

Council Reference: DA09/0466.03 LN71624
Your Reference: MP08_0234 MOD 4

9 May 2025

Customer Service | 1300 292 872 | (02) 6670 2400

Attention: Michael Doyle
Development Assessment and Systems
NSW Department of Planning, Housing & Infrastructure

tsc@tweed.nsw.gov.au
www.tweed.nsw.gov.au



PO Box 816
Murwillumbah NSW 2484

Please address all communications
to the General Manager

ABN: 90 178 732 496

E: Michael.doyle@dpie.nsw.gov.au

Dear Sir,

MP08_0234 MOD 4 (Council reference DA09/0466.03) - Modification to approved Concept Plan comprising residential, retirement living, retail, commercial, school and open space precincts at Lot 31 DP 850230; Conmurra Avenue BILAMBIL; Lot 1 DP 1033807 & Lot 1 DP 1033810 & Lot 1 DP 595529 & Lot 2 DP 867486 & Lot 32 DP 1085109 & Lot 33 DP 1085109 & Lot 4 DP 822786; Marana Street BILAMBIL HEIGHTS; Lot 2 DP 555026; No. 147 McAllisters Road BILAMBIL HEIGHTS

In reference to your request for advice in relation to the recently lodged modification application to the above mentioned State Significant ("SSD") (MP08_0234 MOD 4), please be advised the following.

The approved Concept Plan enabled the provision of "Retirement Living" within Precinct B of "The Rise" Estate. The approved project permits a total maximum dwelling yield of 195 dwellings within this precinct. The maximum permitted building height is 2 storeys to the north of the precinct and 3 storeys to the south (see Figure 1 below).

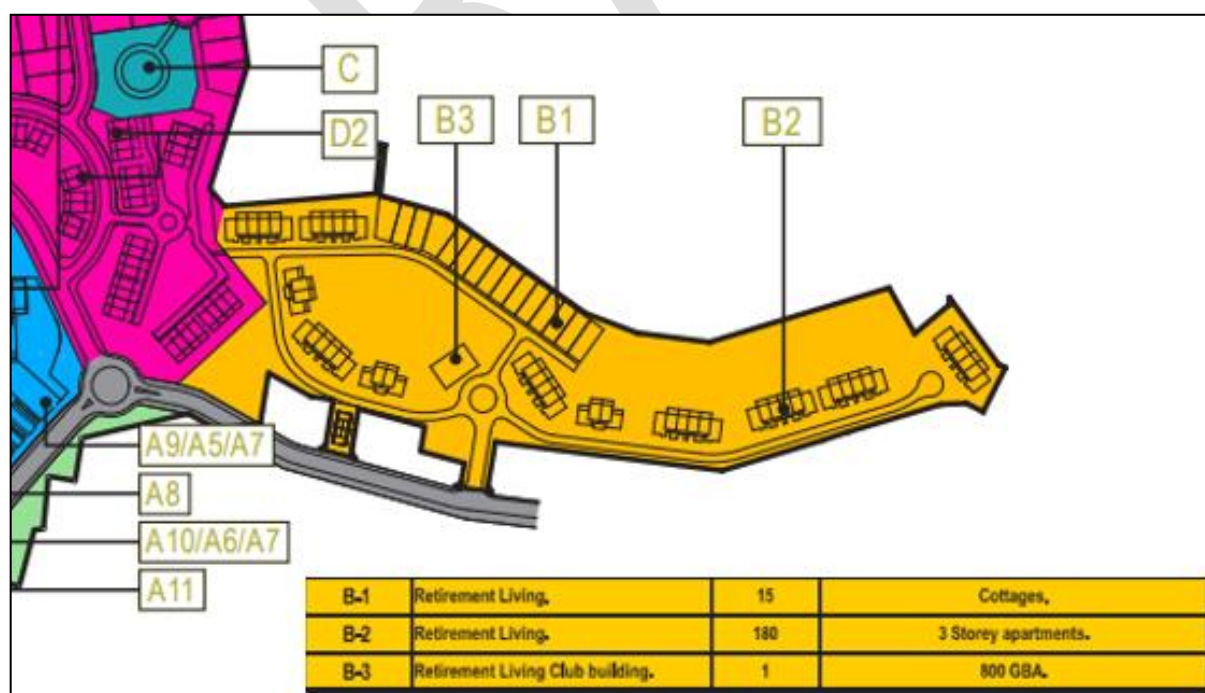


Figure 1: Extract of product Summary from original Visual Impact Assessment prepared by LVO Architecture dated 24/03/2009

Based on a review the approved documentation, the distribution of built form in the Concept Plan detail enabled adequate building separation which is conducive to the topographical nature of the site and would protect the amenity impacts of existing built form in the surrounding development, which comprises of R2 Low Density zone with a maximum permitted building height of 9m (see Figure 2 & 3 below).

The original Concept Plan also included one (1) retirement Living Club (Community Facility) building within Precinct B.

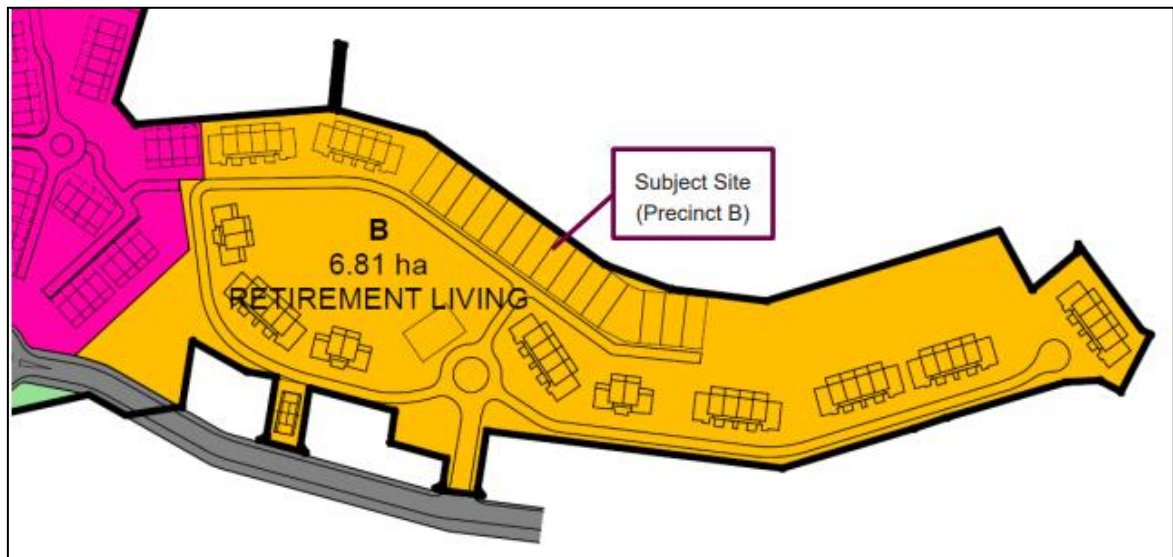


Figure 2: Extract of approved Concept Plan sourced from applicants Modification Report

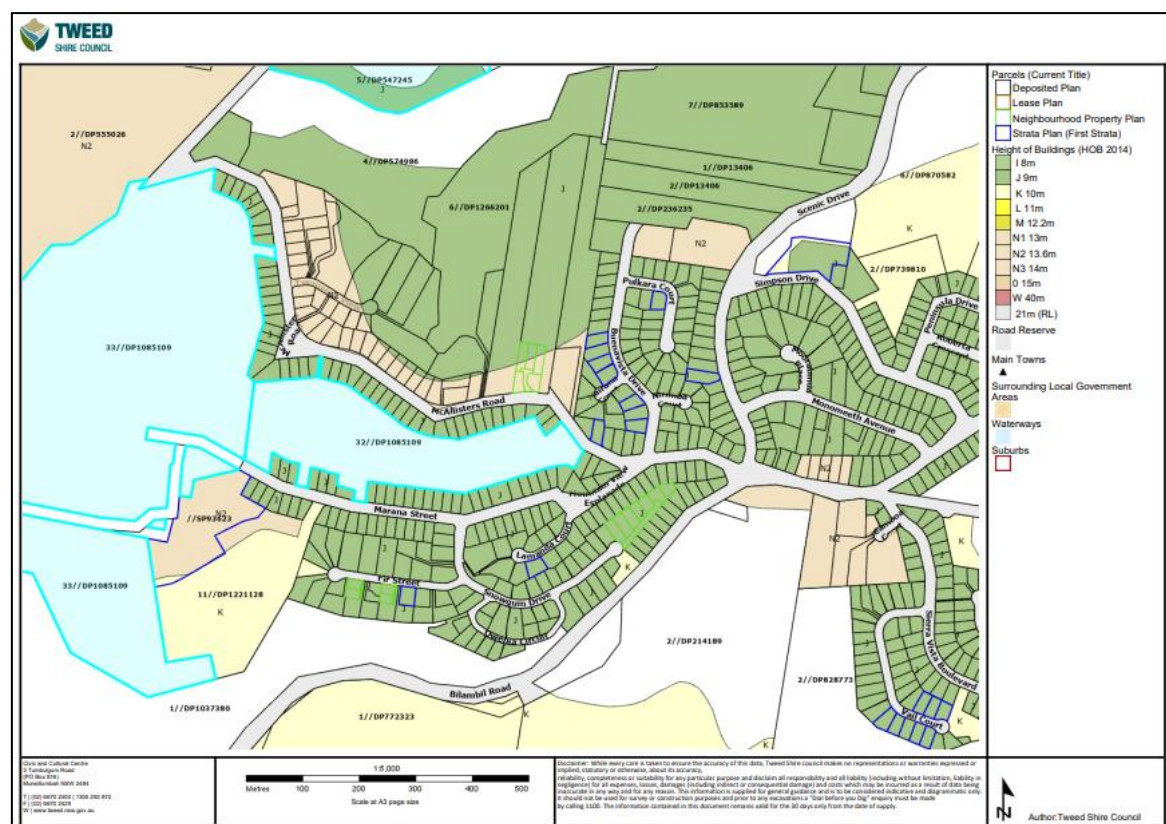


Figure 3: Extract of TSC GIS Mapping demonstrating max. permitted height of 9m to surrounding development

It is understood that the proposed modifications seek to remove the building footprint and layout and amend the building heights to enable up to 13.6m (four storeys) across the entire portion of Precinct B under the subject modification application. It is also

understood that the proposal seeks to remove the internal road layout and provide an optional access point to McAllister's Road per Figure 4 below.

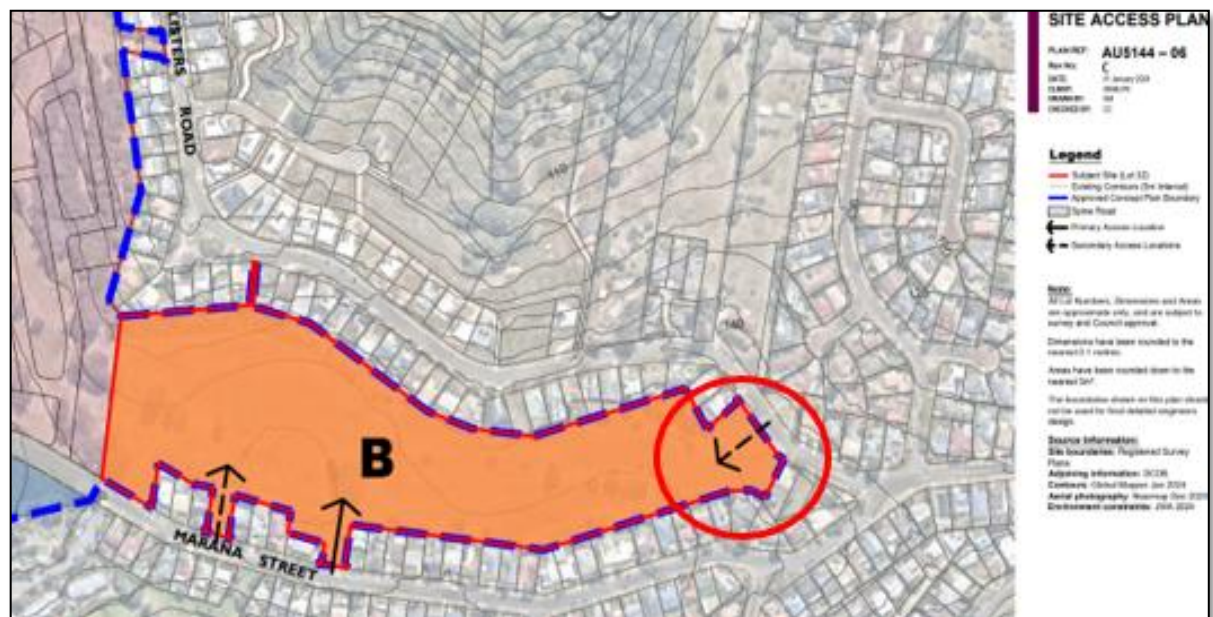


Figure 4: Extract of submitted Site Access Plan prepared by the applicant - red circle highlighting proposed additional option for access

Council has considered the proposed modifications and is not satisfied that the proposal has the same material and essential essence based on the comparative analysis of the before and after, which is a key consideration pursuant to Section 4.55(2)(a) of the Act.

Furthermore, in considering the impact of the proposed modifications, it is important to acknowledge the site locality and the visual features of the site to and from the surrounding area. To this end, the site is approximately RL160m AHD toward the southern boundary and approximately RL150m AHD on the northern boundary, depicting a difference of around 10m across the site from the principal road corridors that surround the site (being Marana Street and McAllister Road). The site forms a prominent hilltop location in the Shire and therefore is highly visible from both static and dynamic viewing situations.

The following key concerns are raised over the proposed modification:

Tweed Scenic Landscape Protection Strategy

Pursuant to [Tweed Shire Councils Scenic Landscape Protection Policy](#) ("SLPP"), the site features 17 viewsheds, four (4) of which are Priority 1 viewing situations (national significance) and 13 are Priority 2 viewing situations (regional significance). The proposed modification fails to include any visual impact assessment to address Councils SLPP and the modification report fails to address how the proposed additional height responds to the site in terms of its context and setting. Concerns are raised over the likely bulk, scale and visual amenity of the site as a result of the proposed modifications. For these reasons, the consent authority cannot be satisfied that the proposed heights are responsive to the site topography and will aid an appropriate integration of built form, having regard to the surrounding land uses and character of the site. Should the consent authority proceed with the assessment, additional information should be requested in this regard.

Integration of built form

Concerns are raised over the integration of built form between the existing low density development to the perimeter of the subject site and the proposed maximum permitted building heights. In the absence of concept plans to demonstrate that an appropriate overall outcome can be achieved in terms of cross viewing, building separation, overshadowing and the like, the consent authority cannot be satisfied that development outcomes are conducive to the existing context and setting of the site and surrounds.

Gold Coast Airport Obstacle Limitation Surface (OLS) Map

The subject site is located within the Gold Coast Airport OLS Map and the site is of a relatively high elevation. As such, the provision of additional height at this location should be considered by Gold Coast Airport as a referral agency prior to the determination of any such modification application.

Additional access – McAllister’s Road

There are concerns that the proposed access directly to McAllisters Road (in the location nominated in Figure 4 plan detail) may not comply with sight distance requirements according to Austroads Guide to Road Design Part 4a. Any such proposal is to be assessed and modelled in consideration of the expected traffic movements. There are also concerns that appropriate road gradients cannot be provided at the proposed intersection given the topographical constraints of the site and surrounding road network (see Figure 5 below). It is expected that any modification to the Major Project approval demonstrate compliance of the aforementioned provisions can be achieved prior to the issuing of a modified consent.



Figure 5: Streetview capture of subject site and McAllister Road bends and slope

Should the consent authority proceed with the assessment, the impact of the additional traffic movements on residents fronting McAllisters Road between Mountain View Esplanade and the new intersection needs to be considered prior to the issuing of any modified consent to enable additional access from the proposed additional location. This would include streetlighting upgrades, pavement widening and noise considerations.

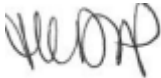
In summary, given the matters raised above, concerns are raised over the development not satisfying the “substantially the same development test” pursuant Section 4.55 of the Act and the proposed modification is formally objected to on these grounds. Should the consent authority resolve to proceed with the assessment despite it no longer being substantially the same, the proponent would need to suitably address the outstanding matters raised in this advice. Council kindly requests an opportunity to review any amended proposal.

Should the Department consider the modification as satisfactory, Council requests an opportunity to provide comments on / recommend appropriate draft conditions where they may be applicable to this modification.

As always, Council is happy to meet with the proponent and the Department to further discuss any of the matters raised above.

For further information regarding this matter please contact Hannah Van de Werff on (02) 6670 2564.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'C. Forbes'.

Per

Colleen Forbes

Team Leader – Development Assessment