

**MODIFICATION REPORT
NEXTSENSE CENTRE OF EXCELLENCE –
MACQUARIE UNIVERSITY
SSD DA 10451 – MOD 3**

PART A – MAIN REPORT



Prepared on behalf of NextSense



MAY 2025

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Date: 16 May 2025

MODIFICATION REPORT PART A – MAIN REPORT

MODIFICATION OF CONSENT (SECTION 4.55(1A)) MOD 3 - SSD DA 10451 NEXTSENSE CENTRE OF EXCELLENCE CULLODEN ROAD, MACQUARIE UNIVERSITY

1.0 INTRODUCTION

This Modification Report has been prepared by _planning Pty Ltd on behalf of NextSense with respect of a section 4.55(1A) modification (MOD 3) to Development Application (DA) consent SSD 10451, as granted under delegated authority from the Minister on 30 April 2021.

Development Consent SSD 10451 is for the development of the new NextSense Centre of Excellence, across two interconnecting pavilions, including:

- specialist pre-school (designed for 80 children) and primary school (designed for 120 students).
- clinical services and workplace building designed for 260 staff with public areas for staff and visitors, conferencing / classroom facilities and business hub; resource centre; and medical facilities.
- total of 58 car parking spaces (including 38 in basement level; 18 drop-off/short duration parking spaces for school uses in porte-cochere from Culloden Road; and 2 short-term visitor parking spaces via porte-cochere from Gymnasium Road).
- concurrent amalgamation and subdivision of lots to create two lots.
- earthworks, removal of pedestrian path, removal of 118 trees, landscaping, and associated works.

The DA has previously been modified twice as follows:

- MOD 1 Approved 24 November 2021 - Minor design amendments to external building envelopes, façades, internal layouts and configuration, landscaping, and earthworks.
- MOD 2 Approved 26 July 2023 - Amendments to the approved signage zones.

2.0 BACKGROUND

The development is presently operational following the issue of an Occupation Certificate (OC) on 11 April 2024.

Prior to the issue of the OC, NextSense made payment on 9 April 2024 of development contributions to Council under the Voluntary Planning Agreement (VPA) between Council and Macquarie University, as executed on 7 February 2013. This payment was on the basis of the gross floor area (GFA) of the development that was deemed to be 'Category 2 Development' in relation to 'Commercial Use' at the completed development.

Council, however, issued a Notice of Dispute to Macquarie University on 2 December 2024 seeking additional payment of contributions on the basis of other floor space within the development that may also be deemed 'Commercial Use' rather than as part of its 'Academic Use'. Following subsequent meetings with Council in early 2025 it was established that Council would review its position.

In particular, a meeting held on 2 April 2025 resolved that Council could reconsider its position if an updated GFA Plan (WMK Architecture drawing A980) could be approved by the Department of Planning, Housing and Infrastructure (the Department).

The updated plan is required to reclassify 2,518.4 m² (most recently classified as 'Office Use (2A, 2B & 2C)') as additional 'Academic Use'. Note, GFA described as 'Office Use' sits on WMK Architecture

drawing A980 Issue H, which was used in the negotiations around the VPA contributions matters only, and which proceeded without the need to address any development consent matters, nor any conditions of the consent. WMK Architecture drawing A980 Issue H does not form part of the current consent and was used for descriptive purposes for the VPA GFA calculations only. 'Office Use' was added to that drawing to assist in better delineating floor space that was not 'Commercial Use' GFA at that time.

The stamped approved WMK drawing A980 Issue D, however, only describes 'Academic Use' and 'Commercial Use', and it is the GFA calculations in these descriptions that Council seeks to be updated to reflect the now built and operational development. As part of the negotiations with Council on the conversion of 'Office Use' to 'Academic Use' _planning Pty Ltd provided a detailed justification setting out the temporal, spatial, functional and financial relationships of the uses of floorspace within the development to each other, as well as setting out the characterisation the NextSense office uses as ancillary uses to the overall NextSense development through Planning Circular (PS 21-008) – How to characterise development, as well as through relevant case law. This is set out in relevant detail later in this Modification Report as part of the engagement with Council – see Section 6.0.

The revised and operational quantum of 'Academic Use' and 'Commercial Use' of the development are set out on the new WMK Architecture drawing A980 Issue I. Effectively, the result is a transfer of 'Office Use' floor space to 'Academic Use' as ancillary to the functions of the approved educational establishment, with confirmation of the quantum of 'Commercial Use' GFA to align with the development contribution paid on 9 April 2024, and as last identified on drawing A980 Issue H.

Whilst the previous and current VPA-related actions do not materially involve the Department, the process of satisfying Council's proposed approach to the 'Approved Building', as defined by the VPA, will require the stamped approved drawing to be updated and formalised as a new stamped approved plan within the DA consent. Accordingly, WMK Architecture drawing A980 Issue I is that proposed plan. A marked-up version of drawing A980 Issue D is provided as part of this application to allow the Department to see where the modifications are made between Issues D and I.

The proposed changes do not alter the approved (and now operational) development, but do result in minor administrative changes to the stamped drawing and to Condition A2 of the existing consolidated consent. The use, mix of uses, footprint, envelope and general development capacity of the approved development is not altered and so the development remains substantially the same and the modification is readily classified as having minimal environmental impact – hence a section 4.55(1A) modification application. Whilst the modification is administrative, it is not an application now addressing a previous minor error, misdescription or miscalculation under section 4.55(1). It retrospectively updates GFA calculations for the separate purposes of the VPA.

Accordingly, the purpose of the subject modification is to bring a contemporary commonality between the consent and the VPA, and assist in confirming that no further development contributions apply to the now operational development as no new or additional 'Commercial Use' floor space exists.

Section 4 of this report sets out the details of the above and articulates how this relates or compares to the approved stamped drawings.

As previously requested by the Department on other similar applications, including the previous MODs 1 and 2 to this DA, this application addresses and provides:

- the type of modification we believe the application to be;
- revised architectural drawings, or other drawings and documents showing and comparing the proposed changes against the approved plans / drawings;
- a list of the proposed changes describing the details, reason and justification for those changes; and
- commentary on how the design's qualities already achieved are maintained.

This application is supported by material from WMK Architecture in addressing the above. Specifically, this includes a marked-up version of stamped approved drawing A980 Issue D, as well as the now proposed new drawing A980 Issue I. Drawing A980 Issue H is provided for information only to assist in the Department's appreciation of the evolution of the calculations and position reached in the development contributions at April 2024.

Based on the preceding and appended information the application relates to a minimal environmental impact for substantially the same development, and can accordingly be considered as a section 4.55(1A) application.

3.0 STRATEGIC CONTEXT

Given the extremely minor and administrative nature of this proposed modification, the strategic context of the development is unaffected. The proposal does not affect the development's response and commitment to the following as assessed in the original SSD DA, where these may still apply:

- NSW State Priorities.
- The Greater Sydney Regional Plan, A Metropolis of three cities.
- Future Transport Strategy 2056.
- State Infrastructure Strategy 2018 – 2038 Building the Momentum.
- North District Plan.
- Macquarie University Master Plan 2014.
- Sydney's Cycling Future 2013.
- Sydney's Walking Future 2013.
- Sydney's Bus Future 2013.
- Better Placed: An integrated design policy for the built environment of New South Wales (Government Architect NSW (GANSW), 2017).
- Healthy Urban Development Checklist (NSW Health, 2009).
- Draft Greener Places Policy (GANSW)

4.0 NEED FOR MODIFICATION

As set out above, the proposed change to the approved stamped drawing stems from re-commenced negotiations with Council about development contributions from NextSense's development of part of the Macquarie University site.

The proposed new stamped drawing will assist in bringing a contemporary commonality between the consent and the VPA, and assist in confirming that no further development contributions apply to the now operational development as no new or additional 'Commercial Use' floor space exists.

Only part of Condition A2 of the consolidated consent will require modification to cater for the proposal.

Table 1: Changes to approved stamped plans.

| Approved | Proposed |
|--|--|
| A000 D Cover sheet and location plan | <ul style="list-style-type: none">• No change. |
| A010 D Site plan | <ul style="list-style-type: none">• No change. |
| A050 C Site demolition plan | <ul style="list-style-type: none">• No change. |
| A100 D Overall plan – basement | <ul style="list-style-type: none">• No change |
| A101 D Overall plan – ground | <ul style="list-style-type: none">• No change |
| A102 D Overall plan – level 1 | <ul style="list-style-type: none">• No change |
| A110 D Floor plan – zone 1 – basement | <ul style="list-style-type: none">• No change |

| Approved | Proposed |
|--|---|
| A111 D Floor plan – zone 1 – lower ground | <ul style="list-style-type: none"> No change |
| A112 D Floor plan – zone 2 – upper ground | <ul style="list-style-type: none"> No change |
| A113 D Floor plan – zone 1 – level 1 | <ul style="list-style-type: none"> No change |
| A114 D Roof plan – zone 1 | <ul style="list-style-type: none"> No change |
| A115 D Roof plan – zone 2 | <ul style="list-style-type: none"> No change |
| A500 D Overall site elevations | <ul style="list-style-type: none"> No change |
| A510 D Building elevations – zone 1 | <ul style="list-style-type: none"> No change |
| A511 D Building elevations – zone 1 | <ul style="list-style-type: none"> No change |
| A512 D Building elevations – zone 2 | <ul style="list-style-type: none"> No change |
| A513 D Building elevations – zone 2 | <ul style="list-style-type: none"> No change |
| A600 D Building sections – zone 1 | <ul style="list-style-type: none"> No change |
| A601 D Building sections – zone 1 | <ul style="list-style-type: none"> No change |
| A602 D Building sections – zone 2 | <ul style="list-style-type: none"> No change |
| A960 D Area diagrams | <ul style="list-style-type: none"> No change |
| A980 D GFA and GBA diagrams | <ul style="list-style-type: none"> This drawing will become Issue I It will update a range of tables on the sheet to reflect the existing mix of operational 'Academic Use' and 'Commercial Use' GFA. This includes updating GFA calculations, as well as redefining and renaming the categorisation of spaces within the development to align with, and bring forward, descriptions provided in Issue H as part of prior negotiations with Council in 2024. For ease of reference a marked-up copy of Issue D is provided along with the 'clean' new version of Issue I. Issue H is also provided for information and context only. The changes in GFA result in the addition of further 'Academic Use' GFA and a corresponding reduction to 'Commercial Use' GFA to align with the GFA used in the development contribution. |
| A990 D Room schedules – Zone 1 | <ul style="list-style-type: none"> No change |
| A991 A Room schedules – Zone 2 | <ul style="list-style-type: none"> No change |

5.0 STATUTORY CONTEXT

The nature of the changes proposed are administrative only and impacts are non-existent from an environmental planning impacts perspective. The change results from, and assists only, VPA-related matters that are essentially unrelated to the development consent. Notwithstanding, we believe the modification to be a section 4.55(1A) application – a modification involving minimal environmental

impact. The consent, as modified, would also relate to substantially the same development, as is self-evident. The modification is administrative, but is not an application now addressing a previous minor error, misdescription or miscalculation under section 4.55(1).

In the context of the overall development consent and the scale of the NextSense Centre of Excellence, these are considered administrative and retrospective alterations of the approved and now operational development. The modified GFA calculations have no adverse or transformational impact upon the design and operation of the development. Note also that under Ryde LEP 2014 and the Macquarie University Part 3A Concept Plan the proposed modification will not alter the permissibility of the development, nor contravene any principal development standards or controls, noting the NextSense development and this part of the MQU campus is not subject to any maximum building height, floor space ratio or gross floor area controls.

As required under section 4.55(3) for modifications generally, an assessment has been undertaken of the proposed modification consistent with the relevant requirements of section 4.15(1) of the EP&A Act. Section 4.15(1) states as follows:

(1) Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and*
 - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) any development control plan, and*
 - (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
 - (v) (repealed),*
- that apply to the land to which the development application relates,*

- (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,*
- (c) the suitability of the site for the development,*
- (d) any submissions made in accordance with this Act or the regulations,*
- (e) the public interest.*

Assessment against (and compliance with) the relevant provisions of section 4.15(1) is set out below as well as the reasons given by the consent authority in granting consent to the original DA. Further detailed assessment of relevant matters is also set out in Section 7 of this application.

Table 2: section 4.15(1) compliance

| Provision | Compliance / Commentary |
|---------------------------------------|---|
| any environmental planning instrument | The modification will not alter any pre-existing compliance with any SEPP or LEP relevant to the site or development. There will be no increase in impacts already assessed and determined by Department to be satisfactory. In fact the modification does not result in any impacts as it is administrative. |

| | |
|--|--|
| | The modification also does not alter any compliance with an approved Part 3A Concept Plan (such as the Macquarie University Concept Plan) where it overrides any environmental planning instrument because of any inconsistency. |
| any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved) | The modification does not relate to any current draft or proposed instruments. |
| any development control plan | The modification is not contrary to any DCP, noting DCPs do not apply to SSD. |
| any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 | The administrative change to a single architectural drawing seeks to bring contemporary commonality between the consent and the VPA, and assist in confirming that no further development contributions apply to the now operational development as no new or additional 'Commercial Use' floor space exists. |
| the regulations (to the extent that they prescribe matters for the purposes of this paragraph) | N/A |
| the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality | <p>There are no environmental planning impacts associated with this administrative modification to a single architectural drawing and its GFA calculations.</p> <p>There will be no increase in impacts, or erosion of the design and operational / performance qualities of the development, already assessed and determined by Department to be satisfactory.</p> <p>The modification to the development's consent will not generate new impacts on neighbours of the development, including the MQU campus.</p> |
| the suitability of the site for the development | The modification does not alter the approved development's suitability to the site and vice versa, noting the development's overall consistency with the approved Part 3A Concept Plan and planning regime applicable to the development and the MQU campus. |
| any submissions made in accordance with this Act or the regulations | N/A – this relates to the Department's consideration of any submissions it may receive. |
| the public interest | The modification will not affect or alter the public interest in relation to this development. |
| <p>Reasons for giving consent were identified as to:</p> <ul style="list-style-type: none"> • the project would provide a range of benefits for the region and the State as a whole, including a total investment of \$74,513,056 and approximately 205 construction jobs and 300 operational jobs; • the project is permissible with development consent, and is consistent with NSW Government policies, including: <ul style="list-style-type: none"> ○ Greater Sydney Region Plan – A Metropolis of Three Cities; ○ State Infrastructure Strategy 2018-2038; ○ Transport for NSW's Future Transport Strategy 2056; | No aspect of this modification will alter or compromise the reasons for giving conditional consent to the development. |

| | |
|---|--|
| <ul style="list-style-type: none">○ North District Plan;• the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards; and• weighing all relevant considerations, the project is in the public interest. | |
|---|--|

6.0 ENGAGEMENT

As noted earlier, the need to lodge the modification stems from the initial payment of development contributions to Council under the applicable VPA, and then the Notice of Dispute to Macquarie University seeking additional payment of development contributions based on the quantum of GFA expressed in WMK Architecture drawing A980 Issue D (the stamped approved plan). Negotiations with Council have resulted in a request for NextSense to lodge MOD 3 to assist in clarifying and resolving the matter.

To that end an existing detailed level of engagement has resulted with Council (and Macquarie University) on this matter.

Part of that consultation has involved the preparation, and issue to Council, of a justification letter (by _planning Pty Ltd) setting out the temporal, spatial, functional and financial relationships of the uses of floorspace within the development to each other, as well as setting out the characterisation the NextSense office uses as ancillary uses to the overall NextSense development through Planning Circular (PS 21-008) – How to characterise development, as well as through relevant case law. The relevant details of which are set out below.

The originally identified 'Office Use' of the NextSense development (in drawing A980 Issue H) can be readily identified as being related to and ancillary to the primary purpose of the development (as submitted in the SSD DA) which is for an Educational Establishment, as defined under NSW planning legislation.

The NextSense office floor space has a temporal, spatial, functional and a financial relationship to the primary purpose of the development.

Temporal Relationship

NextSense has operated at the site since its OC was granted on 11 April 2024. All uses of the development commenced concurrently, or within a short time-span of each other. This included the office uses of the development in support of the NextSense School, Preschool, and its other core functions.

Spatial relationship

The NextSense development comprises two inter-connected pavilions with direct access between the two for staff and authorised persons.

NextSense's webpage describes the subject location and address as follows:

NextSense administration, operations, and client services
Central entrance
2 Gymnasium Road, Macquarie University
Macquarie Park

*School and Preschool
Entry via Education Services
131 Culloden Road
Macquarie Park*

This is primarily to assist with segregating traffic, deliveries, and visitation to the relevant and appropriate locations for wayfinding purposes more so than distinguishing any lack of spatial or functional relationship.

Notwithstanding, the development clearly has a spatial relationship between activities undertaken between the two inter-connected pavilions. The NextSense administration, operations, and client services pavilion would not be located at the site in the absence of the School and Preschool pavilion, as set out in further detail in the description of the functional relationship below.

Functional relationship

NextSense is unique. The not-for-profit organisation provides innovative and customised services aimed at breaking down barriers for children, adults and families of people with hearing or vision loss, and it is a world leader for research, technology and professional education.

Its services include:

- School services and support – support through NextSense School, a specialist campus for children from Kindergarten to Year 6 with hearing and vision loss, and in mainstream, independent schools
- Preschool and Kindergarten – inclusive programs for children with hearing and vision loss who learn alongside their hearing and sighted peers
- NextSense Institute – a centre for research and professional studies in education for children with sensory disabilities, offering webinars, short courses, and degree programs for parents, carers, educators, and health professionals
- Paediatric audiology – hearing assessments for children, including those with special needs
- Vision assessments – vision assessments for children, and support with assistive technology
- Early intervention (hearing and vision) – early support to set the foundation for higher learning and critical life skills
- Connected services – remote early intervention, school support and therapy services for children who are deaf, hard of hearing, blind or have low vision living in regional and remote communities
- Cochlear implant services – access to surgeons, a team of health professionals, and the latest technologies for children and adults who are deaf or hard of hearing
- Allied health and speech therapy – integrated and coordinated allied health services including diagnosis, functional assessments, and therapy services
- Accessibility and inclusion – producing a range of materials in accessible formats, including braille, large print, 3D printed, 2D tactile and accessible electronic text.

The use of the NextSense administration, operations, and client services pavilion has a direct functional relationship to and ensures the holistic provision of services to people who are deaf, hard of hearing, blind or have low vision, including through its connection to the School and Preschool pavilion. This is amplified by the decision to co-locate with related services already at Macquarie University, such as the Australian Hearing Hub and Cochlear Ltd, as well as the university's own research, development, and teaching in hearing and vision loss.

Fragmenting uses across different locations and in isolation from the school would impede NextSense from providing the services set out above.

Table 3 below sets out the range of functions / uses within the NextSense administration, operations, and client services pavilion (the consulting building on the WMK drawing) which are identified as academic uses due to the functional interrelationships and interdependencies with the School and Preschool pavilion.

Table 3 - Current Floor Space Usage - Consulting Building

| Location | Current Floor Space Usage - Consulting Building (refer Drawing A980 Issue I) |
|---|--|
| <i>Basement</i> | |
| 3E Academic - Institute Library | Bulk storage of academic and clinical resources, including books, educational games, and therapeutic equipment. |
| 3G Academic - Workspace – Building Management | Management of all systems for both pavilions, including air conditioning, lighting, power, water, and security. |
| 3G Academic - Workspace General | Management of all deliveries and postal services. |
| <i>Lower Ground</i> | |
| 3E Academic - General | Main Reception area for NextSense Institute students and clients receiving health support services. |
| 3E Academic - Institute Business Hub | For collaboration with all stakeholders, including external providers of education and health services. |
| 3E Academic - Institute Cafe | Provides catering for academic conferences, NextSense School canteen, NextSense Institute students, and NextSense staff. |
| 3E Academic - Institute Collaboration | For meetings and breakout workshops associated with academic conferences etc. |
| 3E Academic - Institute Conference | For provision of academic lectures, conferences, seminars and training workshops. |
| 3E Academic - Public | Bathrooms, Parent Rooms and eating areas to support all academic and clinical visitors to NextSense. |
| 3E Academic - Resource Library | Reception / resource collection area for the Manager of the Resource Library that is located in the Basement. |
| 3F Academic - Institute Showcase | Interactive showcase area providing educational information about sensory disabilities and the services that NextSense provides to support people's needs. |
| 3F Academic - Shared Facilities | Large therapy rooms for provision of Early Intervention Services. |
| <i>Level 01</i> | |
| 3E Academic - General | Staff collaboration and kitchen facilities. |
| 3E Academic - Institute Workplace | Neighbourhood for NextSense Institute staff – providers of research and professional studies in education. |
| 3G Academic - Workspace | Neighbourhoods for Early Intervention, Allied Health and Accessibility staff that provide the support and materials needed to set the foundation for higher learning and critical life skills. |
| 3G Academic - Workspace - Fundraising/Risk | Administration and Operations required to support all NextSense academic & clinical activities. |
| 3G Academic - Workspace - IT/Support | As above. |
| 3G Academic - Workspace - Leadership | |
| 3G Academic - Workspace - Marketing/Finance | |

Financial relationship

The entirety of NextSense operates as a singular entity under the single ABN of 53 443 272 865. This includes its School, Preschool and other activities undertaken concurrently in the NextSense administration, operations, and client services pavilion.

Note also that NextSense is registered with the Australian Charities and Not-for-profits Commission (ACNC); is a Public Benevolent Institution endorsed to access the following tax concessions; and is endorsed as a Deductible Gift Recipient (DGR).

Relevantly, section 6 of the *NextSense Act 1998* states:

6 Object and functions

- (1) *The object of the Institute is to provide support and services to the following—*
 - (a) *persons living with hearing or vision loss,*
 - (b) *the families of persons living with hearing or vision loss,*
 - (c) *persons or bodies involved in providing care, support or other services to persons with hearing or vision loss.*
- (2) *The Institute is not to carry out its activities for the purpose of private gain for particular persons.*
- (3) *The Institute has the functions necessary or convenient to enable it to achieve its object.*

Ancillary Development / Ancillary Uses

Based on the above listed relationships and inter- and co-dependencies there is a clear primary and ancillary relationship between functions at the site where the principal purpose is focussed on the schooling and education of children who are deaf, hard of hearing, blind or have low vision.

Further consideration is given below through application of the Department's updated Planning Circular (PS 21-008) – How to characterise development. We have also previously addressed relevant case law. This can be made available if the Department requires.

Planning Circular (PS 21-008) – How to characterise development

The Department's updated Planning Circular (PS 21-008) – How to characterise development, establishes how to consider an ancillary use. *An ancillary use is a use that is subordinate or subservient to the dominant purpose. The concept is important when a development involves multiple components on the same land.*

To put it simply:

- *if a component serves the dominant purpose, it is ancillary to that dominant purpose;*
- *if a component serves its own purpose, it is not a component of the dominant purpose but an independent use on the same land. It is a dominant use in its own right and not an ancillary use.*

Development is considered to be for a particular purpose if that purpose is the dominant purpose of the development ... the reason for which the development is to be undertaken, or the end to which the development serves.

The planning circular describes an ancillary use as "*a use that is subordinate or subservient to the dominant purpose.*" If a component serves the dominant purpose it is ancillary, and if the component serves its own purpose it is an independent use on the same land and not an ancillary use.

An *educational establishment* is clearly a purpose of the approved development on the site. In accordance with the planning circular, other approved development on the site such as the car park, office and administrative components and the like serve the purpose of enabling the NextSense School and Preschool to function on the site and are ancillary.

The circular sets out some considerations for characterisation, noting that these are not determinative as it depends on the facts of the case. Consideration of those matters is set out in Table 4 that follows.

Table 4 - Characterisation considerations under the Planning Circular 21-008

| Characterisation consideration | NextSense |
|---|---|
| Is the component going to serve the dominant purpose of the development or is it independent? | <p>The component 'office uses' of NextSense serve the overall development of NextSense, of which the School (and Preschool) as an educational establishment is the dominant land use on the site. The office uses are not an independent use of floor space at the site unrelated to the activities of NextSense.</p> <p>The ancillary nature of the administrative functions of NextSense is expressed in its temporal, spatial, functional, and financial relationships and interdependencies (as set out earlier).</p> <p>The whole of the development is known as NextSense.</p> |
| What is the amount of land to be used for a certain component, relative to the amount of land proposed to be used for other purposes? If the amount of land is relatively small, it is more likely to be ancillary | The office use has previously been identified as 2,518.4m ² of the overall GFA of the NextSense development. The academic component has been identified as comprising 6,543m ² . Accordingly, the office uses utilise a lesser component of land and overall GFA across the site. It is clearly ancillary from a spatial and functional relationship perspective. |
| Evidence of a purpose that is inconsistent with the dominant purpose is likely to undermine a claim that a component is ancillary | The purpose of the office space is not a competing or differing land use to that of supporting the dominant educational establishment or academic use of the site, noting that the whole of the development is known as NextSense from a functional and financial perspective. |
| If the component is temporary, it is more likely to be ancillary; if it is regular (that is, will constitute an ongoing use for a long period of time), it is likely to be an independent use. | The land use is not temporary and is not intended to become temporary or transient at the site. The development is a once-in-a-generation development for NextSense and this provides the entity with its long-term home and consolidated headquarters for its comprehensive activities since its move from its longstanding North Rocks home and rebranding from the Royal Institute for Deaf and Blind Children to NextSense. |
| If the component goes beyond what is reasonably required in the circumstances for the development to implement the dominant purpose, it is likely to be an independent use (regardless of whether it has ancillary qualities) | There is no or little potential for the NextSense office uses to be a separable and independent use if considered from a land use perspective alone. In consideration of the facts and circumstances at play, to establish an independent use would require a range of (presumably complex and unbeneficial) financial, administrative, legal and contractual, and spatial and development-related actions by NextSense to formally segregate the use or to relocate to a different location. This is simply not within the objects or current philosophy of NextSense as an organisation and would be inconsistent or contrary to the Objects and functions of its Act as set out earlier. |
| Related components of a development are likely to have an ancillary relationship, although this is not necessarily determinative of such a relationship. | As seen in the functional and spatial relationships of NextSense, and the components of the activities undertaken by NextSense, there is a consistent theme and thread tied to its provision of learning, care, and support that cannot readily be separated or detached. The objects and philosophy of this learning, care, and |

| Characterisation consideration | NextSense |
|---|---|
| | <p>support forms a fundamental aspect of NextSense and its early and school learning model is central to its provision of its services.</p> <p>The success and ongoing positive legacy of NextSense's long-term relationships with existing and former clients forms an important and profound relationship bond between the overall functions at the site that may not (always) be visible in a direct manner.</p> |
| Physical proximity of the component to the rest of the development is likely to be evidence of an ancillary relationship, although again not necessarily determinative. | As set out earlier, the spatial relationship between uses at the site is direct and self-evident through the design, development, and operation of inter-connected pavilions serving the same NextSense organisation. The uses are co-located within the same site and lot boundaries. |

Accordingly, the proposed transfer of 'Office Use' floor space to 'Academic Use' floor space has been confirmed as being ancillary to the overall educational establishment as proposed by the DA and as approved by the Minister's delegate. The justification letter was supported by the same marked-up and new proposed versions of drawing A980 that accompany this modification application.

Based on Council's review of the drawings and justification letter it has advised NextSense that it does not oppose the proposed amendments in the documents that were provided for review and that NextSense should proceed to prepare the MOD 3 application, including Council's commentary of endorsement to do so.

Given the administrative nature of the proposed changes to one of the approved drawings and the now operational development, no engagement or consultation with neighbours or other relevant authorities previously consulted on the original DA (or its modifications) was deemed relevant or necessary.

7.0 ASSESSMENT OF IMPACTS

The proposed revision of GFA calculations on drawing A980 has no environmental planning impact. The proposed modification is administrative only. No physical change is proposed, nor results, from this modification.

8.0 JUSTIFICATION OF MODIFIED PROJECT

The modification is primarily concerned with providing contemporary commonality between the consent and the VPA, and assisting in confirming that no further development contributions apply to the now operational development as no new or additional 'Commercial Use' floor space exists relative to that at the time of payment of the development contribution. Corresponding GFA adjustments are made to confirm the current mix and quantum of 'Academic Use' and 'Commercial Use' GFA.

This has no impact upon the existing development, aside from seeking to assist in confirmation that the previously paid development contribution remains the only contribution made on the development.

Based on the above, we recommend this modification be approved by the Department. The modification does not result in any new environmental impacts. The modification will result in improved documentation to assist with the interpretation of development's GFA against the terms used in the VPA.

Based on the preceding and appended information the application relates to a minimal environmental impact for substantially the same development, and can accordingly be considered as a section 4.55(1A) application.