



Sandon Point Modification 5

Modification to Seniors Living and Residential Development
Concept Approval Modification Assessment
(MP06_0094 MOD 5)

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Cover image: Perspective Image of potential future Seniors Living Development (Source: JSA Studio Architects)

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Glossary

Abbreviation	Definition
AHD	Australian Height Datum
BCD	Biodiversity Conservation Group, DPIE
Council	Wollongong City Council
Department / DPIE	Department of Planning, Industry and Environment
DPI	Department of Primary Industries, DPIE
EESG	Environment, Energy and Science Group, DPIE
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
Heritage	Heritage NSW, Department of Premier and Cabinet
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
NPWS	National Parks & Wildlife Service, DPIE
RMS	Roads and Maritime Services, TfNSW
RFS	Rural Fire Service
SEARs	Planning Secretary's Environmental Assessment Requirements
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
SSD	State Significant Development
TfNSW	Transport for NSW

Executive Summary

This report is an assessment of a request to modify the concept approval (MP06_0094) for a residential and seniors care development at Sandon Point, in the Wollongong City Local Government Area.

The request seeks to modify the seniors living development component of the site (see **Figure 1**) to:

- relocate and reduce the size of a residential aged care facility (RACF), from 120 to 80 beds
- reduce the total number of dwellings (from 250 to 191), by reducing independent living units (ILU) (from 250 to 140) and introducing 51 new dwellings for use as residential or either seniors living
- amend the road layout, delete an asset protection zone (APZ) and protect Aboriginal heritage on the site.

The request was lodged by Anglicare Community Services (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The modification request was publicly exhibited and notifications sent to adjoining landholders, Council and relevant State agencies. The Department received 80 submissions, comprising submissions from Council, five NSW Government agencies and 74 public submissions (68 objections, five comments and one support).

The key issues raised in submissions related to the character of future development, impacts to roads and traffic, impacts to biodiversity and the natural environment, heritage impacts and stormwater management.

In response, the Proponent submitted a Response to Submissions (RtS) and then a Supplementary Response to Submissions (SRtS). Key amendments made in response to submissions included redesign of road layout, deletion of four proposed dwelling lots (55 to 51) and amendments to stormwater management, including deletion of an acoustic wall and flood barrier.

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act and has carefully considered the issues raised in public submissions and the Proponent's response. The Department's assessment concludes that the proposal is acceptable as:

- overall environmental impacts will be reduced due to a reduction in density on the site, with a reduction in the total number of dwellings (from 250 ILUs to 140 ILUs and 51 dwellings) and a reduction in the capacity of the RACF (from 120 to 80 beds)
- building design and scale are subject to future development applications, but will be integrated into the form and character of existing buildings surrounding the site, with two to three storey buildings to be located adjacent to the low-density dwellings to the north and the taller buildings located away from the highest parts of the site and adjoining low scale development
- it results in improved outcomes for Aboriginal cultural heritage by protecting an Aboriginal archaeological site
- any additional traffic impacts are minor when compared to the existing concept approval, as the maximum additional 10 peak hour trips predicted from the residential dwellings is about 1 additional trip every 6 to 7 minutes and less vehicles will use the internal access roads (introduction of a one way and removal of through site road)
- it retains and rehabilitates the conservation zoned land, consistent with the original approval
- all other impacts, including final subdivision and building design, amenity, environmental and construction impacts, will be independently considered by Council during the assessment of future development applications.

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1 Introduction

1.1 Preamble

This report provides the NSW Department of Planning, Industry and Environment's (the Department's) assessment of a request to modify the concept approval for a residential development (for Stockland) and seniors living development (for Anglicare) at Sandon Point (**MP06_0094**).

The request seeks to modify the seniors living development component of the site (see **Figure 1**) to:

- relocate and reduce the size of a residential aged care facility (RACF), from 120 to 80 beds
- reduce the total number of dwellings (from 250 to 191) by:
 - reducing independent living units (ILU) from 250 to 140
 - introducing 51 new dwellings for use as either seniors living or general residential
- amend the road layout, delete an asset protection zone (APZ) and protect Aboriginal heritage on the site.

The request was lodged on 12 November 2018 by Anglicare Community Services (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).

1.2 The subject site

The concept approval site is located within Sandon Point, in the Wollongong City Local Government Area, approximately 14 km north of Wollongong (see **Figure 1**).

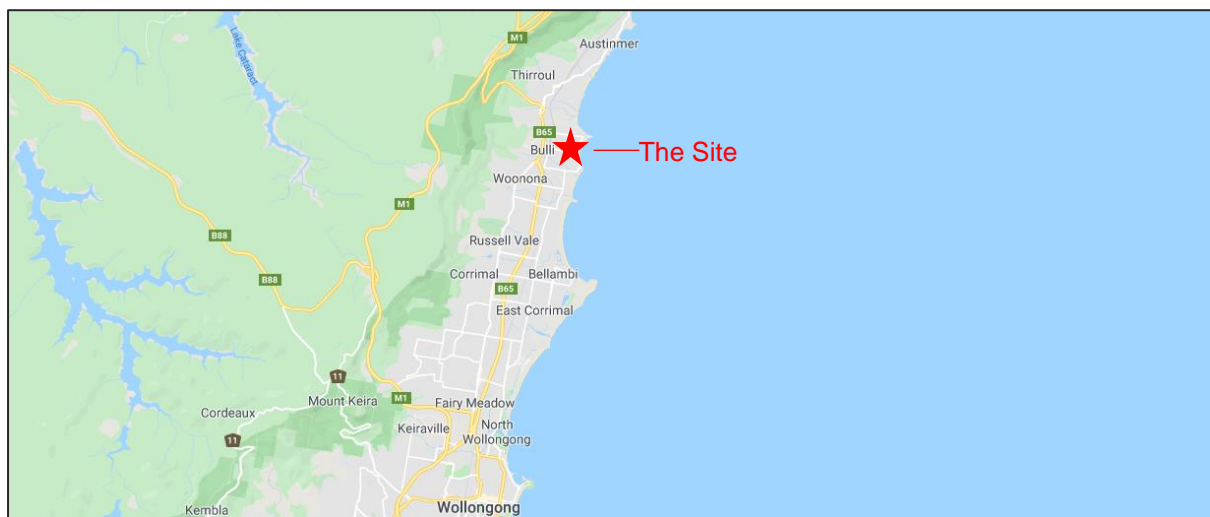


Figure 1 | Regional Context Map (Source: Google Maps)

The site is bound by the Illawarra Rail line to the west, low density residential development to the north and south, and public reserve and the foreshore of McCauley's Beach to the east. It includes residential dwellings, developed by Stockland under this approval, and an undeveloped portion of the site, owned by Anglicare (see **Figure 2**).



Figure 2 | Local Context Map / concept approval site (Source: Google Maps)

This modification request relates to the Anglicare portion of the site (see **Figure 2**). It includes industrial buildings relating to a former tile, brick and metal factory, an area of turpentine forest, the Cookson's Creek riparian corridor, some cleared vacant land and building remains known as the former Dairy Farmers site, a former quarry and other previously cleared and vacant land (see **Figure 3 to 7**).



Figure 3 | Modification Site (Source: Google Maps)



Figure 4 | Former Industrial Buildings (Source: Proponent's Environmental Assessment)



Figure 5 | Central Turpentine Forest (Source: Proponent's Environmental Assessment)



Figure 6 | Former Dairy Farmers Site (Source: Proponent's Environmental Assessment)



Figure 7 | Former quarry portion of the site (Source: Proponent's Environmental Assessment)

1.3 Approval history

Commission of Inquiry

In 2003, a Commission of Inquiry for Sandon Point investigated the preferred land uses, planning outcomes and management options for the site, having regard to its values and the constraints of the surrounding urban and non-urban environment. Following this, the then Minister for Planning appointed Charles Hill to independently review the Commission's findings and recommendations.

On 3 November 2005, Charles Hill's report made recommendations to balance development and environmental gains within Sandon Point.

Concept Approval & SSS Study Approval / Rezoning

On 21 December 2006, the then Minister for Planning granted concept approval for the redevelopment of Sandon Point (MP06_0094) for a large residential subdivision (on the Stockland site) and a retirement village (on the Anglicare site). Specifically, the concept approval provides for:

Stockland site:

- subdivision into a maximum of 180 detached dwelling lots
- subdivision to create one super lot to accommodate up to 80 apartments
- subdivision of two super lots for up to 25 town houses
- potential for the development of a maximum of 285 dwellings on the proposed lots
- building envelopes for the three super lots
- preliminary road layout and associated civil and service works including landscaping, recreation of riparian corridors, construction of water quality ponds, stormwater and flood management.

Anglicare site:

- RACF of up to four storeys containing up to 120 beds
- a mix of apartment buildings of up to three storeys containing up to 250 ILUs
- community facilities and services to support residents of the retirement village
- access and car parking
- landscaping, including rehabilitating riparian corridors and the Turpentine Forest
- civil works, such as road, stormwater management and utility services.

The concept application was assessed concurrently with a State Significant Site Study (SSS Study), lodged under the former State Environmental Planning Policy (Major Projects) 2005. The SSS Study informed the rezoning process and assessment of the concept plan. The Minister approved the rezoning of the site to give effect to the concept plan.

In addition to the current modification, the concept approval has been modified on three occasions (all relating to the Stockland site). A further modification request, in relation to the Anglicare site, was never pursued (see **Table 1**).

Table 1 | Summary of Modifications

Mod No.	Summary of Modifications	Approval Authority	Type	Status
MOD 1	Revised location of the townhouse lots and other minor amendments	Minister	75W	Approved on 29 November 2009
MOD 2	Delete a commitment for Stockland to enter into a Voluntary Planning Agreement (VPA)	Department	75W	Approved on 9 August 2010
MOD 3	Modification to the Anglicare site	N/A	75W	Withdrawn
MOD 4	Replace an apartment superlot with 16 single dwelling lots	Department	75W	Approved on 25 July 2014

Project Approval (Stockland site)

On 29 November 2009, the then Minister for Planning granted project approval for the residential subdivision of the Stockland site (MP07_0032). The project approval has been modified on four occasions and the approval, as modified, includes subdivision to create 197 allotments, temporary display village, earthworks, landscaping and associated roads and infrastructure.

All development on the Stockland site under the project approval has been completed and the site is occupied.

2 Proposed modification

This section 75W modification request (MP06_0094 MOD 5) seeks approval to modify Anglicare's seniors living development component of the site to:

- relocate and reduce the size of a RACF, from 120 to 80 beds (40 bed reduction)
- reduce the total number of dwellings by 59 (from 250 to 191) by:
 - reducing the number of ILU, from 250 to 140 (110 unit reduction)
 - introducing 51 new dwellings (dwelling houses, semi-detached or multi dwelling houses) for use as either seniors living or general residential
- amend the road layout, delete an APZ and protect Aboriginal heritage on the site.

The Proponent has requested the modification as the market for seniors housing in the area has changed since the concept approval in 2006, due to a significant increase in supply in the area.

Following notification of the request, the Proponent submitted a Response to Submissions (RtS) and a further Supplementary Response to Submissions (SRtS) which amended the proposal (**Section 4.4**) as follows:

- redesigned the road network and provided rear lane access to the new dwellings
- reduced the proposed number of future dwelling lots (from 55 to 51)
- retained a waterway in its current form and amended the stormwater management measures.

The key components and features of the modification request (as revised in the SRtS and additional information) are provided in **Table 2** and shown in **Figures 8 to 15**.

Table 2 | Main components of the modification request

Aspect	Concept approval	Proposed modification
Development Description	Seniors living development: <ul style="list-style-type: none"> • RACF with up to 120 beds • apartment buildings with up to 250 ILUs 	Part seniors living / general residential: <ul style="list-style-type: none"> • RACF with up to 80 beds (40 reduction) • apartment buildings with up to 140 ILUs (110 reduction) • 51 new dwellings (dwelling houses, semi-detached or multi dwelling houses) for either seniors living or general residential (51 increase)
	Total dwellings: 250	Total dwellings: 191 (reduction of 59)
	<ul style="list-style-type: none"> • associated community facilities and services • access and car parking • landscaping, including rehabilitating riparian corridors and the Turpentine Forest 	

- civil works, such as road, stormwater management and utility services.

Development Parameters	<p>Site area: 81,195m²</p> <p>Developable area (roads and building sites): 46,003m²</p> <p>Undeveloped area: 35,192m²</p> <p>Expected future building footprints: 17,381m²</p>	<p>Site area: 79,468m² *</p> <p>Developable area (roads and building sites): 49,870m²</p> <p>Undeveloped area: 30,598m²</p> <p>Expected future building footprints: 13,608m²</p>
Development Controls	<p>Floor Space Ratio (FSR): 0.5:1</p> <p>Building height: 3 storeys</p> <p>Or, subject to design excellence competition:</p> <p>FSR: 0.7:1</p> <p>Building height:</p> <ul style="list-style-type: none"> • Precinct 1 ILUs: 11.4 m • Precinct 2 RACF: 3-4 storeys • Precinct 3 ILUs: 12.6 m 	<p>FSR: 0.5:1</p> <p>Building height: 3 storeys</p> <p>Or, subject to design excellence competition:</p> <p>FSR: 0.7:1</p> <p>Building height:</p> <ul style="list-style-type: none"> • Precinct 1 ILUs: 11.4 m • Precinct 1 RACF: 3-4 storeys • Precinct 3 dwellings: 12.6 m
Precinct 1 (formerly the Central Precinct)	<ul style="list-style-type: none"> • A variety of 3 storey buildings containing approximately 160** ILUs and associated community facilities 	<ul style="list-style-type: none"> • A variety of 3 storey buildings containing 140 ILUs and associated community facilities • 3 (or 3 to 4***) storey RACF with 80 beds
Precinct 2 (formerly the Hilltop Precinct)	<ul style="list-style-type: none"> • 3 (or 3 to 4***) storey RACF with 120 beds 	<ul style="list-style-type: none"> • Approximately 21 x 2 storey dwellings for seniors living or general residential
Precinct 3 (formerly the Oceanview Precinct)	<ul style="list-style-type: none"> • 3 storey buildings containing approximately 90** ILUs 	<ul style="list-style-type: none"> • Approximately 30 x 2 to 3 storey dwellings for seniors living or general residential • New protection of Aboriginal archaeological site
Roads	<ul style="list-style-type: none"> • Access roads through the development, including a road over Cookson's Creek connecting Precincts 1 and 3 • Extension of Geraghty Street to the south, including bridge over Tramway Creek 	<ul style="list-style-type: none"> • Road layout redesigned, with road over Cookson's Creek deleted
Landscaping, Pedestrian Links	<ul style="list-style-type: none"> • Landscaping throughout the developed area of the site, including tree planting, a variety 	<ul style="list-style-type: none"> • Revised landscaping scheme to account for revised layout, but maintaining tree planting, a variety of

	of recreational spaces and pedestrian connections	recreational spaces and pedestrian connections
Biodiversity and Natural Environment	<ul style="list-style-type: none"> Retention and rehabilitation of riparian corridors and the Turpentine Forest 	<ul style="list-style-type: none"> Retention and rehabilitation of riparian corridors and the Turpentine Forest Deletion of a weir across Cookson's Creek
Bushfire Control	<ul style="list-style-type: none"> 20 m APZ around Turpentine forest 	<ul style="list-style-type: none"> 6 m defendable Space area around Turpentine Forest
Stormwater Management	<ul style="list-style-type: none"> Stormwater management works and utility services 	<ul style="list-style-type: none"> revised stormwater management measures, including new culvert under Geraghty Street and new swale

* Site area previously reduced due to road widening

** ILU numbers estimated based on a total of 250 apportioned in accordance with precinct size

*** Increase in height permitted subject to design competition as per Modification B4 of the approval

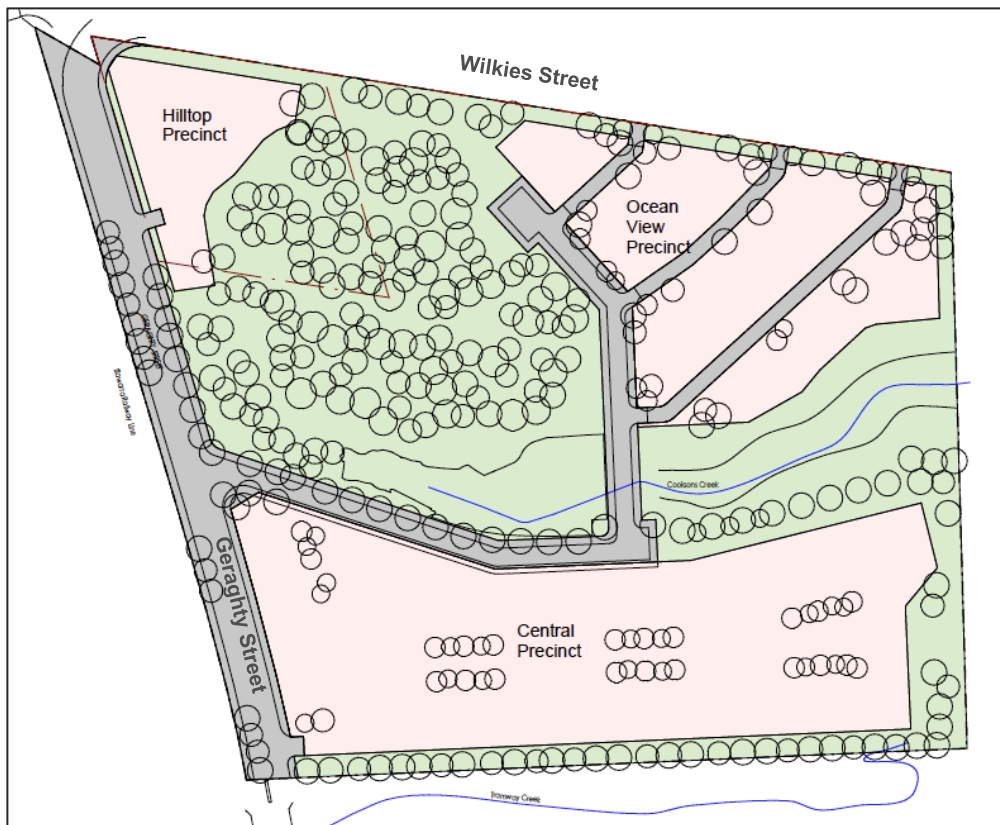


Figure 8 | Approved concept plan layout (source: Proponent's Supplementary Information)

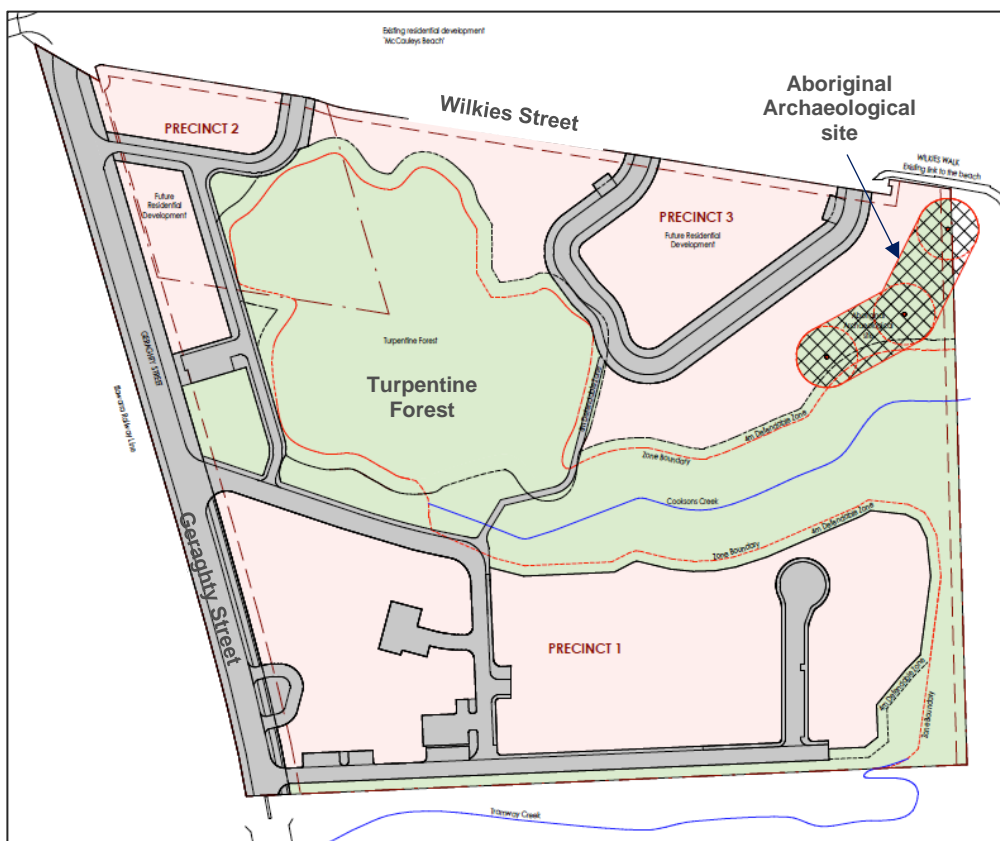


Figure 9 | Proposed concept plan layout (source: Proponent's Supplementary Information)



Figure 10 | Potential indicative building footprints under concept approval (source: MP06_0094 documents) (note: not approved and subject to future DAs)

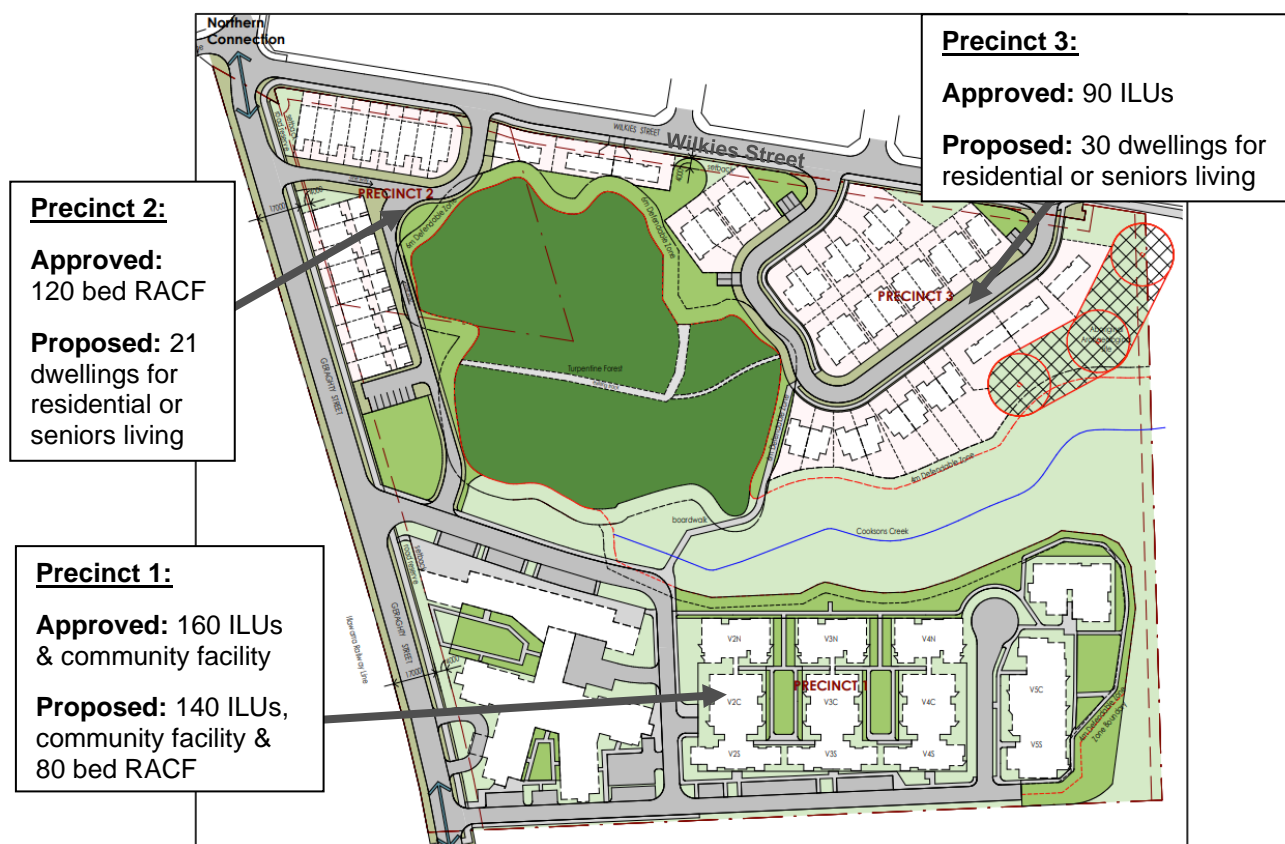


Figure 11 | Potential indicative building footprints under proposed concept plan (source: RTS documents) (note: not for approval and subject to future DAs)



Figure 12 | Concept landscape plan submitted with original application (source: MP06_0094)



Figure 13 | Proposed concept landscape plan (source: RTS documents)

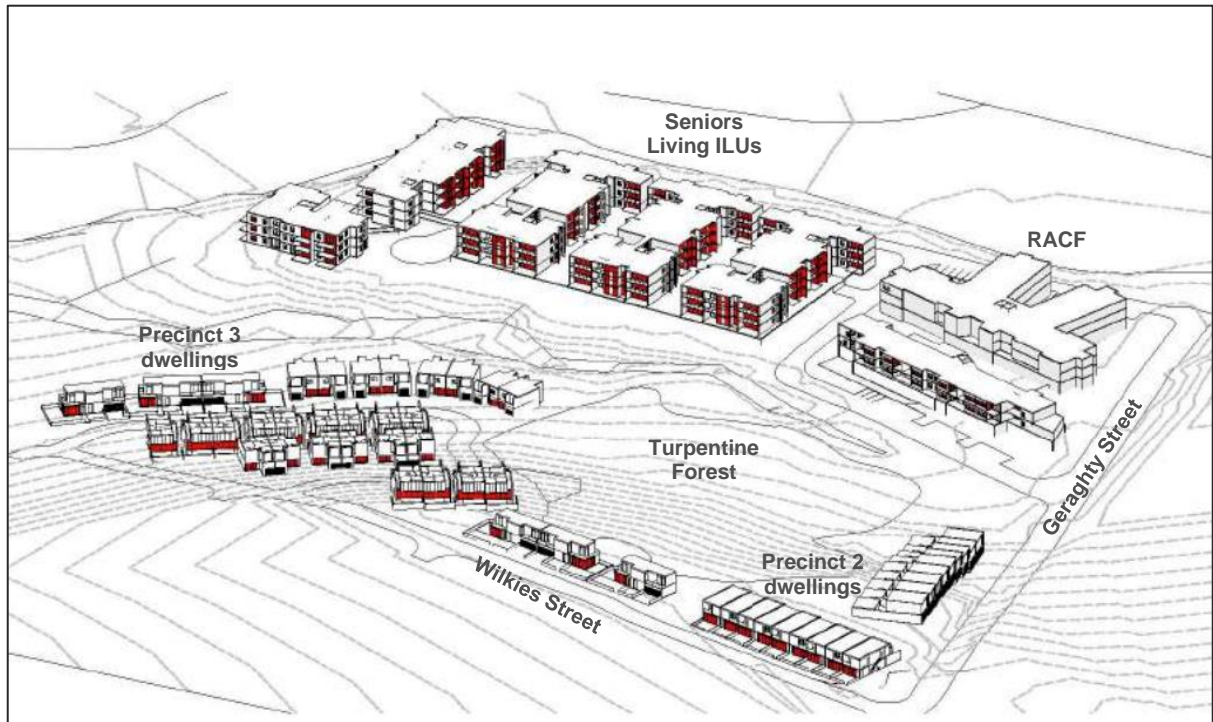


Figure 14 | Perspective of potential future building forms (source: RTS documents)

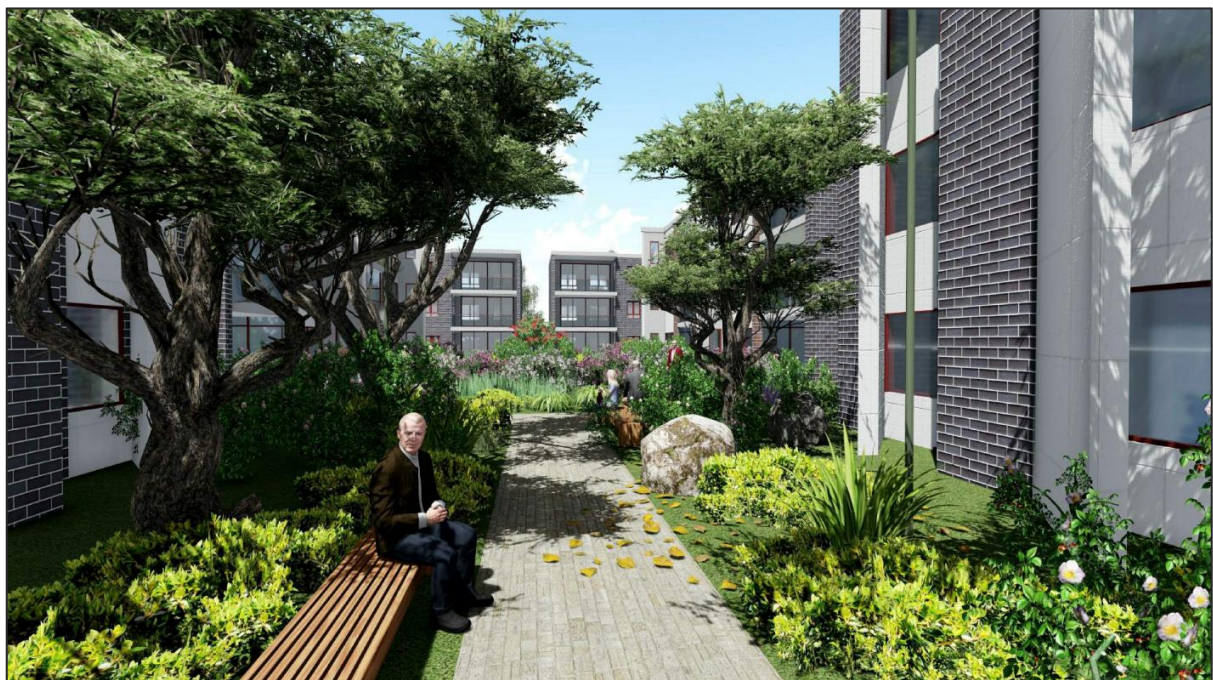


Figure 15 | Photomontage of potential future ILU buildings in Precinct 1 (source: RTS documents)

3 Strategic context

The Illawarra Shoalhaven Regional Plan sets the planning priorities for the Kiama, Shellharbour, Shoalhaven and Wollongong LGAs and provides guidance for regional and local planning decisions.

The plan seeks to facilitate growth in the region by developing a strong, diverse and competitive economy that allows communities to adapt to changing economic, social and environmental circumstances. In addition, it seeks to ensure that residents are provided with access to a wide range of lifestyle choices, stunning landscapes and biodiversity, work opportunities, a network of centres and high quality education and healthcare facilities.

The modification, which responds to changes in market demand for housing, is consistent with the directions and actions outlined in the Regional Plan as it would:

- provide sufficient housing supply to suit the changing demands of the region (Direction 2.1)
- match supply of housing with demand (Direction 2.5)
- ensure biodiversity values on the site are conserved (Direction 2.4)
- protect the region's cultural heritage (Direction 3.4).

4 Statutory context

4.1 Modification of the Minister's Approval

The concept plan was originally approved under Part 3A of the EP& A Act. This means the project satisfied the definition of a 'transitional Part 3A project' under clause 2(1) Schedule 2 to the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (STOP Regulation), which came into effect on 1 March 2018.

Under the ST&OP Regulation, the power to modify transitional Part 3A projects under section 75W of the Act, as in force immediately before its repeal on 1 October 2011 is being wound up – but as the request for this modification was made before the 'cut-off date' of 1 March 2018, the provisions of Schedule 2 (clause 3) continue to apply. Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove the carrying out of the project.

The Department of Planning Industry and Environment (Department) is satisfied the proposed changes are within the scope of section 75W of the EP&A Act, and do not constitute a new application.

4.2 Approval authority

The Minister for Planning and Public Spaces is the approval authority for the modification request. However, the Group Deputy Secretary, Planning and Assessment, may determine the request, under delegation dated 9 March 2020, as:

- a political disclosure statement has not been received, and
- more than 50 unique submissions were received from the public objecting to the proposal.

4.3 Environmental Planning Instruments

The original application was assessed against the following Environmental Planning Instruments (EPIs):

- State Environmental Planning Policy (Major Projects) 2005 (now State Environmental Planning Policy (State Significant Precincts) 2005)
- State Environmental Planning Policy No.11 Traffic Generating Developments (replaced by State Environmental Planning Policy (Infrastructure) 2007)
- State Environmental Planning Policy No.32 Urban Consolidation (Redevelopment of Urban Land) (now repealed)
- State Environmental Planning Policy No.55 Remediation of Land
- State Environmental Planning Policy No 65 Design Quality of Residential Flat Development (now State Environmental Planning Policy No 65 Design Quality of Residential Apartment Development)

- Draft State Environmental Planning Policy No 66 Integration of Land Use and Transport (n replaced by State Environmental Planning Policy (Infrastructure) 2007)
- State Environmental Planning Policy No 71 Coastal Protection (replaced by State Environmental Planning Policy (Coastal Management) 2018)
- State Environmental Planning Policy (Seniors Living) 2004 (now State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004)
- Illawarra Regional Environmental Plan No 1 (now repealed)
- Wollongong Local Environmental Plan 1990 (partly replaced by Wollongong Local Environmental Plan 2009)

The Department is satisfied the proposed modification does not result in significant changes that would alter the conclusions made as part of the original assessment in relation to these EPIs or any subsequent replacement EPIs. The Department is also satisfied the proposed modification does not result in any changes that would require any additional assessment under the EPIs that apply to the proposed development.

5 Engagement

5.1 Department's engagement

The Department publicly exhibited the modification request for 30 days between 15 November and 14 December 2018. It placed advertisements in the Illawarra Mercury and the Advertiser and made the request publicly available on the Department's website. The Department also notified Council, relevant Government agencies and wrote to adjoining residents and landholders, inviting submissions in response to the modification request.

5.2 Summary of submissions

During the exhibition period, the Department received 80 submissions on the proposal, including submissions from Council, five NSW Government agencies and 74 members of the community (including two special interest groups) (**Table 3**). 68 of the 74 public submissions objected to the proposal, five provided comments only and one supported the modification

Two of the submissions were petitions with a total of 1,567 signatures and 21 submissions were submitted as four different styles of form letters.

A summary of the submissions is provided at **Table 4**, and a link to the submissions is provided in **Appendix B**.

Table 3 | Summary of Council, Agency, Special Interest Group and Community Submissions

Submitter	Number	Position
Council and Agencies		
Wollongong City Council	1	Comment
Transport for NSW	1	Comment
Environment, Energy and Science Group (EESG)	1	Comment
Sydney Water	1	Comment
Sydney Trains	1	Comment
Rural Fire Service	1	Comment
Special Interest Groups		
Thirroul Village Committee	1	Object
Northern Illawarra Residents Action Group	1	Object
Community Members		
	47	Object
< 5 km	1	Support
	4	Comment
5–100 km	9	Object

> 100 km	3	Object
Unknown location	1	Object
	1	Comment
Unique petitions (a total of 1,567 signatures)	2	Object
Unique form letters (a total of 21 form letters)	4	Object
Total submissions	80	
Council and Agencies	6	Comment
	68	Object
Public submissions (including Special Interest Groups)	1	Support
	5	Comment

5.3 Key issues raised in Council and Agency Submissions

Key Issues raised by Council and Government Agencies are summarised in **Table 4**.

Table 4 | Summary of Council and Government Agency submissions on the EIS exhibition

Wollongong City Council (Council)

Council does not object to the proposal but provided the following comments and recommendations:

- Notes the approved and proposed seniors living development is inconsistent with the character and scale of the surrounding area and the expectations of the community.
- Supports the north-south link road, including the bridge over Tramway Creek, and recommends conditions to ensure this is constructed and provided by the Proponent.
- Supports the rehabilitation and embellishment of the Turpentine Forest area but notes that the Proponent is to be responsible for the long-term management and ownership of that land as Council will not accept ownership.
- Concerns about the future lot layout and building forms. Recommends that the seniors housing be restricted to a single story. Council also notes a number of non-compliances with its Development Control Plan 2009 (DCP), including concerns with garage widths, storage, private open space location and solar access, privacy and building separation, and lot depths.
- Requests further information to address Aboriginal heritage issues, including additional archaeological assessment, assessment of impacts from changes to the access roads, future ownership and management arrangements and Aboriginal community consultation.
- Concerns about stormwater management arrangements, including filling and realignment of a watercourse, impacts of a proposed flood barrier, impacts to adjoining sites, impacts to an existing stormwater pit and the provision of unnecessary on-site detention.
- Recommends the road design be adjusted to address issues relating to excessive driveway crossovers, accommodation of waste management vehicles, accommodation of level differences, and connections to adjoining sites.

- Recommends landscaping be updated to address concerns relating to pedestrian connections, amenity and safety, provision of street trees and footpaths, embankment slopes.
- The Biodiversity Assessment, surveys and Vegetation Management Plan are all considered to be preliminary only and will need to be revised to address outstanding issues and details at the DA stage. The site will require remediation and validation.
- The Statement of Commitments should be updated to reflect that Council will be the approval authority for future applications and therefore future actions are to be subject to Council approval.

Transport for NSW (TfNSW)

The former Roads and Maritime Services (now TfNSW) noted the north-south link road is a vital part of the project and recommended Conditions to ensure it be delivered as part of the proposal.

Environment, Energy and Science Group (EESG)

EESG (formerly OEH) does not object to the proposal and made the following recommendations:

- An Aboriginal Heritage Management Plan should be developed and community consultation with the Aboriginal community should restart to meet current guidelines.
- Further information is required in relation to archaeological investigations.
- Biodiversity offsets and species credits should be re-calculated, and offsets be provided at an early stage of development.
- Further information is required in relation to flooding impacts (including a comparison of existing and developed conditions, flood mitigation measures, climate change considerations, ecological impacts, impacts to the rail corridor and impacts to the existing creek).
- Establish water quality objectives to guide treatment measures and consider the impact of the modifications on the coastal environment having regard to the current legislative framework.

Sydney Water

Sydney Water recommended that, due to the proximity of the proposed development to Sydney Water assets, the approved plans be required to be submitted to Sydney Water and recommended standard conditions in relation to servicing and future approvals.

Sydney Trains

Sydney Trains requested the Proponent consult with Sydney Trains on the proposed future bridge over Tramway Creek.

Rural Fire Service (RFS)

RFS notes the land is not mapped as bushfire prone and recommends that the current bushfire requirements of the concept approval remain unchanged.

5.4 Key issues raised in Public Submissions

While several public submissions reiterated their objection to the overall development, public submissions raised the following issues specifically in relation to the proposed modification:

- traffic impacts on Wilkies Street and associated share path as a result of increased traffic and number of driveways and road connections (61%)
- traffic impacts generally associated with increased residential development on the site (57%)
- impacts to biodiversity and the Turpentine Forest associated with the modified design, including the reduction of the 20m APZ to a 6m defendable zone (49%)
- incompatible character and scale of the proposed buildings with the surroundings (29%)
- on-street parking impacts associated with increased residential development on the site (28%)
- Aboriginal heritage impacts associated with the modified design (26%)
- timing for the delivery of the bridge over Tramway Creek is unclear and should be completed prior to any construction (15%)
- lack of pedestrian connectivity through the site and associated safety impacts (12%)
- the provision of affordable housing (10%)
- impacts to riparian corridors associated with the modified design and inappropriate provision of buffers (10%)
- contamination and asbestos (5%)
- lack of incorporation of environmentally sustainable development (ESD) measures into the modified design (4%)
- flood impacts and location of aged care facility on the lowest part of the site (3%).

5.5 Response to submissions

Following exhibition, the Department placed all submissions on its website and requested the Proponent provide a response to the issues raised in submissions.

On 31 May 2019, the Proponent provided a Response to Submissions (RtS) (**Appendix C**), which included changes to the road layout, deleted four future dwelling lots, located lots further away from the Aboriginal archaeological site, amended the design of an acoustic wall and deleted a pedestrian connection. Additional information was also provided in relation to flood impacts, biodiversity and vegetation management, bushfire and traffic management.

The RtS was made publicly available on the Department's website and referred to relevant public authorities, Council and previous submitters, for further comment within 14 days between 17 June and 1 July 2019. Submissions were received from three Agencies, Council and 35 submissions from the public (**Table 5**). Copies of the submissions may be viewed at **Appendix B**.

Table 5 | Summary of Council, Government Agency and Public Submission to the RTS.

Wollongong City Council (Council)

- Council reiterated previous comments in relation to consistency with planning controls, provision of the bridge over Tramway Creek, management of the Turpentine Forest, character, scale and use of future development, Aboriginal heritage, stormwater, impacts to threatened ecological communities and contamination, and noted that these issues have not yet been resolved.
- Council advised the revised road layout was a positive outcome and the revised landscape design is supported in principle.
- Council raised additional issues in relation to the level of consultation on Aboriginal heritage, impact of locating development nearer to the heritage listed Turpentine forest, impacts of non-compliant lot depths and proximity of the proposed roads to the Aboriginal archaeological site.

Transport for NSW (TfNSW)

TfNSW reiterated its earlier advice on the importance of the north-south road link.

Environment, Energy and Science Group (EESG)

EESG made the following comments:

- Recommends the Proponent be required to prepare an Aboriginal Heritage Management Plan and notes future DAs are likely to require Aboriginal heritage impact permits.
- Biodiversity impacts and water quality concerns have not been addressed by the RTS.
- Further information is still required in relation to flooding impacts (flood impacts in the rail corridor and implications for flood mitigation planned by council within the catchment).

Lands, Water and Department of Primary Industries (DPI)

DPI recommended that the Statement of Commitments be revised to ensure a remediation plan is developed for the creeks on the site in accordance with current guidelines.

Rural Fire Service (RFS)

RFS recommended the proposed 6m wide defensible space be incorporated into the concept approval.

Public Submissions

35 public submissions were received in response to the RtS, 33 of which were objections and two provided comments. These submissions largely reiterated concerns previously raised in response to the original exhibition and related to:

- traffic impacts, particularly impacts on Wilkies Street (87% of submissions)
 - development footprint encroaching closer to the Turpentine forest, with associated impacts to the forest, its heritage values and bushfire impacts (82%)
 - adverse impacts on the character of the area (74%)
 - number of crossings over Wilkies Street and the shared path (73%)
 - delivery and timing for the bridge over Tramway Creek (19%)
 - parking Impacts (24%)
 - lack of open space (19%)
 - access to services (11%)
 - uncertainty over the future use of the site (11%)
 - asbestos, construction impacts, Aboriginal heritage, need for a corner store and provision of an access path (all 4%).
-

5.6 Supplementary Response to Submissions and further information

On 3 December 2019, the Proponent provided a Supplementary Response to Submissions (SRtS), supplemented with additional information and updated plans on 17 March 2020 (**Appendix C**). The revised scheme realigned a road on the southern boundary to enable retention of trees, replaced an acoustic wall and flood barrier with a swale along the western boundary and provided an updated flood impact assessment.

Three submissions were received in response to the additional information, summarised as follows:

Council advised stormwater management matters had been resolved.

DPIE Water and the Natural Resources Access Regulator advised that the proposed modification should be designed to be consistent with the Guidelines for Controlled Activities on Waterfront land.

EESG advised it had no further comments on floodplain risk management and that Council is the responsible authority for this issue and that previous comments in relation to water quality and contamination have not been addressed.

6 Assessment

In assessing the merits of the proposal, the Department has considered:

- the modification application and associated documents
- the Environmental Assessment and conditions of the concept approval, as modified
- all submissions received on the proposal
- relevant EPIs, policies and guidelines
- the requirements of the EP&A Act.

The Department considers the key assessment issues relate to built form and character, traffic, biodiversity, Aboriginal heritage and water management. Other assessment issues are summarised in **Table 5** below.

6.1 Built form and urban character

A key concern raised in Council and community submissions was that the proposed development is inconsistent with the character and scale of the surrounding area and the expectations of the community. The concerns related primarily to indicative plans submitted with the modification that showed potential future layouts and building forms. However, it is important to note that the concept approval does not establish these buildings or any building envelopes, as these are subject to future DAs.

The development parameters established by the concept approval to guide future building forms (building height and maximum FSR) are not proposed to be substantially altered. Built form and urban character impacts from the proposed development on Precinct 1 and Precincts 2 and 3 are considered below.

Precinct 1 / The Central Precinct

Within Precinct 1 (located to the south of the modification site), the scale of development would remain consistent with the concept approval. ILUs within unit blocks and associated community facilities would continue to be provided in accordance with the existing concept approval (being a maximum height of three storeys or 11.4m where a design competition is held) (see **Table 2**).

While the number of ILUs within Precinct 1 is proposed to decrease (from 160 to 140), this precinct will also accommodate an 80 bed RACF (reduced from 120 beds and relocated from Precinct 2). Consistent with the existing approval, the height of the RACF building would be three storeys or four storeys where a design competition is held. Overall, the building footprint area within the precinct will decrease from 11,100 m² to 8,349 m² and the total urban footprint of the precinct (including all developable areas and roads) would not materially change as can be seen from **Figures 16** and **17**.

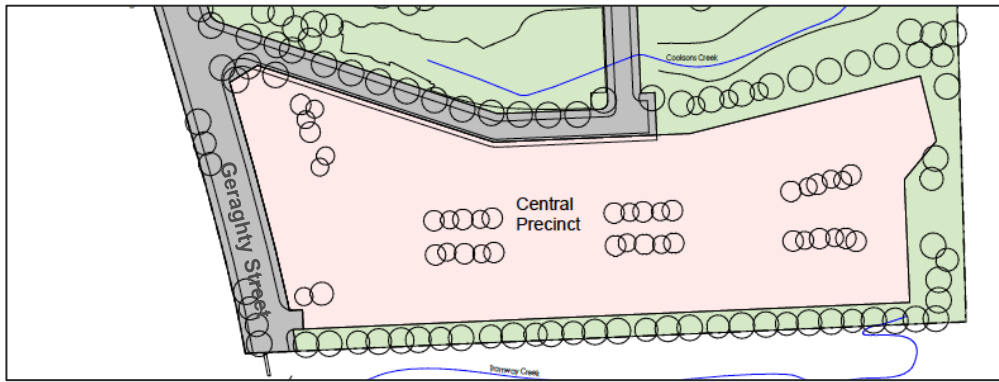


Figure 16 | Approved Precinct 1 Layout (source: Proponent's Supplementary Information)

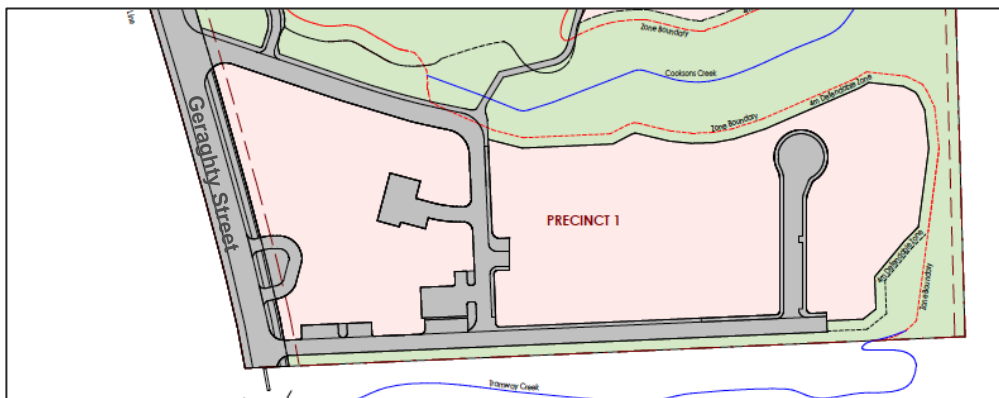


Figure 17 | Proposed Precinct 1 Layout (source: Proponent's Supplementary Information)

Council raised concerns that indicative architectural plans submitted with the modification showed buildings presenting as four storeys in height (three residential levels above a parking level located partly above ground), which could result in adverse visual impacts. The Proponent subsequently confirmed that approval is not sought for the indicative plans and the buildings would be subject to future DAs. As with the existing approval, all future development would be assessed in accordance with the relevant design requirements of the Seniors Living SEPP.

The Department supports the proposal in terms of built form and character, as the overall scale of development within Precinct 1 is consistent with the existing concept approval. The relocation of the potentially tallest building on the site (the three to four storey RACF) from the more elevated area of Precinct 2, immediately adjoining other residential development, to Precinct 1 which is lower and separated from other residential areas, is a positive outcome as it would reduce the overall visual impacts of the development.

The current concept approval retains a row of trees along the southern boundary of the site, which would visually screen the development when viewed from the south. The originally proposed modification included a roadway adjacent to the boundary, which results in the removal of those trees. In response to concerns raised by the Department, the Proponent relocated the road slightly north (as seen **Figure 17**).

However, as the size of the setback is not the same as the original approval, the Department recommends a condition requiring future development applications to demonstrate that the alignment of the road and its setback from the boundary will retain existing trees and provide adequate landscape planting to screening along the southern boundary.

Subject to this condition, the Department is satisfied the modification would not result in any material adverse changes to the character of this part of the site, or how it is viewed from the surrounding area.

Precincts 2 and 3 (Hilltop and Ocean View Precincts)

In Precinct 2, the three to four storey RACF building (120 beds) would be replaced with up to approximately 21 dwellings, with associated additional roadways to provide rear lane access. The Proponent has advised buildings would be two storeys and indicative lot sizes would range from 150m² to 265m².

In Precinct 3, three storey ILU buildings (containing 90 ILUs) would be replaced with approximately 30 dwellings. The Proponent has advised buildings would be up to three storeys inclusive of a semi-submerged carparking level and indicative lot sizes would range from 200m² to 370m². The proposal seeks to retain a maximum building height of 12.6 metres which would have applied to ILU buildings where a design competition is held.

Across the two precincts, the total building footprint would remain similar to that approved, but the total urban footprint including roads and other developable areas would increase slightly compared to the approved masterplan (see **Figures 18 and 19**).



Figure 18 | Approved layout of Precincts 2 and 3 (source: Proponent's Supplementary Information)

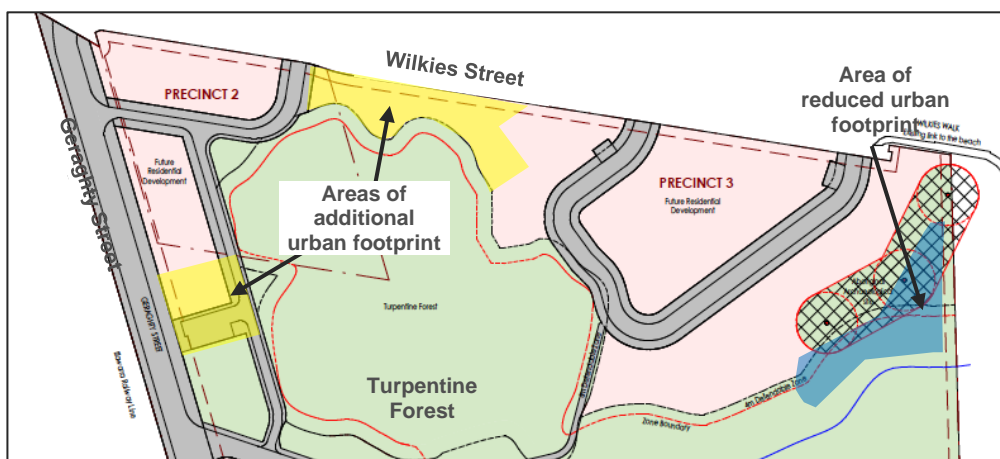


Figure 19 | Proposed layout of Precincts 2 and 3 (source: Proponent's Supplementary Information)

A key concern raised in public submissions was that the proposed 'townhouse' style development was inconsistent with the character of the area to the north of the site, in terms of building heights, style, small lot sizes and dominance of garages and driveway crossovers onto the adjoining streets.

Council raised concerns in relation to the potential future lot layout and future built forms, based on the indicative plans submitted with the application. Specifically issues raised by Council related to proposed building heights (particularly 'basement' level parking being provided above ground and creating a third storey), the appropriateness of two-level dwellings for seniors housing, garage widths exceeding the DCP controls, provision of dual frontage lots resulting in adverse streetscape outcomes, some lots with insufficient depth contrary to the DCP with potential adverse heritage impacts, and potential issues with solar access to private open space.

The Proponent's RtS addressed several of these concerns by providing rear lane vehicular access to most of the dwellings in Precinct 2 and redesigning the road layout to remove dual frontage allotments from the remainder of the site. It also confirmed that approval is not sought for the indicative plans and future subdivision layout, and buildings would be subject to future DAs, but provided a revised indicative layout plan for information purposes (see **Figure 20**).

The Department considers that overall the proposal sits comfortably within the character of the site and has a positive relationship with the adjoining area to the north. The proposed scale and density of development in Precincts 2 and 3 is significantly reduced when compared to existing approval and the proposed change in building form (from a three to four storey institutional building and three storey apartment buildings to two to three storey dwellings) would provide an improved relationship to the form and character of the low density dwelling houses immediately to the north.

However, the Department considers there are a number of detailed visual and urban design issues arising from the proposed modification, as discussed below.

Visual impacts along northern boundary

The first issue relates to the potential streetscape and visual impacts along the northern boundary interface. As can be seen in **Figures 10** and **18**, other than the RACF building in Precinct 2, the approved layout did not include buildings fronting Wilkies Street, but rather provided a landscaped green edge with trees to screen the development when viewed from Wilkies Street. Several public submissions raised concerns that the proposed development would result in adverse visual impacts, with the natural appearance of the site expected under the current approval replaced by large scale development that is out of character with the area.

The Department considers that, other than the section of the frontage where the RACF building would have been visible, a landscaped green edge (of approximately 4m) should be provided along the northern boundary of the site and this should not form part of the developable areas / future subdivision lots (**Figure 20**). This would ensure the proposed development is visually integrated and screened when viewed from the north, as intended under the concept approval. A condition has been recommended accordingly.



Figure 20 | Indication of potential lot layout and building footprints (source: RTS documents) (not for approval, and subject to future DAs)

This will require further amendments to the indicative lot layout and result in the potential loss of three indicative lots from the Wilkie Street frontage (**Figure 20**). In addition, the Department does not support these three lots, as their orientation, driveway crossings (refer to **Section 6.2**), shallow lot depths (contrary to Council's controls resulting in lack of rear private open space) and rear building lines and fence lines affected by the defensible space around the Turpentine Forest. As discussed below, it may be possible to re-provide these three lots within Precinct 3.

With the deletion of lots from this part of the site and the provision of a 4m green edge, the Department is satisfied that the overall urban footprint and potential layout of the development would be similar to that of the original approval.

Lots adjacent to the Aboriginal archaeological site

A second issue is that the road layout results in potentially three shallow lots adjacent to the Aboriginal archaeological site. Council notes these lots do not comply with its DCP control for lot depth and may adversely impact the Archaeological site (discussed below in **Section 6.4**). The Department considers that these lots could also result in poor urban design quality, with wide unarticulated front facades and limited rear private open space.

The Department considers that the proposed internal 'loop' road could be realigned slightly to the north-west (**Figure 20**), which would:

- provide opportunities for narrower and longer lots that are consistent with the rest of the precinct resulting in a more consistent urban character
- enable the three lots to be re-orientated to be consistent with Council's DCP and dwellings on these future lots to be setback further from the archaeological site, reducing the potential heritage impacts.

The Department therefore recommends conditions to require the road be realigned to facilitate improvements to the subdivision layout, including the provision of deeper lots adjacent to the archaeological site.

Detailed design guidelines

The final issue relates to the control of future development on the site to ensure good internal amenity, streetscape design and environmental performance. While future development was previously subject to the design requirements of the Seniors Living SEPP, this would not apply to future residential development.

The Proponent contends that future development would be designed having regard to the provisions of Councils DCP. However, the DCP currently does not apply to and specifically excludes sites that have been approved under Part 3A of the Act. Further, the DCP's residential subdivision and residential development controls generally do not envisage the lot sizes proposed under this modification and therefore compliance with the DCP may prove difficult at the detailed design phase, with a number of potential issues already identified by Council.

Given the existing approval permits three storey development in this area, the Department considers three storey development is acceptable, but this should be subject to ensuring appropriate streetscape and internal amenity outcomes. This would require setting upper levels back from the front façade to reduce building bulk, ensuring building heights would not result in unacceptable overshadowing impacts and ensuring the connection of private open space with living areas.

The Department notes the original concept approval controlled the future design through Design Guidelines for single dwellings on the Stockland lands (Condition B3) or through a design excellence competition for other buildings that would exceed height and floor space controls (Condition B4). The requirement for Design Guidelines was deleted in a subsequent modification on the basis that the NSW Housing Code (applicable under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*) provided appropriate design guidance for dwelling houses. However, in this case the proposed dwellings would be unlikely to comply with the NSW Housing Code which limits dwellings to two storeys in height.

The Department also notes that the proposed development within Precinct 1 could have an FSR of 0.8:1, which exceeds the permitted FSR for the site (unless it is offset by lower overall FSRs in Precincts 2 and 3). The provision of Design Guidelines would enable future development in Precincts 2 and 3 to be controlled to ensure overall FSRs are consistent with the approval.

The Department therefore recommends a condition requiring Design Guidelines be prepared for the subdivision and detailed design of dwellings within Precincts 2 and 3, where development is not proposed to be for Seniors Living purposes.

Subject to design guidelines demonstrating good levels of solar access, internal amenity and streetscape design, the Department is satisfied the proposed dwellings could be partly three storeys in height (with the third storey setback from the street frontage). With a three-storey height control in place, it is unnecessary to retain the existing 12.6m height limit which would have applied to ILU building, and therefore this control is recommended for deletion.

6.2 Roads and Traffic

Traffic generation

Several public submissions raised concerns with the general traffic impacts of the proposal. However, these concerns were not shared by Council, RMS and TfNSW.

The Traffic Assessment submitted with the application estimates that the development of the Anglicare site as approved would result in a total 71 to 77 vehicle trips during peak hour, based on current RMS guidelines and traffic surveys.

The proposed modification, which seeks to decrease aged care beds and overall dwelling numbers, would reduce peak hour vehicle movements (to 55 - 59 peak hour vehicle trips) provided all dwellings were used for the purpose of seniors living.

However, should the 51 proposed dwellings in Precincts 2 and 3 be occupied as standard residential accommodation, peak hour movements would increase, given that occupants are more likely to be working age or at school and therefore more likely to travel during peak hour. In that case, total peak hour movements from the site are estimated at between 81 and 85 vehicle movements, representing an increase of 10 additional movements in the am peak and 8 additional movements in the pm peak compared to the current approval.

The Department considers the additional number of vehicular movements (equating to between 1 additional car movement every 6 to 7 minutes) would be insignificant and would not have a material effect on traffic or the operation of the local road network. The Department is therefore satisfied the proposal would not result in any unacceptable adverse impacts to the local traffic network generally.

Traffic impacts to Wilkies Street

A key concern raised by residents is that Wilkies Street along the northern boundary of the site is very narrow and was not designed to accommodate any additional traffic from the proposed 51 dwellings. Submissions suggest Wilkies Street be widened or an alternative road layout be provided to reduce or remove access to Wilkies Street

The Department notes that the existing approval included three roads from the site onto Wilkies Street, providing access to around 90 ILUs in Precinct 3. The approved road layout also enabled access from Precinct 1 (to the south) onto Wilkies Street, resulting in a further 160 ILUs being able to access Wilkies Street (in addition to Geraghty Street).

The proposed modification reduces density in Precinct 3 from around 90 ILUs to approximately 30 detached and semi-detached dwellings that would use Wilkies Street for access. While a further 18 dwellings in Precinct 2 would also use Wilkies Street (following deletion of three townhouses as recommended in **Section 6.1**), traffic impacts would be shared with Geraghty Street as the one way traffic flow arrangement means only half the traffic (exiting the site) would only use a short section of Wilkies Street (see **Figure 21**).

Further, the through site road from Wilkies Street to Precinct 1 is being deleted under the modification, significantly reducing the overall number of dwellings that have the potential to access Wilkies Street directly from the site.

For these reasons the Department is satisfied that overall traffic movements on Wilkies Street is likely to be reduced or similar to that of the existing concept approval, and as such there is no justification for road widening or alternative road design arrangements.

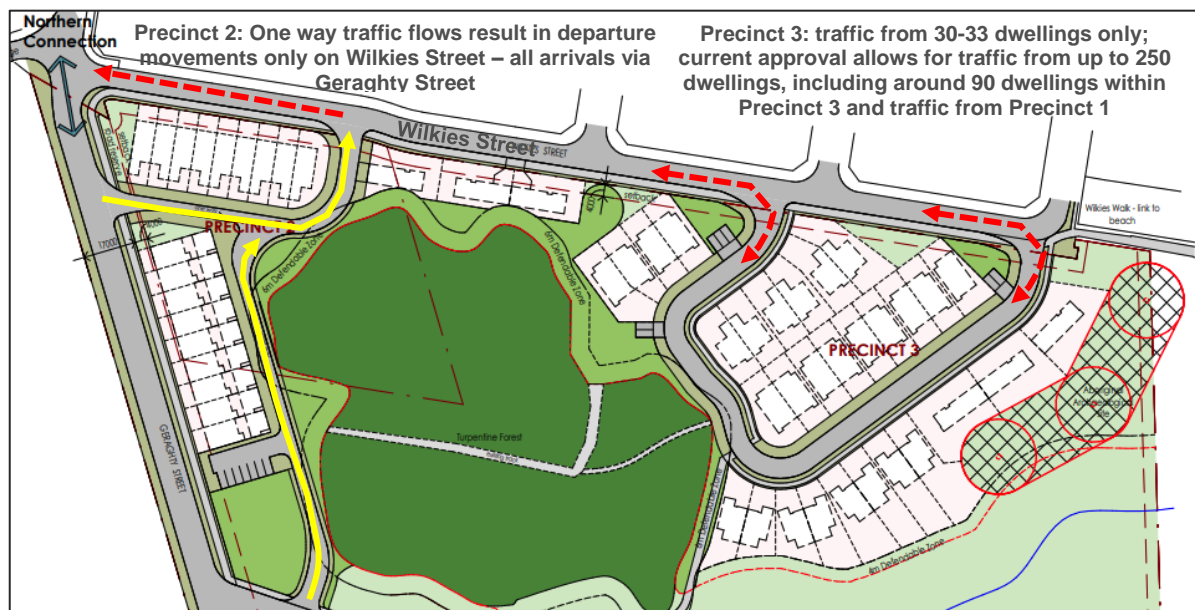


Figure 21 | Wilkies Street traffic movements (base image source: RTS documents)

Safety impacts to Wilkies Street

Council and public submissions also raised concerns with the impact of the development on 'Wilkies Walk', which is a shared pedestrian and cycleway on Wilkies Street adjoining the site. Submissions raised concerns with the number of roads and driveways that cross the existing shared path, with increased potential for conflict between pedestrians, cyclists and motor vehicles.

In response, the Proponent amended the proposal to reduce the number of road junctions with Wilkies Street from four to three (with one road being one-way movements only) and provided rear lane access to most townhouses in Precinct 2.

As discussed in **Section 6.1**, a recommended landscaped green edge along the northern boundary of the site would result in the loss of three potential lots on Wilkies Street. The deletion of these lots would ensure the removal of all driveway crossovers on Wilkies Street.

The provision of three access roads to Wilkies Street (one being one-way) and the deletion of all driveway crossovers would result in a similar outcome to that of the concept approval, which allows only three access points on Wilkies Street.

On this basis and given the above conclusion that overall traffic movements on Wilkies Street would not materially increase as a result of the proposed modification, the Department is satisfied the modification would not result in adverse impacts for safety on Wilkies Walk compared to the development as approved.

Internal road design

As discussed in **Section 6.1**, the Department recommends realignment of a roadway to accommodate improved setbacks from the Aboriginal archaeological site. As discussed in **Section 6.3** below, it may

also be necessary to slightly redesign or realign roads to ensure their design and construction, including any associated retaining walls or batters would not impact on adjacent conservation land.

In addition, the Department notes the layout of carparking and hardstand areas within Precinct 1 may also reduce flexibility in future building design and road layout, and therefore recommends that these should also be flexible. Council also recommended that the road design be adjusted to accommodate waste management vehicles, level differences and connections to adjoining sites.

A condition is therefore recommended to clarify that final road design and alignments are subject to future DA approval and shall be amended to address the above matters.

Parking

Several public submissions raised concerns with potential impacts to on-street parking capacity. The Department notes that parking is not controlled by the existing concept approval and will be considered in the assessment of future applications.

Subject to adequate on-site parking being provided in accordance with applicable controls as part of future applications and noting that the proposal only slightly increases overall traffic generation (**Section 6.2**), the Department is satisfied that the proposed modification will not adversely impact on on-street parking.

Delivery of bridge and road connection

The existing concept approval requires the provision of a north-south through site road link along the western edge of the site, including a bridge over Tramway Creek to enable the extension and connection of Geraghty Street to the south. Existing conditions require delivery of the road link and associated bridge as part of the second stage of development on the Anglicare site.

The modification does not seek to amend the delivery of the bridge. However, it includes amended wording to conditions and the Statement of Commitments to clarify the bridge forms part of the concept approval and would be delivered by the Proponent.

Council and RMS noted the importance of the delivery of the bridge and suggested conditions to ensure construction and provision of this infrastructure by the Proponent. Sydney Trains requested the Proponent consult with Sydney Trains on the proposed future bridge. Council also noted impacts associated with construction of the bridge (including Aboriginal heritage impacts) have not been considered in the modification application.

Public submissions suggested that there is a need to deliver the bridge first, prior to any construction on the site, to ensure construction vehicles are able to access the site from the south and avoid the narrow residential streets to the north of the site.

The Proponent notes the modification does not seek to make any changes to the bridge or its delivery compared to the existing approval, although the indicative staging plan submitted with the modification request includes delivery of the bridge and road extension as part of Stage 1A (the first stage of the development).

Detailed design, impacts, and arrangements for delivery of the bridge would be matters for further consideration at the development application phase, as would consultation with Sydney Trains. The Department is satisfied that existing conditions on the approval ensure delivery of the bridge by the

Proponent. However, the Department recommends that the approval be amended to enable delivery of the bridge in either the first or the second stage, to reflect the indicative staging plan.

The Department considers that the proposal does not result in any specific changes that would warrant additional conditions in relation to the delivery of the bridge as part of the concept approval.

6.3 Biodiversity and conservation lands

Impacts to conservation zone land, including Turpentine Forest

The site contains an area of coastal Turpentine Forest and a riparian zone adjacent to Cookson's Creek which are to be retained and rehabilitated under the existing concept approval. The forest and riparian zone are zoned E2 Environmental Conservation. The forest is also listed as a landscape heritage item under the SSP SEPP, and was previously identified as significant as *a rare example of coastal wetland sclerophyll forest dominated by Syncarpia glomulifera trees possibly in excess of 100 years of age*. An Aboriginal Anthropological Report submitted with the modification request also recognises that the area has Aboriginal Cultural Heritage significance.

The proposed modification does not seek to change the Turpentine Forest or the Riparian zone, other than replacing a roadway and weir over Cookson's Creek with a pedestrian bridge. The effect of this change is to reduce the overall extent of development within the conservation zoned land.

However, the modification seeks to replace an existing requirement under the concept approval for a 20m wide APZ surrounding the Turpentine Forest with a six metre wide 'defendable space' for bushfire protection. The proposal includes the provision of roadways and footpaths within some sections of the defendable space. The defendable space would be required to be generally cleared of vegetation and obstructions, such as fencing.

Community submissions raised concerns that as a result of this change, the development footprint would encroach closer to the Turpentine Forest, with associated impacts to the forest, its heritage values and bushfire impacts.

Council also noted the proposed change had not been justified in terms of impacts on the forest, including its natural and cultural heritage values. Council advised it supports the rehabilitation and embellishment of the Turpentine Forest area, but noted that the submitted Vegetation Management Plan (VMP), which outlines management and revegetation measures, is preliminary in nature and would be required to be updated as part of future applications. Council also advised the Proponent would be responsible for the long-term management of the forest as Council would not accept ownership of this land.

The Department notes the 20m wide APZ was required as part of the original concept approval to address potential bushfire impacts and protect proposed adjoining residential development from bushfire threat. The proposed change has been considered in terms of bushfire impacts below in **Section 6.7** and found to be acceptable.

The APZ was not required to serve any additional functions, such as creation of a buffer zone to protect the Turpentine Forest from the impacts of the surrounding development. Similarly, heritage assessments have not identified the need for a buffer zone either. Further, the approved 20m APZ permitted roadways and footpaths within the APZ area up to the boundary of the E2 zone. The

modification therefore does not result in any changes to the potential proximity of roads and infrastructure to the forest.

The Department is satisfied that existing conditions and previous environmental assessments relating to the site do not require buffer areas around the forest in order to protect the values of that land. The APZ or defensible space areas are both within the residential zoned land and therefore residential development including associated roadways are permissible and appropriate, having regard to the objectives of that zone.

Subject to future applications ensuring that roads and other development are designed and constructed so as to protect the adjoining conservation land, and subject to appropriate vegetation management in accordance with a future detailed VMP, the Department is satisfied the proposal would not result in any unacceptable impacts on that land. Conditions have been recommended to this effect. Further, overall impacts within the conservation zone itself are likely to be reduced as a result of deletion of the proposed roadway and weir over Cookson's Creek.

The Department is also satisfied the proposed modification does not alter potential future management or ownership arrangements of the forest and the Proponent has confirmed it is not intending to transfer the land to Council.

Biodiversity impact assessment

As described above, the proposed modification retains the conservation zoned land on the site, does not seek to significantly alter the extent of the developable areas of the site and will reduce overall site density. It is therefore unlikely that the modification would result in significant adverse biodiversity impacts compared to any impacts originally assessed and approved.

However, since the concept approval, there has been a change in biodiversity assessment requirements, and the modification request was therefore accompanied by a Biodiversity Development Assessment Report (BDAR) (BC Act).

The BDAR assessed the impacts from the change in the condition of the impacted vegetation since the original approval, noting that some developable areas of the site have benefited from native vegetation regrowth since the original approval.

The report provides an estimate of the credits likely to be required under the BC Act to offset the impacts arising from clearing of native vegetation, ecological communities and threatened species. The BDAR was updated in the RtS to respond to concerns raised by EES and Council. However, the Proponent notes that not all concerns could be addressed and that more detailed assessment and site surveys are needed as part of future detailed development applications to make a final determination of required credits.

Council and EES both advised that the BDAR assessment is only high level and preliminary, and that more detailed assessment could form part of future detailed development applications.

The Department considers that the level of assessment provides an adequate indication of the likely impacts of the proposal as modified. However, detailed biodiversity impact considerations are more appropriately assessed as part of future development applications, as the detailed design may identify opportunities to retain some areas of vegetation as well as allow for detailed data collection and assessment. A future assessment requirement has been recommended to this effect.

The Department is satisfied that any biodiversity impacts of the proposed modification could be mitigated by appropriate credit offsets which would be required to be assessed as part of future development applications.

Riparian Zone Management adjacent to the site

DPIE Water and the Natural Resources Access Regulator advised that the proposed modification should be designed to be consistent with the Guidelines for Controlled Activities on Waterfront Land which sets out how development adjacent to riparian corridors is to be managed.

As discussed above, the modification would not result in any adverse impacts to the Cookson's Creek riparian zone within the site.

However, as discussed in **Section 6.1** the proposed road along the southern boundary of the site may result in development being slightly closer to Tramway Creek which adjoins the site to the south. As it is unclear from the information provided if this could result in an encroachment into the riparian zone for the creek, the Department recommends a condition to ensure future detailed applications comply with the Guidelines for Controlled Activities on Waterfront Land.

6.4 Aboriginal Heritage

Archaeological site in Precinct 3

As required in the original concept approval, the Proponent undertook targeted archaeological excavation testing across Precinct 3, which had been previously identified as an area of Aboriginal archaeological sensitivity.

As a result of those investigations, the proposed modification seeks to alter the layout of Precinct 3 to preserve the most intact and dense portion of the archaeological site by excluding development (refer to **Figure 9**).

An Aboriginal Cultural Heritage Assessment Report (ACHAR) was submitted in support of the modification. The ACHAR found that overall the site contains evidence that is neither rare nor unusual in a local context and is a less diverse and lower density than other sites in the local area. Nonetheless, as it provides evidence of the Aboriginal past that complements the evidence from other sites nearby, it is recommended that the most intact and dense portion of the site be preserved, and the artefacts retrieved from the test excavations returned to the area for display and interpretation. The ACHAR finds that the remainder of the site does not warrant preservation on archaeological grounds.

EESG noted that the proposed modification would result in a reduction in the overall level of harm to Aboriginal objects, however EESG and Council raised the following concerns:

- They both recommended the development of an Aboriginal Heritage Management Plan (AHMP) to ensure appropriate long-term management of Aboriginal Heritage on the site.
- EESG also advised that before any physical works could commence on the site, an Aboriginal Heritage Impact Permit (AHIP) would be required to be approved by EESG. This would need to be accompanied by the AHMP. EESG noted that a number of deficiencies in the information presented to date that would need to be resolved before an AHIP could be assessed, including the level and continuity of consultation with the Aboriginal community, the extent of the test excavations, better

reporting in accordance with guidelines, information on long term management and management of excavated objects. Council also questioned whether the extent of the archaeological testing was sufficient and requested information on long term management and management of excavated objects, as well as consideration of land ownership arrangements.

- EESG advised the ACHAR should be updated to set out how comments from the Aboriginal community have been addressed and Council raised similar concerns noting the Aboriginal community expressed concern, in response to the ACHAR, with the limited extent of archaeological assessment of the site.
- Council also requested more information on how adjoining development might impact on the significant area, including information on future grades and levels close to the core significant area, subdivision layout including lot dimensions that would allow for dwellings to be well setback from the significant area and mechanisms to prevent backyard development (pools and outbuildings) in close proximity to the area.

In response to these issues, the Proponent advised that:

- an AHMP would be prepared for future applications (and this could be conditioned)
- an AHIP would be sought prior to commencing works on the site and provided additional information that the level and continuity of consultation with the local Aboriginal community was in accordance with the relevant guidelines
- the findings of the ACHAR are that the area includes a sufficient buffer to ensure the protection of the archaeological areas and that construction impacts could be managed with appropriate fencing, training of construction workers and monitoring during the construction process, with details to be finalised as part of the AHMP. It also later advised that covenants could be placed on future adjoining lots to prevent pools and outbuildings if necessary to mitigate impacts.

EESG subsequently advised although not all issues have been resolved, it supports the proposed modification subject to the Proponent being required to prepare an AHMP and noting that subsequent DAs are likely to require AHIPs.

Council advised that it supports the preparation of an AHMP, which should inform the development of further plans. It also noted that a greater buffer may be required around the archaeological site, once consideration is given to the detailed impacts of adjacent construction, earthworks and site layouts.

The Department is satisfied that the level of detail provided in the ACHAR is sufficient in order to assess the modification, which seeks to improve Aboriginal heritage outcomes on the site by specifically excluding the most intact and dense portion of the archaeological artefacts. The modification does not propose to make any other physical changes or changes to ownership arrangements which would result in additional impacts to Aboriginal heritage compared to the concept approval.

However, the Department notes that it was always the intention of the concept approval that further investigations be carried out on the site to inform the detailed assessment of future DAs. The Proponent is seeking to delete existing conditions and commitments in relation to further archaeological testing and future assessment on the basis that this work has now been done.

The Department notes Council's and EESG's comments that there are a range of issues that still need to be resolved, such as in relation to the extent of excavation, consultation, quality of information

provided and impacts arising from the detailed design of the subdivision, and that these can be resolved through the AHIP process and an AHMP as a matter for consideration at the development application stage.

The Department therefore recommends a condition requiring an AHMP, developed in consultation with Local Aboriginal community and EESG, to be submitted with future DAs. The Department also notes EESG's advice that where future DAs require an AHIP, the supporting information would need to be provided to EES through the consultation process associated with the DA.

The Department also notes that final subdivision layout, including lot layouts and dimensions as well as any associated bulk earthworks, are matters for the assessment of future DAs and the Department is satisfied that subject to the recommended condition, Aboriginal heritage impacts will be appropriately minimised and mitigated.

Turpentine Forest and Women's Area

In addition to the archaeological site, the ACHAR notes that two areas have been asserted in past investigations to have Aboriginal cultural significance, being the Turpentine Forest and a potential 'Women's Area' on the site.

The ACHAR did not reveal any concerns with the heritage impacts of the proposal on these areas, noting that:

- The Turpentine Forest, which is considered to represent a surviving remnant of forest containing food sources and is the only portion of this forest type left in the Sandon Point area, will remain protected under the approval.
- An anthropologist's report into the potential Aboriginal cultural values of a Women's Area on the site (required under existing Condition B1) revealed the Women's Area most likely existed in the wider Sandon Point area, however the exact location is unknown and it was not possible to define a spatial boundary confining the women's site.

EESG raised a concern that the change in type of residential development may increase recreational use of the proposed open space areas, including the Turpentine Forest and recommended the AHMP include a strategy for protecting Aboriginal heritage arising from recreational use as well as consideration of vegetation management, signage and fencing.

As discussed in **Section 6.3**, Council and the community questioned whether the change to the APZ around the forest would impact on the heritage values of the site. As noted in that section, the APZ was required for bushfire management purposes only and was not required in order to protect heritage values on the site.

The Department considers that given the proposal would reduce overall density or dwelling numbers on the site, overall impacts to the heritage value of the Turpentine Forest from recreational use by residents would not be significant. Further, any recreational impacts or impacts to heritage arising from vegetation management could be appropriately managed through an AHMP. Pedestrian access, including exact location of access paths, signage and fencing, are matters for consideration as part of future DAs and the proposed modification does nothing to change this. As discussed above, a condition is recommended to require an AHMP as part of future applications.

The Proponent is seeking to delete Condition B1 which requires an anthropologist's report on potential Aboriginal cultural values of a Women's Area to be submitted with future DAs on the basis that this work has now been completed. The Department considers the condition can be deleted but recommends the future AHMP consider the findings and recommendations of that report.

6.5 Stormwater Management and Flood Impacts

The proposal included revised stormwater management measures on the site, including the introduction of an acoustic barrier along the western boundary which would also act as a flood barrier and provision of a new culvert under Geraghty Street to ensure sufficient capacity to convey stormwater flows.

Council raised a number of concerns with the modification as originally lodged including:

- proposed filling and realigning of the upper portion of Cookson's Creek is contrary to Council controls
- the proposed flood / acoustic barrier along the western boundary would obstruct overland flows resulting in increased flooding on adjoining land
- the concept stormwater plan includes works on an adjoining site without owners consent to drain water over that land
- a proposed roadway would conflict with an existing stormwater pit
- it is unclear why onsite detention (OSD) is proposed, noting OSD is not required on this site due to its direct connection to receiving waters.

EESG raised some similar concerns.

The Proponent subsequently revised the proposal to address these issues by:

- revising the design to maintain the existing watercourse and alignment
- replacing the western flood barrier / acoustic wall with a swale and provided additional modelling to demonstrate that impacts to the adjoining properties would be mitigated
- removing works from the adjoining land and advising that additional landowners consent for an easement for drainage would be provided as part of a future DA
- updating plans to provide new / replacement stormwater pits to resolve conflicts with proposed roads
- removing OSD from the proposal.

Following these changes, Council advised all stormwater matters have been resolved. EESG advised it has no further advice in relation to floodplain risk management and noted Council was the responsible authority for floodplain risk management.

The Department considers that, as the proposed modifications would not significantly increase the development footprint, it would not result in significant additional impacts for flooding and stormwater management on the site. The Department also notes Council's advice that stormwater matters have been resolved and stormwater management measures would be subject to more detailed assessment as part of future DAs.

The Department also notes that since the modification was first lodged, the adjoining land affected by future drainage from the site (the land containing Tramway Creek immediately to the south of the site) has been transferred to Council. Council has not raised any concerns with the proposal to drain from part of the site over the adjoining land to Tramway Creek.

6.6 Water Quality

EESG requested that the Proponent confirm that the modified development (noting the change of use and change of building envelopes) would not result in unacceptable water quality impacts. It also recommended that water quality objectives be established to guide the design of stormwater treatment measures and demonstrate the influence of water quality impacts on coastal wetlands. It specifically recommended that a water quality assessment be prepared in accordance with the Risk Based Framework for Considering Waterway Health Outcomes in Strategic Land-use Planning Decisions (RBF).

The Proponent did not prepare a RBF water quality assessment. It responded that water quality objectives for the proposed development have already been established, including water quality treatment targets which align with stormwater quality treatment targets of Council's DCP.

The Department notes the RBF applies to strategic land use planning decisions, rather than individual applications. While it would be relevant to large scale concept applications that have a similar outcome to planning proposals (i.e. strategic planning), including significant modifications to such concept approvals, in this case the modification is not of a strategic land use planning nature.

The Department considers that the proposed modification, including the potential change of use from seniors living to general residential and some changes to road layouts, would not materially affect water quality outcomes on the site. The developable area on the site would not be materially altered, overall dwelling numbers are being reduced, and final lot layouts and building envelope locations are not approved as part of neither the existing or proposed modified concept approval. The Department is therefore satisfied that the modification does not result in additional adverse water quality impacts which require mitigation or additional assessment.

The Department is also satisfied that the proposed water quality targets, which are consistent with the DCP, are appropriate, and notes that future applications would be subject to more detailed water quality assessments. On this basis the Department considers the modification would not result in any unacceptable impacts for water quality.

6.7 Other issues

Issue	Findings	Recommendations
Land Use	<p>The proposed modification seeks to allow flexibility in the land use of Precincts 2 and 3, for either seniors living or general residential uses, with the use to be determined as part of the future applications.</p> <p>The Department considers that a flexible approach is acceptable, noting that:</p>	<p>Modify Condition A1 and A2 to include residential development on the Anglicare site.</p>

	<ul style="list-style-type: none"> • both uses are permissible on the site • flexibility enables the Proponent to respond to market demand consistent with key directions of the Illawarra Shoalhaven Regional Plan (refer to Section 3). <p>In addition, a change in use to general residential in conjunction with the proposed reduction in overall dwelling density on the site would not result in any additional material impacts for the site or the surrounding area compared to the Concept Plan as already approved. As discussed in Section 6.2, traffic impacts would be marginal and other impacts could be appropriately mitigated and managed as part of future DAs.</p>	<p>New Condition C12 recommended stating that Precinct 1 is to be used for seniors living purposes and Precincts 2 and 3 may be used for seniors living and/or residential.</p>
Bushfire	<p>The proposed modification seeks to provide a six metre wide 'defendable space' for bushfire protection around the retained Turpentine Forest and riparian zone on the site, in lieu of a 20 metre wide Asset Protection Zone (APZ) required under the original concept approval.</p> <p>Several public submissions raised concerns with the potential impacts on bushfire management.</p> <p>RFS noted that the land is not mapped as bushfire prone and did not raised any concerns with the proposed change.</p> <p>The Department notes that as the land is not identified as bushfire prone there is no statutory requirement for assessment of bushfire matters or provision of an APZ.</p> <p>On the basis of advice from the RFS, the Department is satisfied that the proposed change to a six metre wide defendable space is appropriate and would not result in unacceptable bushfire risks. However, the Department is also satisfied providing some flexibility should RFS support a variation in the defensible space to riparian corridors.</p> <p>Consistent with RFS advice, a future assessment requirement is recommended to ensure the provision of the six metre wide defendable space, which could be reduced to four metres to the riparian corridor with the support of Council.</p>	<p>Modify Condition A3 to reference the 6m wide defendable space.</p>
Contamination	<p>Council, EESG and the EPA all commented on soil contamination. Council requested a revised Remediation Action Plan in accordance with the</p>	<p>No additional conditions or amendments to</p>

Secretary's Environmental Assessment Requirements and recommended the Proponent submit advice from an accredited site auditor in relation to remediation and validation.

existing conditions necessary.

EESG requested further information on soil and groundwater contamination in the southern precinct to inform remediation actions. The EPA also requested further contamination assessment.

The Proponent noted that the SEARs do not supersede the existing concept approval, which commits to further environmental assessment of contamination and to prepare a RAP, if required as part of any future development applications. The Proponent also supports the preparation of required environmental investigations and any associated remediation and validation in association with future development applications.

The Department notes that contamination issues were considered as part of the assessment of the original concept application and that existing Commitment No 43, in conjunction with the requirements of SEPP 55, ensure that contamination and remediation are adequately addressed as part of future DAs.

The Department also considers that the proposed modifications (change in use, reduction in site density and minor changes to layout) will not result in further contamination impacts or give rise to any additional contamination concerns compared to those previously assessed. As such the Department is satisfied that no additional assessment is required as part of this modification.

Asbestos Removal

Public submissions questioned the process to remove asbestos from the factory buildings on the site.

The Department notes the concept approval does not approve the demolition of buildings and therefore asbestos management is a matter for consideration in the assessment of future development applications for removal of the buildings.

No additional conditions or amendments to existing conditions necessary.

Contributions and Planning Agreements	<p>The Proponent advised that the nature of works to be delivered on and adjoining the site and the terms of a future Voluntary Planning Agreement (VPA) with Council will form part of the first development application. It also advised it will be seeking an exemption from paying Section 94A contributions (now called section 7.11 contributions) in relation to the seniors living development.</p>	<p>No additional conditions or amendments to existing conditions necessary.</p>
	<p>Consistent with the assessment of the original concept application, the Department considers that planning agreements are a matter for Council negotiations as part of future DAs. Payment of developer contributions is also a matter for Council at the time of future DA assessment, having regard to applicable policies.</p>	
	<p>The proposed modification does not result in any changes that would require additional measures in relation to contributions.</p>	
Landscaping & Pedestrian Access	<p>A Concept Landscape Plan was submitted with the modification request and revised in the RtS to address several concerns raised by Council.</p> <p>The landscape plan indicates the layouts of pedestrian routes through the site, as well as provision of a shared way on Geraghty Street. In response, Council advised it supports the revised designs in principle.</p>	<p>No additional conditions or amendments to existing conditions necessary.</p>
Sydney Water Assets	<p>Sydney Water recommended that due to the proximity of the proposed development to Sydney Water assets, approved plans be required to be submitted to Sydney Water and recommended standard conditions in relation to servicing and other approvals.</p> <p>As its concept, the proposed modification does not result in any changes or works that specifically impact Sydney Water assets. The conditions recommended by Sydney Water would be relevant for future development applications for works and are therefore a matter for Council consideration at future development application stage.</p>	<p>No additional conditions or amendments to existing conditions necessary.</p>

Access to adjoining Lot

The owner of Lot 101 DP268549 raised concern that the proposed plans do not include a minor amendment to road alignments at the north-east corner of the site previously agreed between the two owners (**Figure 22**). This realignment, as well as the re-location of Wilkies Walk on to the site may be necessary to facilitate vehicular access to Lot 101 over the adjacent road reserve.

No additional conditions or amendments to existing conditions necessary.

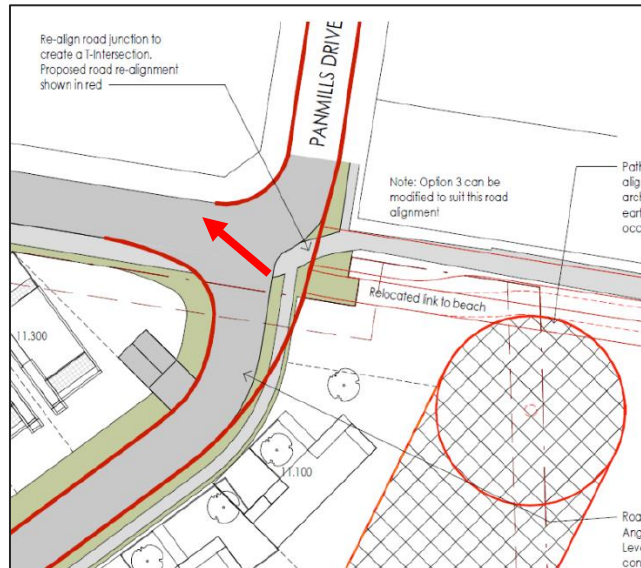


Figure 22 | Road realignment requested by neighbour
(base image source: neighbours letter of objection)

It is recommended that the proposed road alignment be flexible to be determined in future development applications. This flexibility will enable any changes to road realignments necessary to provide access to the adjoining development.

Further, as discussed in **Section 6.1 and 6.4**, it is recommended the Proponent reconsider the alignment of the subject roadway at the north-east corner of the site (closest to the Aboriginal archaeological site) to resolve issues in relation to lot depths, streetscape impacts and Aboriginal heritage, and therefore a different outcome may be required to that previously agreed by the two parties.

The Department is satisfied that appropriate roadway and pathway alignments could be provided on the site as part of any future development application in order to facilitate vehicular access for the neighbouring development.

7 Evaluation

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department has carefully considered the issues raised in the submissions and the response to those issues provided by the Proponent, and concludes that the proposal is acceptable as:

- overall environmental impacts will be reduced due to a reduction in density on the site, with a reduction in the total number of dwellings (from 250 ILUs to 140 ILUs and 51 dwellings) and a reduction in the capacity of the RACF (from 120 to 80 beds)
- building design and scale are subject to future development applications, but will be integrated into the form and character of existing buildings surrounding the site, with two to three storey buildings to be located adjacent to the low-density dwellings to the north and the taller buildings located away from the highest parts of the site and adjoining low scale development
- it results in improved outcomes for Aboriginal cultural heritage by protecting an Aboriginal archaeological site
- any additional traffic impacts are minor when compared to the existing concept approval, as the maximum additional 10 peak hour trips predicted from the residential dwellings is about 1 additional trip every 6 to 7 minutes and less vehicles will use the internal access roads (introduction of a one way and removal of through site road)
- it retains and rehabilitates the conservation zoned land, consistent with the original approval
- all other impacts, including final subdivision and building design, amenity, environmental and construction impacts, will be independently considered by Council during the assessment of future development applications.

The Department's assessment therefore concludes the modification request is approvable, subject to future assessment requirements (outlined in **Appendix C**).

8 Recommendation

It is recommended that the Group Deputy Secretary, Planning and Assessment, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **determines** that the application MP06_0094 MOD 5 falls within the scope of s75W of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modifies** the concept approval MP06_0094
- **signs** the attached Modification of Minister's Approval (**Appendix H**).

Recommended by:



Brendon Roberts
Acting Director
Regional Assessments

Recommended by:



Anthea Sargeant
Executive Director
Regions, Industry and Key Sites

9 Determination

The recommendation is **Adopted** by:



01/06/2020

Marcus Ray

Group Deputy Secretary

Planning and Assessment

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – Modification report

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8978

Appendix B – Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8978

Appendix C – Response to Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8978

Appendix D – Notice of modification

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8978