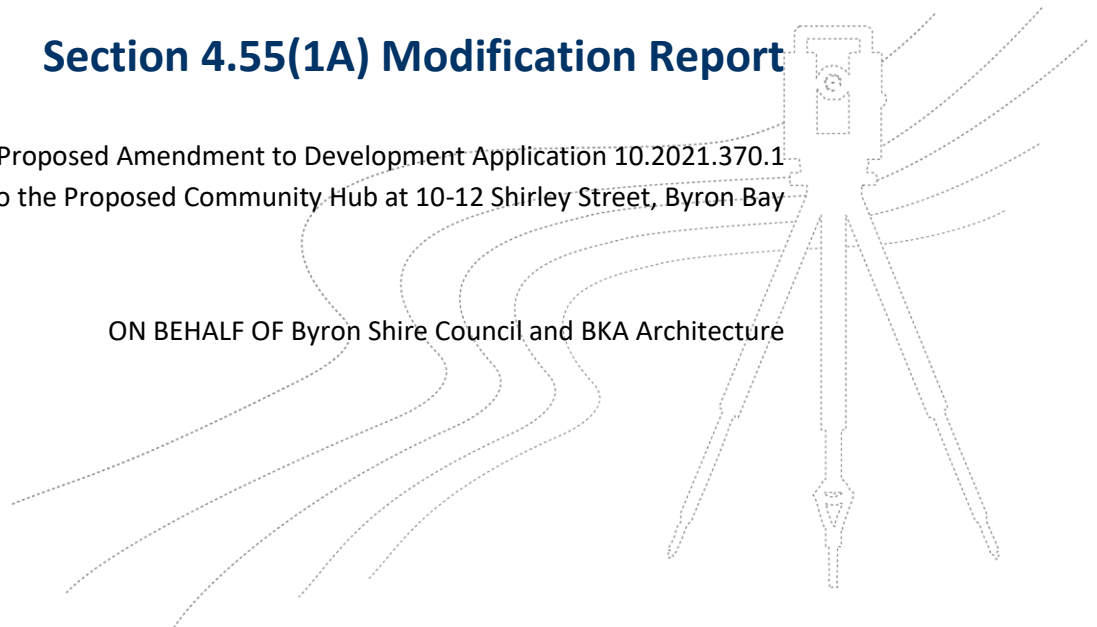


Section 4.55(1A) Modification Report

Proposed Amendment to Development Application 10.2021.370.1
Relating to the Proposed Community Hub at 10-12 Shirley Street, Byron Bay

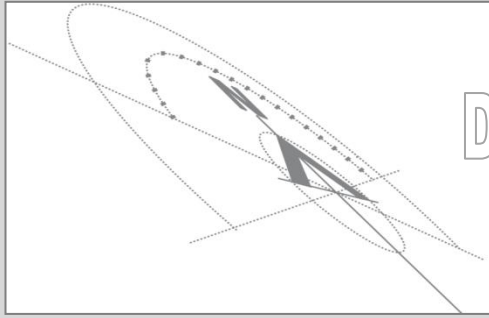
ON BEHALF OF Byron Shire Council and BKA Architecture



Our Ref: 210124

Date: 3 April 2023





Document Control Sheet

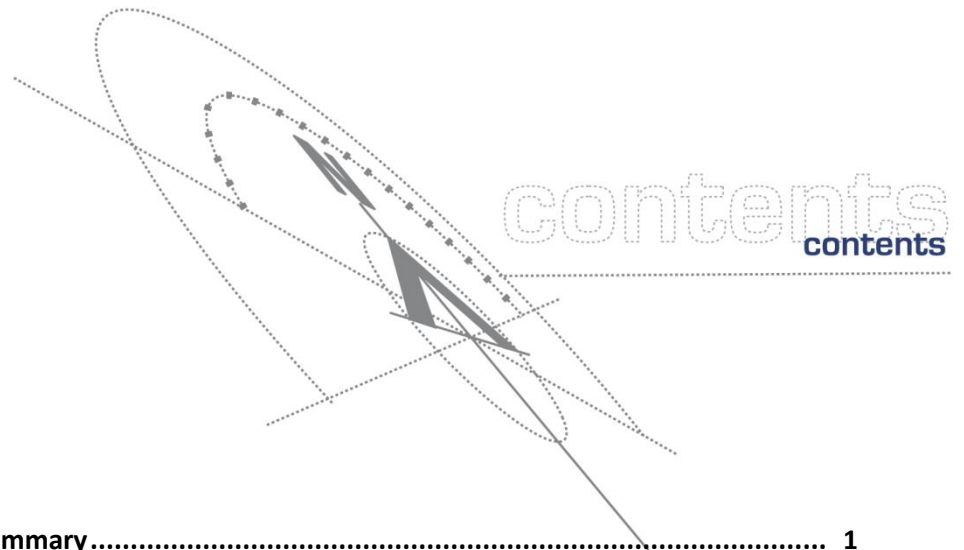
Document and Project Details					
Document Title:		Section 4.55(1A) Modification Report to amend DA 10.2021.370.1 relating to the Proposed Community Hub at 10-12 Shirley Street, Byron Bay.			
Author:		Karina Vikstrom			
Project Manager:		Karina Vikstrom			
Date of Issue:		3 April 2023			
Job Reference:		210124			
Project Outline:		This document presents a Section 4.55(1A) Modification Report relating to a range of relatively minor modifications to the approved development.			
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Documentation Verification					
Checked by:	Karina Vikstrom, David Chenery (BKA Architecture)				

USAGE NOTE:

This document was prepared for the exclusive use of Byron Shire Council and BKA Architecture for approval for the development of land described herein and is not to be used for any other purpose or by any other person or corporation. Newton Denny Chapelle (NDC) accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this document for a purpose other than that described above.

The maps, development plans and exhibits shown in this report are suitable only for the purposes of this report. No reliance should be placed on this information for any purpose other than for the purposes of this report. All dimensions, number, size and shape of lots/buildings as shown on plans in this document are subject to detailed engineering design plans and final survey and may vary subject to conditions of consent issued by the Consent Authority.

The information contained in this report is based on independent research undertaken by NDC. To the best of our knowledge, it does not contain any false, misleading or incomplete information. No extract of text from this document may be reproduced, stored or transmitted in any form without the prior consent of NDC. NDC declares that it does not have, nor expects to have, a beneficial interest in the subject project. Nor does it have any reportable political donations within the meaning of Section 10.4(3) of the Environmental Planning and Assessment Act 1979 to declare.



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1. Executive Summary

1.1 S4.55 Application

DA 10.2021.370.1 relates to the redevelopment of the former Byron Hospital to create a Community Hub. Development approval was granted on 25 November 2022 and provides for the following:

“Community Hub including Community Facility, Office Premises, Light Industry and Restaurant or Cafe Components and Education Facility”.

The approved development provided for a range of alterations and additions to facilitate the adaptive reuse of the former hospital for the proposed Community Hub.

During the post consent design development process, the project team have identified that a range of amendments are required to the approved plans. Accordingly, this application seeks to modify the approved plan set to ensure that they accurately reflect the proposed development.

1.2 Property Details

Table 1: Property Details

Property Address	10-12 Shirley Street, Byron Bay
Property Description	Lot 1 DP 847910 Parish of Byron County of Rous
Registered Owner	Byron Shire Council
Proponent	Byron Shire Council C/o BKA Architecture
Applicant	Newton Denny Chapelle for and on behalf of the proponent
Local Authority	Byron Shire Council
Site Area	5307m ²
Easements & Restrictions	(A) Easement for services (6.095m wide); (B) Easement for underground power reticulation (6.095m wide); (C) Right of Carriageway
Existing Land Use	Old Byron Bay Hospital (dis-used)

Local Planning Instrument	Byron Local Environmental Plan 2014
Land Zoning	R2 – Low Density Residential Identified on Additional Permitted Use Map
Building Height	9m
Floor Space Ratio	0.5:1
Integrated Referrals	Nil
Other Referrals	SEPP (Transport and Infrastructure) 2021 Comment: The original application was referred to both the NSW RMS and Essential Energy. The current S4.55 application relates to ‘refinements’ in the project design and does not significantly impact on the assessment responsibilities of these entities.

1.3 Purpose

This modification report is intended to accompany the application prepared by Newton Denny Chapelle for and on behalf of the proponent of the subject development being Byron Shire Council c/o BKA Architecture.

The intent of this report is to describe the site, its existing and proposed uses and to address all the issues relevant to this application’s assessment and subsequent determination.

This report should be read in conjunction with the accompanying Byron Shire Council Application form together with the following assessment.

1.4 Further Information

Should Council require any additional information or wish to clarify any planning matters please consult with **Ms Karina Vikstrom** on (02) 6622 1011 or kvikstrom@ndc.com.au of Newton Denny Chapelle prior to determination of this application.

2. Proposed Amendments

2.1 Introduction

This section of the report provides a general description of the proposed changes to the development consent relating to the approved development. This section of the report also provides an explanation concerning the reasons for the sought changes.

2.2 Description of Amendments

As illustrated in the following table, the current application seeks to amend a number of elements of the approved architectural design. The Table provides a description of the amendment and the reasoning for each of the changes. The location of the proposed changes is then identified on the relevant plan sheet/s as identified in the Table.

Table 2: Proposed Modifications

#	Description of Amendment	Reasoning / Justification	Sheet #
1	Minor Tenancy Area Adjustment	Based on client request for minor internal reconfiguration and adjustments to the wall thicknesses during design development.	DA-000 DA-100
2	Existing Slab to be removed	Shown for clarification - previously omitted.	DA-002
3	Steel walkway and balustrade to be removed	Design development. Shown for clarification - previously omitted.	DA-002
4	Existing columns to be removed	Structural development of the demolition plan.	DA-002
5	Floor Adjustment for wet areas	Design development - Existing floor conditions noted.	DA-002
6	Bitumen Driveway to be removed, new permeable paved driveway and carpark	Design development - Civil engineer design.	DA-002 DA-100
7	Location of kitchenette adjusted in Tenancy 8 + 11	Services to align with existing water and drainage connections on site.	DA-100
8	Internal Tenancy reconfiguration	Minor internal partition adjustments as per client request in coordination with Social Futures (managing tenant).	DA-100
9	Arbours changed to timber instead of steel	Design development in coordination with the client	DA-100 DA-210 DA-300

10	No direct access to the courtyard from the walkway - courtyard landscaping amendment	As per Access Consultant requirement.	DA-100
11	On site external walkway and yarn circle configuration adjusted	As per Access Consultant requirement to meet requirements for grade / levels	DA-100
12	Ramp to amenities adjusted	Updated in coordination with Access Consultant and Constructability Review.	DA-100
13	Partial roof reconfiguration to design out boxed gutter	As approved by client to reduce ongoing maintenance and risk.	DA-101 DA 200 DA-210 DA-211 DA-300
14	Replace roof sheeting over existing roof	As per client request for upgrade to roof sheeting – particularly for maintenance purposes.	DA-101
15	No Solar panels on Shirley and Wordsworth Street front	As per DA10.2021.370.1 - Condition 12.	DA-101
16	New proposed skylight in Tenancy 10A	Design development for better natural light in Tenancy 10A.	DA-101 DA-300
17	New Framed Fly-Over roof above covered walkway	Design development for better natural light / ventilation in courtyard and constructability.	DA-101 DA-300
18	Removal of timber in New Acoustic Panel Fence to boundary	Design development for longevity / ongoing maintenance.	DA-200 DA-211
19	Windows for Tenancy 12 resized	Design Development to accommodate kitchenette splashback / privacy / reduce heat gain to west sun.	DA-200 DA-211
20	Site management layout updated	Adjustment to site management strategy to improve site efficiencies.	DA-500
21	Tenancy wall minor adjustment	Design development - site measurement correction.	DA-100
22	Bike rack shown in floor plan	Shown on floor plan for clarification - previously omitted.	DA-100
23	Bike rack location readjusted	Repositioned to be clear of loading area.	DA-100

Whilst relating to a wide range of individual elements within the approved Community Hub, each item is relatively minor and collectively the changes can reasonably be considered a ‘refinement’ of the design of the development.

2.3 Plans and Supporting Documentation

The current application is accompanied by the following plans and documentation as provided by the Project Architect.

Table 3: Plans and Documentation

Attachment 1	Updated Architectural Design Plans
Attachment 2	Updated Access Design Report
Attachment 3	Updated BCA Design Assessment Report
Attachment 4	Updated Civil Design Plans
Attachment 5	Updated Hydraulic Design Plans
Attachment 6	Updated Landscape Design Plans

2.4 Amendments to DA 10.2017.474.3

A. CONDITION 1

Existing Condition 1

1. *Approved plans and supporting documentation Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.*

Plan No.	Revision No.	Plan Title	Drawn by	Dated
21010-000	A	Cover Page	BKA Architecture	28/6/2021
21010-002	A	Demolition Plan	BKA Architecture	28/6/2021
21010-100	D	Proposed Ground Floor Plan	BKA Architecture	21/6/2021
21010-101	A	Proposed Roof Plan	BKA Architecture	28/6/2021
21010-200	A	Elevations	BKA Architecture	28/6/2021
21010-210	B	Elevations	BKA Architecture	28/6/2021
21010-211	A	Elevations	BKA Architecture	28/6/2021
21010-300	A	Section	BKA Architecture	28/6/2021
21010-500	A	Site Management Plan	BKA Architecture	28/6/2021
21010-520	A	Finishes Schedule	BKA Architecture	28/6/2021
		Landscape Concept	Plummer and Smith	21/6/2022

J7463 – SK10	A	Concept Design Scenario 1	Planit Consulting	17/10/2022
2935 – CP01	A	Concept Plan	Byron Shire Council	25/02/2022
21GCA0014 R01_2		Environmental Noise Assessment Report	TTM	25/06/2021
ENV216331 0		Asbestos Management Plan	ENV Solutions	16/12/2019
216310		Figure 1 – Site Suitability	ENV Solutions	11/01/2022
19286		Hazmat Removal and Pre- Remediation Mould Inspection Report	ENV Solutions	22/10/2021
P221_011-1 (BCA) JR		BCA Design Assessment Report	Design Confidence	
2021-1054 FER	A	Fire Engineering Report	Dolfin Fire Engineering Consultants Pty Ltd	31/5/2021

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

Proposed Condition 1

1. Approved plans and supporting documentation Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Revision No.	Plan Title	Drawn by	Dated
21010-000	B	Cover Page	BKA Architecture	21/3/2023
21010-002	B	Demolition Plan	BKA Architecture	21/3/2023

21010-100	E	Proposed Ground Floor Plan	BKA Architecture	21/3/2023
21010-101	B	Proposed Roof Plan	BKA Architecture	21/3/2023
21010-200	B	Elevations	BKA Architecture	21/3/2023
21010-210	C	Elevations	BKA Architecture	21/3/2023
21010-211	B	Elevations	BKA Architecture	21/3/2023
21010-300	B	Section	BKA Architecture	21/3/2023
21010-500	B	Site Management Plan	BKA Architecture	21/3/2023
A802	01	External Finishes Schedule	BKA Architecture	21/3/2023
-	-	Old Byron Hospital Landscape Works Document Set	Plummer and Smith	21/12/2022
230-000	B	Cover Page	Plummer and Smith	21/12/2022
230-400	B	Hardworks Plan	Plummer and Smith	21/12/2022
230-401	B	Hardworks Plan	Plummer and Smith	21/12/2022
230-402	B	Hardworks Plan	Plummer and Smith	21/12/2022
230-403	A	Hardworks Plan	Plummer and Smith	20/01/2023
230-500	B	Planting Plan	Plummer and Smith	21/12/2022
230-501	B	Planting Plan	Plummer and Smith	21/12/2022
230-502	B	Planting Plan	Plummer and Smith	21/12/2022
230-503	A	Planting Plan	Plummer and Smith	20/01/2023
230-900	B	Details	Plummer and Smith	21/12/2022
230-901	B	Details	Plummer and Smith	21/12/2022
230-902	B	Details	Plummer and Smith	21/12/2022
230-903	B	Details	Plummer and Smith	21/12/2022
230-904	B	Details	Plummer and Smith	21/12/2022
-	-	Plant Schedule	Plummer and Smith	-
J7463 – SK10	A	Concept Design Scenario 1	Planit Consulting	17/10/2022
2935 – CP01	A	Concept Plan	Byron Shire Council	25/02/2022
21GCA0014 R01_2	-	Environmental Noise Assessment Report	TTM	25/06/2021
ENV216331 0	-	Asbestos Management Plan	ENV Solutions	16/12/2019
216310	-	Figure 1 – Site Suitability	ENV Solutions	11/01/2022

19286	-	Hazmat Removal and Pre-Remediation Mould Inspection Report	ENV Solutions	22/10/2021
P221_011-3 (BCA) JR	-	BCA Design Assessment Report	Design Confidence	15/02/2023
2021-1054 FER	A-	Fire Engineering Report	Dolfin Fire Engineering Consultants Pty Ltd	31/5/2021

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

Rationale

To accurately describe the amended proposal.

3. Planning Assessment

3.1 Introduction

Section 3 documents the range of planning controls and Council policies applicable to the application pursuant to Section 4.15 and Section 4.55 of the Act and tabulates the effect of these instruments on the proposed S4.55 application. This assessment will have particular regard to the following documents:

- S4.55(1A) and S4.15 of the Environmental Planning and Assessment Act 1979;
- Byron Local Environmental Plan 2014; and
- Byron Development Control Plan.

3.2 Section 4.55(1A) EP&A Act 1979

Section 4.55(1A) Modifications involving minimal environmental impact

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

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

Comment: The approved development proposed to adaptively reuse the former hospital building for the purpose of the Byron Community Hub providing a range of community and educational services. The current application involves the refinement of the project design having regard to conditions of development consent and various technical design assessments. The revised development does not change the operational characteristics of the development or significantly alter the external appearance of the approved development. As such, the project is expected to have minimal environmental impacts.

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

Comment: The proposed amendment is considered to be substantially the same development to which consent was originally issued based on the following grounds;

- The proposal still relates to the proposal to adaptively reuse the former Byron Hospital for the purpose of the Byron Community Hub.
- Whilst relating to a wide range of individual elements within the approved Community Hub, each item is relatively minor and collectively the changes can reasonably be considered a 'refinement' of the design.
- No changes are proposed to the operational characteristics (including range of uses, hours of operation and the like);

- The replacement roof sheeting has been selected to closely match the colour of the existing roof, with the profile resembling galvanised corrugated iron.
- No changes are proposed to the gross floor area or carparking requirements to service the development; and
- The proposed amendment does not significantly modify the development's quantitative or qualitative consistency with relevant development design controls under the Byron Local Environmental Plan 2014 or Byron Development Control Plan.

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

Comment: Any required community consultation will be conducted by Council as part of the processing and assessment of this application.

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

Comment: Any submissions received concerning the proposal will be considered by Council as part of its assessment of the application.

3.3 Section 4.15 Evaluation

Pursuant to Section 4.15 of the Environmental Planning and Assessment Act, the following assessment is provided with respect to the proposed modification to the development consent. We note that the original application was subject to detailed assessment to determine the suitability of the site for the development. Accordingly, the following focuses specifically on the changes proposed as part of the current S4.55(1A) application.

(a) the provisions of:

(i) any environmental planning instrument (EPI), and
Byron Local Environmental Plan 2014

Comment: As established via the assessment of the original application, the use of the land as proposed is permissible with development consent on the land. The changes proposed as part of the current application are such that the proposal remains consistent with all provisions of the BLEP as originally assessed. In this regard, we particularly note the following;

- The various minor changes to the external design are such that they are not expected to adversely impact on the heritage values of the Shirley Street Conservation Area. The selection of a pale grey corrugated roof sheet is considered to be an appropriate addition to the locality;
- The building remains a single storey structure which is compliant with the 9m building height control specified in Clause 4.3 – Height of Buildings; and

- The proposal does not result in changes to the approved Gross Floor Area (GFA), with the project achieving a Floor Space Ratio (FSR) of 0.48:1 which is compliant with the 0.5:1 FSR permissible on the site.

State Environmental Planning Policies

Comment: The approved development was assessment against the following State Environmental Planning Policies (SEPPs) and found to be compliant with the application planning and assessment provisions:

- SEPP (Education Establishments and Childcare Facilities) 2017;
- SEPP (Infrastructure) 2007;
- SEPP 55 – Remediation of Land;
- SEPP (Coastal Management) 2018; and
- SEPP (State & Regional Development) 2011.

Since this time, the SEPPs have been restructured, although the policy framework remains largely unchanged. The current application is considered to be not inconsistent with the following updated SEPPs:

- SEPP (Industry and Employment) 2021;
- SEPP (Planning Systems) 2021;
- SEPP (Resilience and Hazards) 2021; and
- SEPP (Transport and Infrastructure) 2021.

(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and

Comment: No Draft EPI impacts the lodgement and subsequent assessment of this S4.55(1A) application.

(iii) any development control plan, and

Comment: The proposed amendment does not modify the original assessment of the project as completed under the Byron Development Control Plan. In particular, we note that the proposed amendments do not alter the carparking assessments completed as part of the original development application.

(iiia) Any planning agreement that has been entered into or any draft planning agreement that a developer has offered to enter into under section 7.4.

Comment: No existing or draft planning agreements are applicable to the current application.

(iv) the regulations (to the extent that the prescribed matters for the purposes of this paragraph),

Comment: The regulations in no way prejudice the sought amendment to the approved development.

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

Comment: The environmental, social and economic impacts of the approved development was assessed in detail as part of Council's consideration of the Development Application.

The proposal relates to the adaptive reuse of an existing building. The internal layout has been developed in response to the existing building configuration, user requirements moving forward and achieving a compliant building form in a cost effective manner. It is considered that the proposed use represents a suitable addition to the locality and will be consistent with the character of the locality and site context.

The changes proposed as part of the current application are such that the proposal's environmental and economic impacts remain consistent with approved development as originally assessed.

(c) the suitability of the site for the development.

Comment: No adverse impacts have been identified during the preparation of the current S4.55 application which would indicate that the site is not suitable for the development.

(d) the public interest.

Comment: This application considers and addresses the relevant State and Local Government plans and policies. The previously demonstrated consistency with the planning framework is not altered via the current S4.55(1A) amendment. This project involves the adaptive reuse of the former Byron Bay Hospital and will result in the provision of centralised, dedicated and affordable office space for not for community service providers. The project is therefore expected to deliver substantial benefit to the local community.

4. Conclusion

The Section 4.55(1A) report successfully addresses the issues relevant to Council's assessment of the proposed amendments to Development Consent Notice 10.2021.370.1.

The details provided herein address the issues relevant to Council's assessment of this Section 4.55(1A) Application to amend the development pursuant to Section 100 of the *Environmental Planning & Assessment Regulations (2021)*.

Council can readily conclude the development, as proposed to be modified, is substantially the same as that for which consent was originally granted.



KARINA VIKSTROM

Town Planner. BTP.



DAMIAN CHAPELLE

Town Planner. BTP CPP.

Date: 3 April 2023