L_004	A	7/10/2021	Context Landscape Architecture
Detail Landscape Plans and Signage Detailed Landscape Plans	L-SD-03 L_1002	A	12/6/2020 7/10/2021	Arterra Context Landscape Architecture
Landscape Calculations Planting Schedule	L-SD-04 L_1004	A	12/6/2020 7/10/2021	Arterra Context Landscape Architecture
Planting Schedule	L_1005	A	7/10/2021	Context Landscape Architecture
Planting Strategy & Tree Plan Entry Forecourt Section & Detail Landscape Character Imagery Planting / Tree Strategy	L-SD-05 L-SD-06 L-SD-07 L_1003	A	12/6/2020 7/10/2021	Arterra Context Landscape Architecture
Sections 01	L_1201	A	7/10/2021	Context Landscape Architecture
Sections 02	L_1202	A	7/10/2021	Context Landscape Architecture
Sections 03	L_1203	A	7/10/2021	Context Landscape Architecture
Montage	L_1301	A	7/10/2021	Context Landscape Architecture
Montage	L_1302	A	7/10/2021	Context Landscape Architecture

Plan Ref No.	Sheet No.	Revision No.	Revision Date	Prepared by
Riparian Definition & Offset Plan Riparian Diagram	RIP-01 L_1006	A	15/6/2020 7/10/2021	Arterra Context Landscape Architecture
Civil Engineering Plans				
Overall Site Plan Civil Works – Sheet 1 Bulk Earthworks Plan Bulk Earthworks Cut & Fill Bulk Earthworks Sections	SW02 SW12 C01 C02 C03	B	12/6/2020	Birzulis Associates
Overall Site Plan	SW02	C	18/6/2020	Birzulis Associates
Soil Erosion & Sediment Control Civil Works – Details Sheet 2	SW11 SW13	C	3/9/2020	Birzulis Associates
Soil Erosion & Sediment Control Plan	SW10	D	3/9/2020	Birzulis Associates
Stormwater Drainage Concept Plan	C-GF-01 C-GF-02 C-GF-03 C-GF-04	P2	13/10/2020	

Reason: This condition is proposed to be amended to adequately reflect the modified plans.

Condition 5.

~~**Prior to the issue of an Occupation Certificate, the applicant shall submit evidence that a plan of consolidation of Lot 57 DP 260833 & Lot 5 DP 258655 has been registered with NSW Land Registry Services.**~~

Prior to the issue of an Occupation Certificate, the applicant shall submit evidence that a right of way easement benefitting Lot 57 DP 260833 has been created and registered over Lot 5 in DP 258655 for the benefit of emergency vehicles only.

Reason: Condition 5 is proposed to be deleted and amended to remove the requirement for the amalgamation of Lot 57 in DP 260833 and Lot 5 in DP 258655.

In lieu of this it is proposed to create an easement over the access track on Lot 5 in DP 258655 that will ensure that the maintenance track is available for use by emergency vehicles only. Evidence of certification will be provided to the relevant authority in accordance with the amended condition.

4.0 Substantially the Same Development

Section 4.55(2)(a) of the EP&A Act states that a consent authority may modify a development consent if “it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)”.

The development, as proposed to be modified, is substantially the same development as that originally approved in that:

- The proposed modification is a result of design development refinements;
- The proposed modifications do not change the approved land uses on the site or hours of operation;
- The proposed modifications do not result in any significant impacts to surrounding development in terms of overshadowing, privacy or visual impacts or view sharing;

- The proposed modifications largely respond to the outcomes of the Royal Commission and will facilitate higher staffing levels and new operational requirements in respect of being able to isolate residents as required in a covid response;
- The proposed modifications will create an improved landscaped design to support the congregation of residents and the community and to better integrate with the surrounding context;
- The public benefits delivered by the development remain unchanged;
- The environmental impacts of the modified development remain substantially the same as the approved development; and
- The proposed minor modifications do not give rise to any new matters / areas of non-compliance and minimal environmental impact.

Ultimately, the proposed modifications is simple in that it is a result of design development refinements and associated updates to the approved plans. The potential environmental impacts considered individually and cumulatively, are considered minor and will have no significant impacts beyond those considered during the assessment of DA/2020/567. The proposed modification is supported by technical specialist reports that confirm there will be no adverse impacts resulting amendments from that which was originally approved.

5.0 Environmental Assessment

Section 4.55(3) of the EP&A Act requires a consent authority to take into consideration the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application and the reasons given by the consent authority for the grant of the original consent.

5.1 Compliance with Statutory Plans

The proposed modifications do not affect the approved development's compliance with the relevant environmental planning instruments, as demonstrated in the table below.

Table 2 Compliance with the relevant Environmental Planning Instruments

Instrument	Comment
<i>Environmental Planning and Assessment Act 1979</i>	The proposed modifications do not alter the approved development's compliance with the EP&A Act 1979.
<i>Rural Fires Act 1997 & Planning for Bushfire Protection 2019</i>	The proposed modifications do not alter the approved development's compliance. A Bushfire Statement is included at Attachment F which confirms the proposed modifications do not alter the proposal's compliance with the relevant bushfire protection standards.
<i>Biodiversity Conservation Act 2016</i>	The proposed modifications do not alter the approved development's compliance.
<i>State Environmental Planning Policy No 55 – Remediation of Land</i>	The proposed modifications do not alter the approved development's compliance.
<i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i>	The modification application is consistent with the assessment undertaken with the original DA. The proposed increase in GFA and resultant FSR of 0.88:1 remains compliant with clause 48 of the Seniors SEPP.
<i>Maitland Local Environmental Plan 2011</i>	The proposed modification application is consistent with the assessment against the relevant provisions of the MLEP 2011 undertaken with the original DA.

5.2 Built Form

The built form of the proposed development will not substantially alter from that which was approved. As a result of design refinement and a review of the operational requirements arising from the Royal Commission, additional staff back of house areas have been identified as a requirement which has resulted in the deletion of two (2) RACF beds

as well as the family room. This internal reconfiguration has therefore resulted in minor changes to the built form of certain wings and an increase in GFA by 364.79m² resulting in a maximum FSR of 0.88:1.

While the proposed modifications will result in a slight increase in GFA and resultant FSR, this is considered to be negligible given it remains compliant with clause 48 of the Seniors SEPP and remains below the 1:1 FSR provision for residential flat buildings as provided in the MDCP 2011. Therefore, the proposed increase in GFA will not result in any adverse impacts on adjoining development.

5.3 Setbacks

While the built form will slightly increase as a result of changes to the internal configuration, the setbacks to the site boundaries will not substantially alter.

As shown on the Architectural Plans at **Attachment A**, the most notable changes to the setbacks is to the northern boundary where the built form will result in a setback of 5.076m to the riparian zone at its closest point, resulting in an approximate change of 2m. As discussed in **Attachment F**, this remains compliant from a bushfire perspective.

Importantly, the proposal will retain a substantial setback from the interfaces of adjoining residential properties, including:

- 29.85m to 44 Stronach Avenue;
- 12.045m to 6 Martin Close; and
- 21.003m to 5 Erin Close.

The proposed modification remains consistent with the controls for a residential flat building in the R1 General Residential zone as provided by the MDCP 2011. It is noted that deep soil planting will be maintained within these setbacks and the landscape scheme has been refined to improve the relationship of the development with adjoining properties. Accordingly, the setbacks as proposed to be modified are considered to be appropriate in providing both internal and external amenity, while responding to the environmental constraints on the site and with regards to the MDCP 2011. Further detail is provided in **Attachment A**.

5.4 Traffic and Parking

A Traffic Statement has been prepared by Ason Group and is included at **Attachment C**. The Statement has assessed the following:

- Proposed increase in GFA and resultant FSR from 0.81:1 to 0.88:1;
- Reduction in RACF beds from 160 beds to 158 beds;
- Reconfiguration of the kerbing surrounding the loading dock;
- Relocation of one car parking space from the secure parking area to the at-grade car parking area; and
- Modification to maintenance track adjacent to 44 Stronach Avenue.

The proposed modification application does not seek to alter the number of car parking spaces to be provided on site given it results in only a minor reduction of beds and parking for the RACF is based on staffing levels as opposed to number of residents on the site. Therefore, the proposed development remains consistent with the car parking provisions and requirements of the Seniors SEPP.

The Traffic Statement further confirms the following:

- The proposed development will not alter the traffic conditions when compared with the approved development and is not expected to impact the operations of the local road network.
- The relocated visitor space to the at-grade car park has been designed in accordance with the relevant Australian Standards with a minimum space length of 5.4m and width of 2.6m; and
- The maintenance track (fire access track) along the north-western boundary has been designed in accordance with the NSW Fire Safety Guideline.

Ason Group confirm the proposed modification is supportably from an access, parking and traffic planning perspective. Further discussion is provided at **Attachment C**.

5.5 Noise

A Statement of Acoustic Effects has been prepared by RWDI and is included at **Attachment D**. The Statement confirms that the proposed modifications to the approved development will not result in any substantial change to the previously assessed operational noise impacts.

The Statement also confirms the inclusions of an aviary to accommodate a finch colony is not acoustically significant, given these species are documented as being a quieter variety and will therefore not adversely impact upon the acoustic amenity of any nearby residents. Further discussion is provided at **Attachment D**.

5.6 Access

An Access Statement has been prepared by Morris Goding Access Consultants and is included at **Attachment E**. The Statement confirms that the proposed modifications comply with the relevant DDA Access to Premises Standards and Australian Standards.

5.7 Bushfire

A Bushfire Assessment Statement has been prepared by Building Code and Bushfire Hazard Solutions and is included at **Attachment F**. The Statement confirms that the proposed modifications do not alter the findings and / or recommendations outlined in the original Bushfire Assessment Report (dated 19 June 2020) and submitted with the original Development Application.

The Statement further confirms, the modifications maintain capacity to comply with the conditions of consent and detailed General Terms of Approval under Division 4.8 of the *Environmental Planning and Assessment Act 1979* and the *Rural Fires Act 1997*.

5.8 Building Code of Australia

A BCA Statement has been prepared by City Plan to assess the proposed modifications and is included at **Attachment G**. City Plan confirm the proposed development is capable of complying with the relevant standards of the Building Code of Australia.

5.9 Reasons Given for Granting of Consent

The reasons for the panel granting consent are set out in **Table 1**. The proposed modification application remains consistent with the Panel's Reasons for Granting Consent and will not give rise to any adverse impacts not already assessed as part of the original development application.

Table 3 Panel Reasons for Granting Consent

Reason	Comment in respect of Modification Application
<p>The environmental impacts of the development can be mitigated and managed.</p>	<p>The proposed modification application illustrates that the amendments to the approved development will not give rise to any environmental impacts that were not previously assessed as part of the original development application. The modification application is supported by technical specialist reports that determine the proposal is suitable and any associated environmental impacts can be appropriately managed.</p>
<p>The proposed development is compatible with the character of the area.</p>	<p>The proposed modification application results in minor design development refinements to suit the functionality and operational needs of the facility. While the proposal will result in some amendments to the built form and scale, it remains compatible with the character of the area and incorporates appropriate setbacks and form that respects adjoining properties. Further, the proposed modification incorporates an amended materials schedule and landscape design that has been established as part of a review of the immediate surrounds and to ensure the development integrates with the landscape of the area. The materials schedule and landscape design is considered to provide an improved outcome for the area where it incorporates a palette that is commensurate to the residential typology and bushland setting.</p>

6.0 Conclusion

The proposed modifications involve design development refinements which have been undertaken as a result of a review of the Royal Commission findings into aged care developments. The development as proposed to be modified will provide an improved built form outcome to suit the functionality and operational needs of the facility while improving the amenity of residents and adjoining properties alike. In accordance with section 4.55(2) of the EP&A Act 1979, Council may modify the consent as:

- The proposed modifications do not result in any additional environmental impacts beyond those considered during the assessment of DA/2020/567;
- The modified development remains consistent with the approved development and relevant statutory and strategic plans and policies that apply to the site;
- The proposed modifications address the findings of the Royal Commission and provides an improved architectural design, improving the quality of life and user experience within the development;
- The modifications provide for an improved built form outcome on the site and with regard to adjoining properties; and
- The proposed development is substantially the same development as development for which the consent was granted.

Given the merits of the modification and the significant public benefits stemming from the overall development, it is recommended that the application be approved. Should you have any queries about this matter, please do not hesitate to contact the undersigned.

Yours sincerely,



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