

ASSESSMENT REPORT

47-50 The Esplanade, Ettalong Beach
MP 09_0121 MOD 4

1. INTRODUCTION

This report is an assessment of a request to modify Project Approval 09_0121 for a mixed-use development at Ettalong Beach, in the Central Coast local government area.

The request has been lodged by Planning Lab, on behalf of Longbeach Living Pty Ltd (the Proponent), pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The proposal seeks approval to modify the approved non-trafficable roof area.

2. SUBJECT SITE

The subject site is located on the southern edge of the Ettalong Beach town centre. The development site comprises two land holdings, separated by a six metre (m) wide Council laneway (see **Figure 1**). The site has frontage to The Esplanade to the south and Memorial Avenue to the west. The site is legally described as Lots 111,112,113,114,115 and 116 of DP 10650.

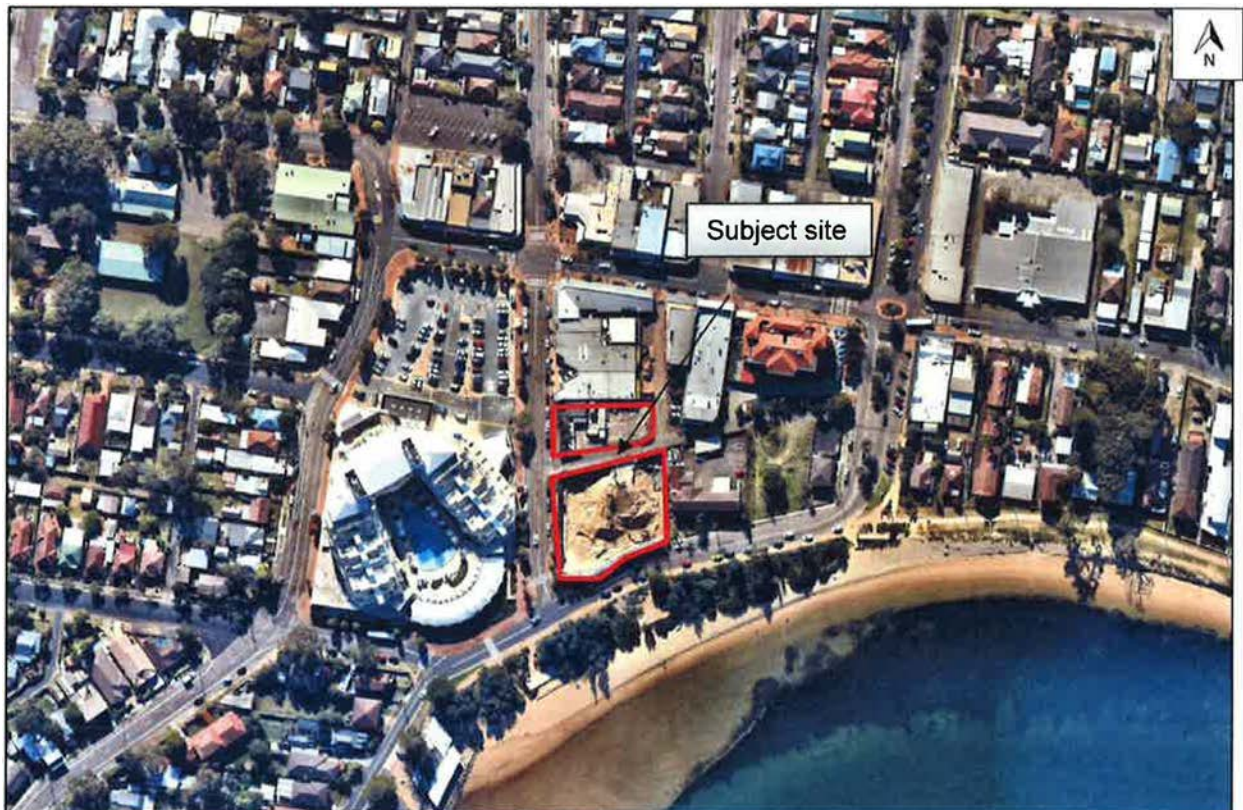


Figure 1: Site location (source: Nearmap).

3. APPROVAL HISTORY

On 24 November 2010, the Minister for Planning granted Project Approval 09_0121 for the construction of a mixed-use development over two stages. The approval included:

- Stage 1 - Construction of a seven-storey mixed-use building.
- Stage 2 - Construction of a two-storey commercial/retail building.

The proposal has been modified on two occasions as summarised in **Table 1**.

Table 1 – *Modifications to the project approval*

MOD	Key Modifications	Approval Authority	Approved
1	<ul style="list-style-type: none">• Amend Stage 1 to incorporate 14 additional apartments, reduce the building height from 23.5m to 22.85m and internal and external design changes	Planning Assessment Commission	24/03/16
2	<ul style="list-style-type: none">• Amend Condition A2 to correct the application number	Executive Director, Key Sites and Industry Assessments	4/10/16
3	<ul style="list-style-type: none">• Minor internal and façade changes• A minor increase to height and FSR• Changes to staging• Reduction in the number of loading bays	Director, Modification Assessments	8/10/17

4. PROPOSED MODIFICATION

On 18 June 2018, the Proponent lodged modification request 09_0121 MOD 4.

The modification seeks to reconfigure the building plant on level 6 and use part of the area as private terraces for the adjoining units.

Key aspects of the proposal include:

- extending the northern edge of the non-trafficable roof area, relocating the plant room within this space and providing plant room access from apartment 602;
- creating private terraces for apartments 601 and 602 from space used from the previously approved plant area;
- constructing a masonry wall dividing the two terraces; and
- installing a free-standing spa and free-standing barbecue on each private terrace.

A comparison of the approved and proposed layout of the site is shown in **Figure 2, 3 and 4**.

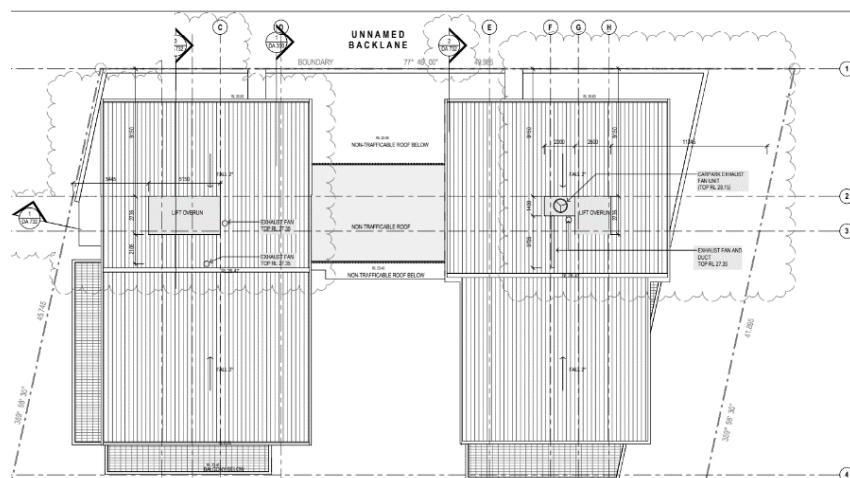
5. STATUTORY CONSIDERATION

5.1 Part 3A Transition to State Significant Development

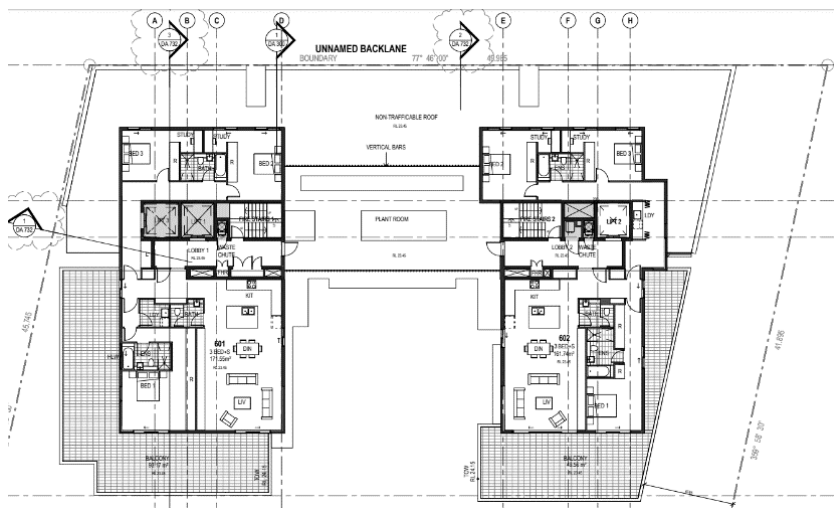
The Project Application (MP 09_0121) was approved under Part 3A of the EP&A Act. On 1 March 2018, the transitional arrangements for Part 3A approvals ended. In order to modify a Part 3A approval, it must be declared SSD by the Minister for Planning and modified under section 4.55 of the EP&A Act.

Under clause 6 of Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*, the Project Application was transitioned to SSD by an Order, which took effect by publication in the NSW Government Gazette on 6 July 2018.

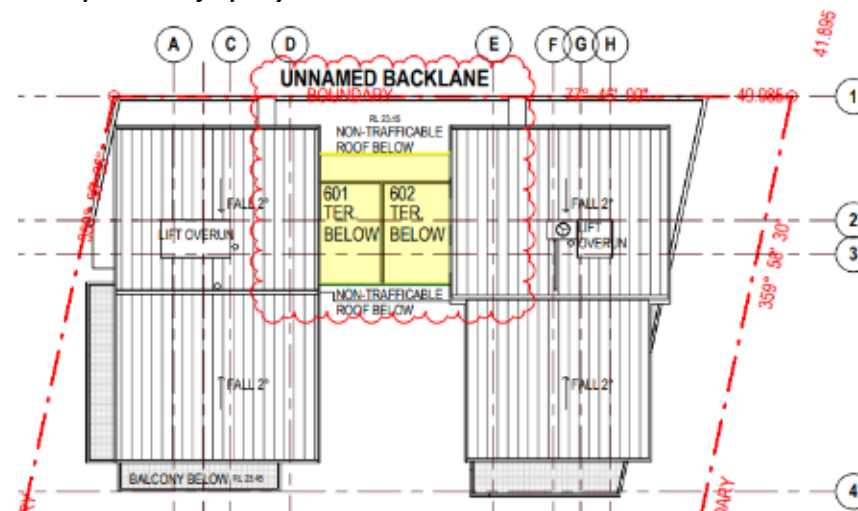
1. *Approved Rooftop Layout*



3. *Approved Level 6 Layout*



2. Proposed Rooftop Layout



4. Proposed Level 6 Layout

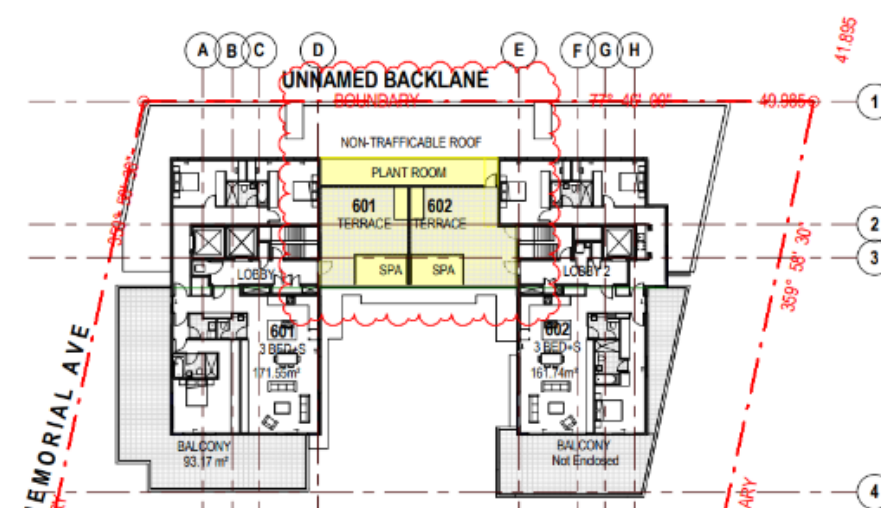


Figure 2: Approved and proposed Level 6 and rooftop floor.



Figure 3: Approved Southern elevation.

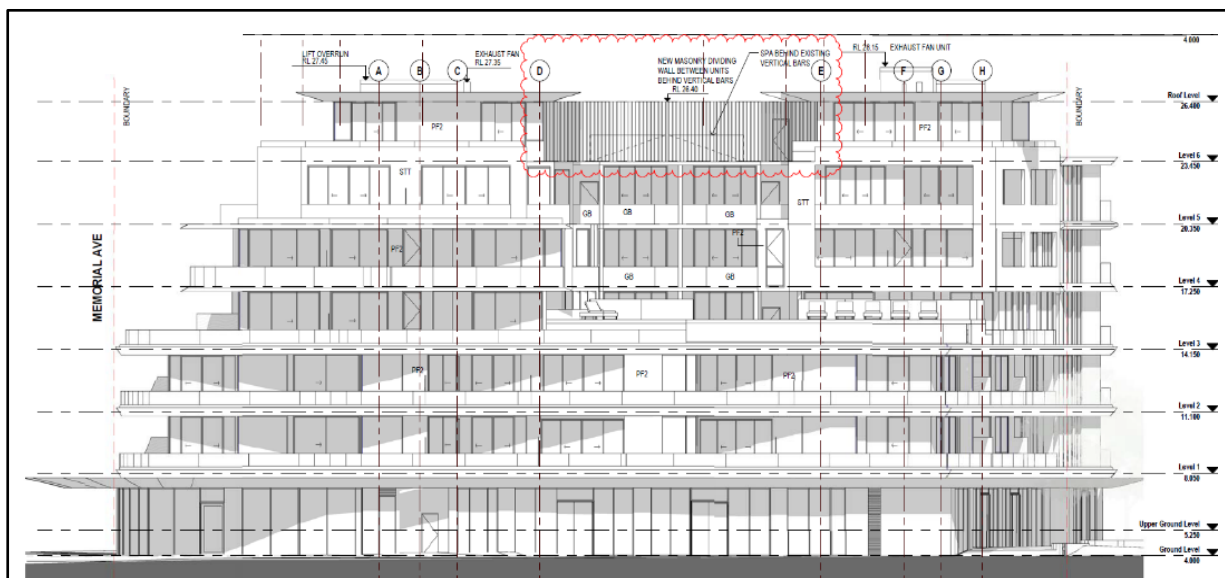


Figure 4: Proposed Southern elevation.

5.2 Modification of Approval

Section 4.55(1A) of the EP&A Act requires the consent authority to be satisfied that the following matters are addressed in respect of all applications that seek modification approvals:

Table 2: Section 4.55(1A) matters for consideration

Section 4.55(1A) matters for consideration	Comment
That the proposed modification is of minimal environmental impact.	Section 7 of this report provides an assessment of the impacts associated with the proposal. The Department is satisfied that the proposed modifications will have minimal environmental impacts.

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).	The proposed modification seeks approval to modify the layout of the non-trafficable roof area. The proposal would not result in any additional adverse impacts on the surrounding residents or any unacceptable visual impacts. On this basis, the proposal would result in development that is substantially the same as originally approved.
The application has been notified in accordance with the regulations.	The application was not required to be notified by the regulations, however the application was made publicly available on the Department's website and referred to Council for comment.
Any submission made concerning the proposed modification has been considered.	The Department did not receive any submissions from agencies, council or the public on the modification.

5.3 Environmental Planning Instruments

The following Environmental Planning Instruments (EPIs) apply to the site:

- *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development.*
- *State Environmental Planning Policy No. 55 – Remediation of Land.*
- *State Environmental Planning Policy (Coastal Management) 2018.*
- *Gosford Local Environment Plan 2014.*

The Department undertook a comprehensive assessment of the development against the relevant EPIs as part of this application. The Department considers the modification does not result in any significant changes that would alter the considerations and conclusions made as part of the original assessment.

5.4 Approval Authority

The Minister for Planning is the approval authority for the modification request. However, the Executive Director, Key Sites and Industry Assessments, may determine the request under delegation.

6. CONSULTATION

The modification application was made publicly available on the Department's website and referred to **Central Coast Council** (Council). Due to the minor nature of the proposed modification, the modification application was not exhibited by any other means.

Council provided no feedback on the proposed modification.

No **public** submissions were received

7. ASSESSMENT

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

- the modification application and associated documents
- the Environmental Assessment and conditions of approval for the original project (as modified)
- relevant environmental planning instruments, policies and guidelines
- the requirements of the EP&A Act.

The Department considers the proposal is acceptable for the following reasons:

- the proposed works would predominantly be undertaken within the approved building envelope and would not increase the height, bulk or scale of the building. As such, the Department is satisfied the proposal would not result in any significant visual or amenity

- impacts on surrounding properties;
- the potential visual impacts associated with the proposal would be mitigated by maintaining the previously approved vertical bars screening the proposed terraces and plant room. As shown in **Figure 3 and 4** the relocation of the plant room will not substantially alter the buildings appearance;
- potential amenity impacts between units 601 and 602 would be appropriately mitigated through the construction of the 2.95m masonry wall, separating the two terraces;
- potential overlooking from the proposed terraces towards other surrounding units would be appropriately mitigated by the retention of the previously approved screening (**Figure 4**) along the full frontage of the terraces;
- the proposed terraces would improve the residential amenity of units 601 and 602, through the provision of addition private open spaces, consistent with the Apartment Design Guideline; and
- the potential noise impacts associated with the relocation of the plant room will be mitigated through the use of double skin brick wall with a lined cavity, meeting the BCA requirements for noise between a plant room and bedroom space.

Overall, the Department considers the proposed modification is acceptable as it would not result in any significant impacts beyond those already assessed and approved. Consequently, the Department considers the proposal is in the public interest and recommends the modification be approved subject to the recommended conditions.

8. RECOMMENDATION

It is recommended that the Executive Director, Key Sites and Industry Assessments, as delegate of the Minister for Planning:

- consider** the findings and recommendations of this report;
- determine** that modification request 09_0121 MOD 4 falls within the scope of section 4.55(1A) of the EP&A Act;
- approve** modification request 09_0121 MOD 4 subject to the modified terms of approval; and
- sign** the attached instrument of modification (Appendix A).

Recommended by:



Anthony Witherdin
Director
Regional Assessment

DECISION

Approved by:



Anthea Sargeant 19/9/18
Executive Director
Key Sites and Industry Assessments
as delegate of the Minister for Planning

APPENDIX A: MODIFICATION CONSENT

A copy of the notice of modification can be found on Department of Planning and Environment's website:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9422

APPENDIX B: SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification Application

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9422