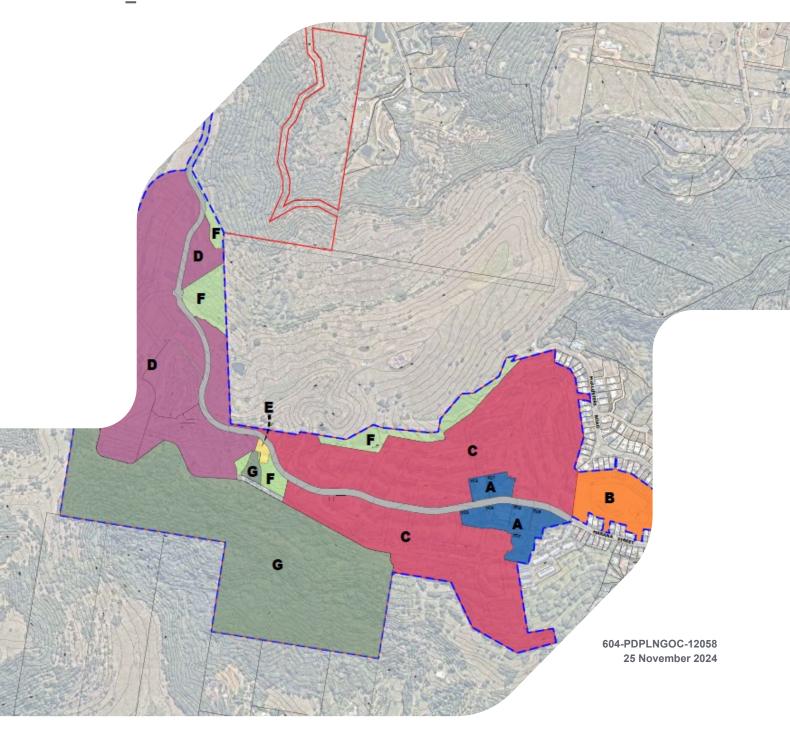


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Modification of Concept Plan MP08_0234



Document status					
Version	Purpose of document	Authored by	Reviewed by	Approved by	Review date
1	Modification Report	Jade Marshall	Simon Pollock	Simon Pollock	19.11.24
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Approval for issue

Simon Pollock

25 November 2024

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GLOSSARY

Term	Meaning
BC Act	Biodiversity Conservation Act 2016
Concept Plan Approval	Major Concept Plan Approval No.MP 08/0234
DA	Development application
DCP	Tweed Development Control Plan 2008
DPHI or The Department	Department of Planning, Housing and Infrastructure (formerly NSW Department of Planning and Environment)
EEC	Endangered Ecological Communities
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2021
ESCP	Erosion and Sediment Control Plan
GMHS	Tweed Growth Management and Housing Strategy
LGA	Local Government Area
MOD 3	Modification 3 (this application)
SSD	State significant development
SEPP (Precincts)	State Environmental Planning Policy (Precincts - Regional) 2021
Transitional Regulation	Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017
Tweed LEP	Tweed Local Environmental Plan 2014
Tweed RCAP	Tweed Regional City Action Plan
VPD	Vehicles per day

1 INTRODUCTION

A Concept Plan approval for the development of a mixed residential development known as 'Rise' was granted over land located at Marana Street, Bilambil Heights, the former Terranora Golf Club. The Concept Plan (MP08_0234), as approved, facilitated a mixed residential development comprising residential dwellings, village centre, conservation lands, community facilities, open space and ancillary infrastructure.

This modification report (Mod 3) has been prepared by RPS on behalf of Greenland Development Pty Ltd, ('the applicant') for consideration by the Department of Planning, Housing and Infrastructure (DPHI) and seeks to modify the approved Concept Plan to provide a development outcome that better aligns with the current market.

The Concept Plan was originally made pursuant to the repealed Part 3A of the *Environmental Planning and Assessment Act 1979*. This Modification Report has been prepared to accompany an application seeking to modify Concept Plan 08_0234 under section 3BA(5) of Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* (Transitional Regulation).

The applicant recently purchased part of the site and has reviewed the development in the context of the current market and have identified the need to update the Concept Plan to ensure a residential outcome can be achieved that best responds to the needs of the market and form of development in this locality.

The project, now referred to as Elysian, seeks to modify the Concept Plan to provide a development that still provides a mix of residential dwellings, village centre, conservation area and open space that responds to the form of housing and amenity being sought in the locality, while also responding to the biodiversity values and topography of the land.

Since the granting of the approval, Precinct B (Retirement Living) has been acquired separately by Gemlife. There are no changes proposed to Precinct B as a result of this modification application.

In preparing this application, all of the technical reports that informed the original determination have been reviewed and updated. These reports have assisted to inform and refine the proposed development footprint, taking into account more current regulatory requirements.

1.1 Site details and land ownership

1.1.1 The Site

Elysian is located within the Bilambil Heights Urban Growth Area within the Tweed Local Government Area. The subject land comprises approximately 187 hectares and is located approximately 6km west of Tweed Heads. The land is accessed via Scenic Drive, Marana Street and Cobaki Road.

Elevations of the land range from approximately RL 3m AHD towards its northern boundary to approximately RL 216m AHD in the middle of the site and 180m AHD towards its southern boundary, adjacent to Marana Street. The land has frontage to and access from Marana Street at its southeastern corner.

Marana Street links to Scenic Drive, which is a major distributor road connection to Tweed Heads in the east.

In the north, the property has frontage to Cobaki Road which is also a major road connection to Kennedy Drive and Tweed Heads and ultimately, via Piggabeen Road.

This application applies to the same Concept Plan portion of the site, as illustrated in **Figure 1**. The portion of the site that is relevant to this modification application, is predominately owned by the applicant, who makes this application. An overview of the key site details, including land ownership is shown in **Table 1**.

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Table 1: Site details

Site particulars	Details			
Site Address:	Marana Street, Bil	ambil Heights NSW 2486		
Real Property	Lot and plan	Ownership	Site area (ha)	Comment
Description,	Lot 32//DP1085109	GTH Resorts No 20 Pty Ltd	6.96	Gemlife (retirement living)
Ownership and Site Area:	Lot 33//DP1085109	Greenland Development Pty Ltd	62.28	Central part
	Lot 31//DP850230	Greenland Development Pty Ltd	0.1480	Closed road
	Lot 2//DP867486	Greenland Development Pty Ltd	115.1	Western part
	Lot 4//DP822786	Greenland Development Pty Ltd	0.0102	Closed road
	Lot 1//DP1033807	Tweed Shire Council	0.3579	Closed road
	Lot 1//DP595529	Tweed Shire Council	0.0771	Reservoir
	Lot 1//DP1033810	Tweed Shire Council	2.025	Closed road
	Approximate Total:	:	186.9582 ha	
Road Frontage	Marana Street	(primary access)		
	Cobaki Road			
	 McAllisters Ro 	ad		
Local Authority	Tweed Shire Cour	ncil		

As noted in the table above, Lot 32//DP1085109 is separately owned by GTH Resorts No 20 Pty Ltd (Gemlife). The remaining parcels owned by Tweed Shire Council relate to roads closed as a consequence of the original application.

Refer to an aerial photograph of the subject site in Figure 1 below.

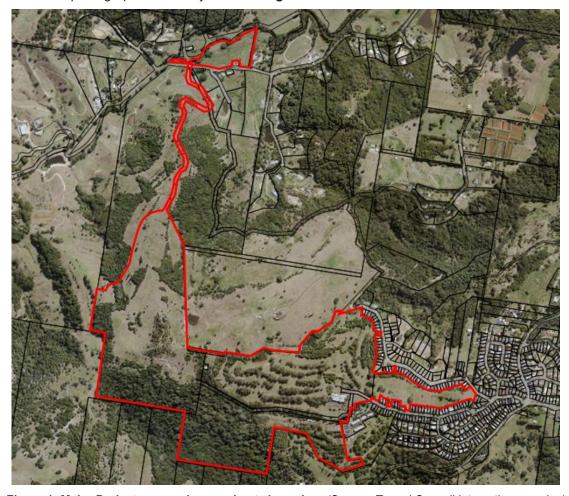


Figure 1: Major Project approval approximate boundary (Source: Tweed Council interactive mapping)

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1.2 Existing approvals summary

1.2.1 Development Consent MP08 0234

The Concept Plan Approval No. MP 08_0234 was originally approved on 29 June 2010, with two subsequent modifications approved on 4 April 2018 (Mod 1) and 31 October 2022 (Mod 2). Refer to **Appendix C** for a copy of the existing approvals.

The original approval applied to the majority of the overall land holding, as illustrated above. The instrument of approval summarises the approval as being for:

"Concept Plan for the development of a mixed residential development including 1,604 residential dwellings, 4,447m² gross floor area of retail space, 5,300m² gross floor area of commercial space, and associated infrastructure and landscaping."

1.2.2 Modification 1

Following the original Concept Plan Approval, a subsequent modification application was made (Mod 1), which addressed a referencing error in the Concept Plan Approval. The approval incorrectly referenced Lot 31//DP108519, which was corrected to read as Lot 32//DP108519.

1.2.3 Modification 2

The original Concept Plan Approval included a super lot subdivision to create 5 lots. The plan of subdivision formed part of the final consent and the approved lots are illustrated in 'Annexure 10 – Plan of proposed subdivision'. The proposed super lot subdivision would, in summary:

- amalgamate all lots with the Concept Plan area;
- create a balance parcel in the northern portion of Lot 2//DP8967486;
- create two (2) lots that catered for an existing Council reservoir and a separate proposed reservoir parcel; and
- create a parcel for the land located on the northern side of Cobaki Road.

The purpose of Modification 2 (Mod 2) was to realign the western boundary to Lot 32//DP1075109 to increase the overall size of Lot 32 from 6.96 ha up to 18.73 ha.

While this aspect of development (realignment of the western boundary of Lot 32//DP1075109) was approved, there is no intention to act on this aspect of the approval.

1.3 Proposed modifications summary

The proposed modifications to the Concept Plan Approval are sought in response to a detailed review of the site's constraints (i.e. steep slope, waterways, environmental and biodiversity areas, and bushfire hazard), as well as being informed by an economic needs assessment.

The original approval from 2010 is time dated. There have since been changes to demand for the residential product type and density, the mix of commercial and community uses, and associated infrastructure and services. There have also been changes in policies that warrant the re-assessment of the site constraints.

The modification seeks changes to the land uses of the approved project and the conditions of the consent. It is proposed to modify the approval by consolidating and simplifying land uses as a result of the reassessment of the site. The proposed modified development does not exceed the approved scale of development. Instead, the modified development outcome results in a simplified pattern of development that still provides for a mix of residential development, a village centre, conservation land, open space and associated infrastructure.

In summary, the proposed modified development provides for an outcome that:

 predominately facilitates residential development in the form of detached housing across two (2) precincts;

REPORT

- consolidates the retirement living precincts to a single retirement living precinct on lot 32;
- retains and expands the conservation area;
- provides additional open space areas;
- reduces the scale of the village centre;
- provides for a revised road layout reflective of the proposed change in the mix and types of residential dwellings proposed;
- omits the approved nursing home and school precincts;
- relocates the proposed reservoir and retains the existing reservoir; and
- changes the tenure from Community title scheme/ Body corporate to Freehold

As a consequence of the proposed changes to the Concept Plan, it is proposed to change the approval description as follows [changes emphasised]:

"Concept plan for the development of a mixed residential development including $\underline{1,300}$ residential dwellings, $\underline{2,400m^2}$ gross floor area of retail space, $\underline{4,250m^2}$ gross floor area of commercial space, and associated infrastructure and landscaping."

The following report includes an evaluation of the economic, environmental and social impacts of the modified project and the principles of ecologically sustainable development.

As the primary outcome of the modification is to facilitate a residential development with a village centre, conservation and retirement living, the proposed modification results in substantially the same development for which the consent was originally granted.

2 STRATEGIC CONTEXT

2.1 North Coast Regional Plan 2041

The subject site is located within Bilambil Heights, along the northern border of New South Wales. The site is located approximately six (6) kilometres south-west of Tweed Heads and Coolangatta. The location of the site means it is well located to cater for the population growth being experienced in the far north of New South Wales, including growth associated with the region's proximity to South East Queensland.

The site is also identified within the Tweed Regional City Action Plan (Tweed RCAP) of the North Coast Regional Plan. The propose of the RCAP is to identify how regional cities, such as Tweed, provide a central business district, employment opportunities, community services (i.e. schools, hospitals, sporting facilities), tourism opportunities and housing choice.

The subject site is currently identified under the *Tweed RCAP Vision Map* (Figure 11) within the Regional Plan as an 'Existing Urban Release Area'.

Within the 'Tweed Narrative' of the Regional Plan, the site is also identified as an Urban Growth area, as shown in the North Coast Regional Plan 2041 (refer to **Figure 2**). Urban growth areas are used to balance urban expansion, protect coastal and other environmental assets, help maintain the distinctive character of the region, and direct growth away from important farmland, sensitive ecosystems, cultural heritage, natural hazards and steep land.

This modification application aligns with the intents and visions under the North Coast Regional Plan 2041 as it will fulfil the intention for the site to be developed for urban purposes and provide much needed housing to this region.

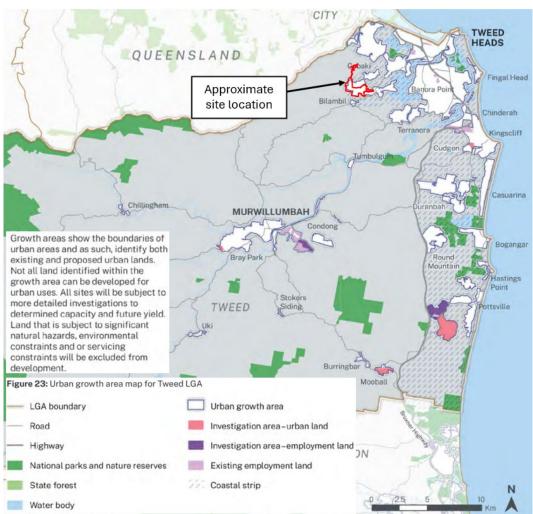


Figure 2: Urban Growth Areas (Source: North Coast Regional Plan 2041)

2.2 Tweed Shire Council's Growth Management and Housing Strategy

In February 2024, Tweed Shire Council released its Draft Options Paper associated with the 'Tweed Growth Management and Housing Strategy' (GMHS). The draft strategy starts to provide a framework for managing housing and employment growth over the next 20 years in the Tweed.

The GHMS identifies the need to accommodate up to 31,282 persons and 11,272 jobs between 2021-2041 and stets out the principles and policy goals to facilitate this growth. This includes providing for additional housing and employment opportunities within both infill and greenfield areas.

The existing approval and the proposed modification will provide a significant contribution to achieving additional housing choice in the Tweed Shire Council area. At the same time, modification continues to recognise and increase the area of land made available for conservation and open space so as to make a positive contribution to the character of the Tweed.

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3 DESCRIPTION OF MODIFICATIONS

3.1 Overview of modifications

This report outlines the modifications proposed to the Concept Plan through the consolidation and simplification of the land uses and omitting specific uses. The approved Concept Plan also has specific development footprints and allotment layouts and by removing this level of detail, it will allow the Elysian project (specifically the dwelling lot layout) to evolve, be more responsive and flexible at the detail design phase when subdivision applications are lodged with Tweed Shire Council.

In addition, since the original approval was granted there have been changes to many of the policies and regulations that are relevant in the subsequent assessment of the project. The proposed changes to the layout, precinct, roads and yield are in response to updated technical reports that have considered the constraints of the site. These updated reports form part of this modification application.

A summary of the proposed changes is as follows:

- Consolidation and updating of land uses and precincts
- Change of residential product type and density
- Overall reduction in the yield of the development
- Deletion of precincts for a private school and nursing home
- Increase in open space overall, including additional land for conservation
- · Reduced village centre precinct area
- Reduction in the number of precincts allocated for retirement living
- Realignment of major spine road and internal roads
- Relocation and consolidation of the reservoirs
- Change in tenure from Community title scheme/ Body corporate to Freehold

The basis for these changes and how they align with the original intent of the Concept Plan is outlined in Section 4.3 below.

3.2 Updated Project Description

The approval development description, as included in Schedule 2, Part A of the Concept Plan approval, will need to be amended to reflect the changes proposed to the development. Changes are shown as **bold** and omittance is shown as a strike-through.

A1 Development Description

- (1) Except as modified by this approval, Concept Plan approval is granted on to the carrying out of development solely within the Concept Plan area as listed below and in more detail in the documents titled "Part B Major Project Application No.08_0234 Concept Plan, "Rise" Bilambil Heights," dated July 2009 and as amended in "Preferred Project Report, Major Project Application No. MP08_0324, "Rise" Bilambil Heights" dated February 2010 prepared by Darryl Anderson Consulting Pty Ltd and as amended in Modification 3, "Elysian" Bilambil Heights", 19 November 2024 prepared by RPS Group including:
 - (a) Super lot subdivision to create Lots 934 935 to 938
 - (b) The provision of 1,604 up to 1,300 dwellings,
 - (c) 200 bed capacity nursing home,
 - (d) The provision of 5,300m² 4,250m² of commercial GFA,
 - (e) The provision of 4,447m² 2,400m² of retail GFA,
 - (f) The provision of 38.8 ha 51.44 ha of open space and conservation lands, and
 - (g) A private school

A summary of the modified project is outlined in **Table 2** below.

Table 2: Modified project summary table

Element	Original approval	Modification no. 3 (proposed)
Project area		
Land area	122.77 ha	124.49 ha
Tenure		
Tenure type	Community title scheme/	Freehold
	Body corporate	
Physical layout and design		
Building height	 Condition B1 identifies the following: Village centre: Up to 6 storeys and 19 m, subject to further requirements* Remainder area: Up to 4 storeys and 13.6 m 	 Village centre: Up to 6 storeys and 19 m Remainder area: Up to 4 storeys and 13.6 m
Site access	Proposed access: Marana Street Cobaki Road	Proposed access: Marana Street Cobaki Road
Spine road	4.34 ha (4%)	4.01 ha (3%)
Conservation/Open space	40.06 ha (33%)	51.44 ha (41%)
Residential	48.77 ha (40%)	58.24 ha (47%)
Private School	4.23 ha (3%)	-
Village Centre	5.96 ha (5%)	3.65 ha (3%)
Retirement Living	18.26 ha (15%)	6.95 ha (6%)
Nursing Home	1.15 ha (1%)	-
Yield		
Residential	1,604 dwellings (excludes the nursing home yield of 200 beds)	Up to 1,300 dwellings Dwelling yield is indicative and may increase at detailed design stage.
Commercial	5,300 m² (5.96ha) GFA	4,250 m² (0.4ha) GFA
Retail	4,447 m ² GFA	2,400 m ² GFA
Uses and activities		
Land Use	 Residential Short term accommodation School Retirement facility Nursing home Commercial Open space Infrastructure 	 Residential Short term accommodation Retirement facility Commercial Open space Infrastructure
Related development		
Sewer	Sewer pump station and mains (north near Cobaki Road)	Sewer pump station and mains (north near Cobaki Road, but exact location is yet to be determined)
Reservoir	0.7ha (x 2 reservoirs) Proposed Lots 934/935	0.2ha (x 2 reservoirs) – consolidated Proposed Lot 925

Element	Original approval	Modification no. 3 (proposed)
Project sequencing and staging		
Indicative Development staging	 Stage 1 — Retirement Living (land owned by GTH Resorts No 20 Pty Ltd to the east) Stage 2 — Residential Stage 3 — Residential Stage 4 — Residential Stage 5 — Retirement Living and Private school Stage 6 — Village centre (part) Stage 8 — Village centre (remainder) and Sports park (north of Cobaki Rd) Stage 9 — Residential Stage 10 — Residential Stage 11 — Retirement Living Stage 12 — Nursing Home 	 Stage 1 – Residential Stage 2 – Residential Stage 3 – Residential Stage 4 – Residential Stage 5 – Residential Stage 6 – Residential Stage 7 – Village Centre Stage 8 – Village Centre No stage - Lot 32 - Retirement Living (land owned by GTH Resorts No 20 Pty Ltd to the east)
Infrastructure and open space staging	 Stage 1 Marana St upgrade Scenic drive intersection State 1 or 2 Water reservoir Stage 2 or 3 Sewer pump station and mains Stage 7 Spine road, Cobaki Rd upgrade and Cobaki Parkway access 	 Stage A Reservoir Stage B Conservation area and park (adjoining reservoir) Stage C Conservation area (south) Stage D Conservation area (north/east) Stage E Conservation area (north) Stage F Northern spine road connection to Cobaki Road Stage G Structured Open Space and Local Park (north of Cobaki Road) Note: The timing of these elements are separate to the development sequencing, with open space precincts generally following the timing of adjoining residential precincts

3.3 Description of Modification 3

The primary purpose of the Modification Application 3 (Mod 3) is to update the existing Concept Plan to reflect the finalised long term development vision of the project. In addition, in updating the Concept Plan and the form of development proposed, the modification will facilitate development that can be more responsive to the market over time and introduces a revised layout that has considered updated regulatory requirements (i.e. Bushfire mapping).

3.3.1 Concept Plan Footprint

Through the development of a preliminary design to inform and update the Concept Plan, revised road layouts and grades have been considered given the varied topography across the site.

In order to achieve suitable and direct access for all parts of the layout, it is proposed to slightly increase the development footprint on the western boundary of the Concept Plan (Lot 2//DP867486). As illustrated in **Figure 3**, the additional footprint will accommodate an esplanade road to provide access and the balance of the additional footprint will accommodate additional residential land. There is also a consequential expansion of the conservation precinct.

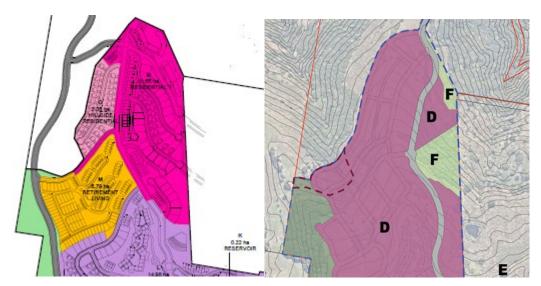


Figure 3: Additional Concept Plan Footprint

Overall, the concept footprint increases from 122.77 ha to 124.49 ha, with the addition of 1.72 ha.

As part of an updated ecological assessment, it can be demonstrated that the proposed additional residential area is on land that is free of mapped Endangered Ecological Communities (EEC) vegetation and will be outside of a 20m buffer offset from the boundary of the mapped EEC vegetation. It is noted that Lot 2 DP867486 is already part of the Major Project approval site and therefore no additional lots will be added.

As discussed below, there is an overall expansion of the conservation area and open space areas (approx. 11ha) across the project, the proposed increase in residential land is considered to not compromise the outcomes of the development or result in off-site impacts that were not previously considered in the original approval. Furthermore, the area of the additional development footprint is largely a cleared grass area with limited biodiversity values.

The additional land is considered suitable for inclusion as it is not ecologically constrained and will assist with the provision of improved road gradients.

Refer to Amended Precinct Plan in Appendix D.

3.3.2 Residential Product and Precincts

The current Concept Plan illustrates four (4) residential precincts comprising a range of dwelling product, including townhouses, apartments, retirement living, art house apartments and detached housing.

It has been determined there is a significant demand for low density detached housing in the area. It is proposed to change the residential density and product type, with the expansion of low-density housing replacing two (2) of the retirement living precincts, apartments precinct and a small reduction in the scale of the village centre.

The change to the residential product will replace the residential product mix throughout the site (i.e. hillside housing lots, hotel apartments, penthouses, apartments, villas and townhouses, art shop houses / soho units, retirement cottages, retirement apartments, retirement villas and nursing home) with detached residential allotments across the majority of the site. The change to the residential product mix is not only in response to the market, but also in recognition of the topography of the site. The range of slopes across the site is considered to make it difficult to develop parts of the site originally identified for apartments. Residential housing lots provide a great opportunity for housing design and built form to respond to the slopes experienced on the site.

It is therefore proposed to provide a range of residential lot sizes across the site with lot sizes likely to vary from 300m² up to 2,500m², with the larger lots located on land that is constrained by slope.

The mix of residential lot is proposed to be complimented by an area proposed for townhouse/attached housing on the eastern side of the village centre.

The Retirement Living precinct located on Lot 32, which is owned by GTH Resorts No 20 Pty Ltd (Gemlife), will not change and will continue to provide an opportunity for seniors housing to be developed adjacent to the balance of the Elysian project. While there is a reduction in the number of precincts, it is in recognition of more detached residential allotments being proposed across the majority of the site, except for within the Village Centre, the adjoining townhouse precinct and the Retirement Living area to the east for the Gemlife site.

Overall, the residential areas will change as follows:

- Increase in residential areas from 40% (48.77 ha) to 47% (58.24 ha).
- Reduce retirement living areas from 15% (18.26 ha) to 6% (6.95 ha).
- Omit Nursing Home (1.153 ha and 200 beds) to nil.

The total number of dwellings is proposed to decrease from 1,604 dwellings (excludes the nursing home yield of 200 beds) to approximately 1,300 dwellings, which results in an overall decrease of 304 dwellings compared to the approved maximum number of dwellings.

Layout Plans

The original Concept Plan provided a detailed layout of the lot mix, apartment footprints and the development in general. However, for a project of this scale, it is likely the overall layout and mixture of lots is likely to change over time in response to the housing product being sought by purchasers.

To provide a detailed layout plan with this application would mean that if the layout or lot mix were to change during the course of the development, it would be necessary to make a subsequent modification application to amend the detailed layout plan before lodging an associated development application with Council.

To minimise the need for further modification applications through the Department prior to lodging an application with Council, the updated suite of plans to be approved do not show a detailed lot layout. Instead, the amended project plans illustrate a road layout, and this will allow the lot mix, based on this road layout, amended as the project evolves in consultation with Council only.

The amended suite of plans are provided at **Appendix D**.

3.3.3 Village Centre Precinct

The Village Centre is proposed to be reduced in footprint from 5% (5.96 ha) to 3% (3.65 ha). The Village Centre will continue to provide the same mix of uses. However, an updated economic needs assessment has identified that the catchment for the Village Centre would not be able to support a mixed use commercial precinct at the scale originally proposed. Therefore, the scale of the Village Centre has been reduced to ensure it functions appropriately and continues to cater to the needs of the existing and proposed community. The retail and commercial changes results in a reduction in gross floor areas as follows:

- commercial GFA decreasing from 5,300 m² to 4,250 m² (representing a reduction of 1,050 m² or approximately 20%); and
- retail GFA decreasing from 4,447 m² to 2,400 m² (representing a reduction of 2,047 m² or approximately 46%).

A Needs Assessment was prepared by Think Economics to determine the preferred mix of non-residential land uses and to assess any reduction in the scale of the Village Centre. As a result of the economic needs assessment, the Village Centre and associated commercial and retail uses have decreased to more appropriately meet the needs of the future community.

To reflect these changes, it is proposed to update Condition A1 (1) as follows:

- (e) The provision of 4,250m² of commercial GFA,
- (f) The provision of 2,400m² of retail GFA.

Refer to Economic Needs Assessment in Appendix E.

3.3.4 Private School Precinct

It is proposed to remove the Private School (Precinct I).

Upon review of the schools available in the locality, it is noted that within a 6 kilometre radius of the site there are approximately nine (9) public and private schools servicing both primary and secondary schooling needs. The original approval put forward a school on the basis *Cobaki/Bilambil Heights/Terranora Interim Planning Strategy* (1995) contained a structure plan conceptually suggesting a school for the broader Bilambil Heights area. There was no correspondence confirming a need for a school existed.

Given the range of schools found within the locality, it is considered that there is unlikely to be sufficient demand for a school in this location. The school precinct will be replaced with housing and open space for stormwater management.

Refer to amended Precinct Plan in Appendix D.

3.3.5 Nursing Home and Retirement Living Precincts

A Nursing Home (Precinct F) comprising 200 beds formed part of the original approval.

Upon review of the layout and the presence of at least seven (7) residential aged care facilities within 7 kilometres of the site, it is considered there is limited demand for a nursing home/residential aged care facility as part of the development.

It is also noted that many of the residential aged care developments in the locality are targeting locations that are closer to doctors and hospitals. It is considered that there isn't substantial demand for an additional nursing home in this location. The area will be replaced with housing.

With respect to the Retirement Living Precincts, the current Concept Plan proposed three precincts (Precincts B, G and M) comprising 598 dwellings and a single clubhouse in each precinct. With the purchase of Precinct B by GTH Resorts No 20 Pty Ltd (Gemlife), it was understood there would be limited additional demand for a formalised retirement living product at this particular site. However, this does not prevent retirees from purchasing homes within the development should they wish to live independently rather than in a formal retirement village environment.

Based on the owners' experience it is expected that there may not be sufficient demand for a retirement living product in excess of that approved to occur on Lot 32. Accordingly, it is proposed to replace Precincts G and M with detached housing and incorporate these precincts into the proposed residential precincts. Refer to amended Precinct Plan in **Appendix D**.

3.3.6 Connectivity

There are no changes proposed to the primary road connections external to the site which will remain as Marana Street and Cobaki Road, however there are changes to the road layout within the site.

Realignment of the major spine road is proposed to shift northward, from the southern border of the approved development footprint (currently between the conservation area and the development) to a more central location within the development area of the site. The spine road has been relocated to go through the village centre to promote activation of the village centre as the commercial hub of the project and to enhance the streetscape of the village centre. The spine road remains an impact aspect of the project.

There will still remain a local road in the south providing a buffer to the conservation area, which is beneficial for bushfire mitigation purposes.

As a result of the realignment, the spine road will reduce slightly in overall length from 4.34ha to 3.89ha but will continue to serve the same purpose. The spine road is shown as a Collector road of 18.5m reserve width on the Street Network Plan.

The alignment of the proposed internal road layout has changed in response to site constraints such as steep contours, as well as changes to the land uses and residential layout.

The design allows for a future potential road connection to the land adjoining (Lot 2//DP555026) to the north of Elysian (urban release area) from the Spine Road, should it be required in the future.

The spine road is shown on the amended Precinct Plan and the Street Network Plan in **Appendix D**. Indicative Road sections for the spine road are included in the Urban Design Report in **Appendix G**.

3.3.7 **Tenure**

The current Concept Plan was approved on the basis the entire development would be managed via a tiered or layered Body Corporate structure. It is proposed to modify the approval so the future tenure of the land will not be under a Community title scheme/ Body corporate. Instead, lots will be a freehold tenure, where properties are owned under a Torrens Title.

This change to the tenure provides a more traditional development outcome that will allow for the dedication of public areas and infrastructure to Council (i.e. roads, parks/open space, conservation areas, stormwater treatment devices, public infrastructure, water and sewer infrastructure etc). For a development of this scale, we are of the opinion a more traditional tenure approach would be more appropriate, rather than having a series of body corporates managing common roads, conservation areas and services. Council's experience with managing these types of infrastructure will be more beneficial for the community and will ensure that public infrastructure is suitably maintained.

The revised design is seeking to comply with the subdivision requirements of the Tweed Shire Council's Development Control Plan (DCP) to ensure a suitable design outcome given the change in the tenure being proposed.

Initial discussion with the DPHI and Council have not raised an objection to a change in tenure.

3.3.8 Staging

The development will be staged as per the amended Staging and Sequencing Plan in **Appendix D**. Staging of the development has been amended to reflect a logical order of events to bring on key infrastructure, services and upgrades at key times alongside the gradual development of the site with the first stage of the development commencing from Marana Street.

A comparison of the approved and proposed staging plans is illustrated in **Figure 4**, below.

The amended staging plan also introduces a sequencing for the dedication of open space precincts throughout the development as these open spaces and conservation areas may be dedicated at different

times of the project, depending on the extent of works/embellishments required to complete the parks. However, the timing of the delivery of open space precincts will generally follow the timing of adjoining residential precincts.

It is noted that the Gemlife site for retirement living (Lot 32), in the south-eastern corner of the site, has been excluded from the staging plan. This change is due to the site being developed independently of the Elysian project and the remainder of the site is not reliant on the development of the retirement living precinct.

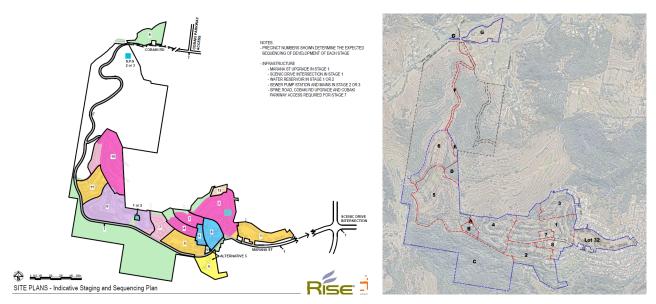


Figure 4: Comparison of proposed staging and sequencing plan

Refer to amended Staging and Sequencing Plan and Amended Precinct Plan in Appendix D.

3.3.9 Reservoirs

The subject site currently accommodates a Council reservoir (in approved Precinct K), which is centrally located on the site. During the course of the original approval, it was identified there is a potential need for an additional water reservoir on the site. The new reservoir was proposed to be located on the eastern part of the site within approved Precinct C.

Through preliminary discussions with Council in the lead up to preparing this modification application, it was confirmed an additional reservoir is still required, however, it was better located next to the existing reservoir.

It is proposed to consolidate the reservoirs centrally on the site at approved Precinct K (now proposed Precinct E).

The revised location of the reservoirs has been verbally agreed by Tweed Shire Council.

A revised subdivision plan will be required to reflect the relocation and consolidation of those land parcels proposed to be dedicated to Council.

Refer to the amended Subdivision Plan in $\mbox{\bf Appendix}\ \mbox{\bf D.}$

3.3.10 Subdivision Plan

The original Concept Plan Approval included a proposed plan of subdivision to create 5 super lots that would result in:

- Amalgamation of lots to create a single lot with a boundary that would align with the boundary of the Concept Plan approval (proposed Lot 936);
- Create two (2) parcels for the dedication of land to Council for the existing reservoir (proposed Lot 935) and future reservoir lot (proposed Lot 934);

REPORT

- Balance parcel to the north fronting the southern side of Cobaki Road (proposed Lot 937); and
- Northern parcel located on the northern side of Cobaki Road (proposed Lot 938).

As a consequence of the proposed modifications to the overall layout of the development and co-location of the existing and proposed reservoir, an amended Plan of Subdivision has been prepared (**Appendix D**).

It is also no longer proposed to amalgamate Lot 32 with the larger land holding as this lot will be developed separately to the balance of the Elysian Project.

It is also acknowledged that Mod 2 obtained an approval for the realignment of the western boundary of Lot 32. This approval will not be acted upon and will be superseded by Mod 3.

The changes are summarised in **Table 3** below, with a comparison shown in **Figure 5**. Refer to the proposed Revised Subdivision Plan in **Appendix D**.

Table 3: Proposed changes to the Subdivision Plan

Lots	Approved Subdivision Plan	Proposed revised Subdivision Plan	Comments
Lot 32 (Gemlife retirement living site)	Combine with super lot (as below)	6.955ha	 Lot 32 is proposed to remain separated from the super lot subdivision.
Lot 936 (Super lot – blue)	117.38ha	115ha	 Adjust the boundary of the super lot subdivision (blue) to follow the proposal to adjust the boundaries of the site to include the additional piece of land for residential development in the north-western section of the site. Exclude Lot 32 (Gemlife's retirement living site). Include the northern portion of the spine road in the proposed super lot subdivision.
Lot 934 (Reservoir - green)	4,717m ²	-	Remove and reconcile with the other existing reservoir
Lot 935 (Reservoir - red)	2,407m ²	2,766m ²	Subdivide the land for dedication to Council of the Reservoirs, following the proposal to consolidate both the reservoirs around the existing reservoir in the centre of the site
Lot 937 (balance lot – yellow)	66.8ha	 Part (west of spine road): 32.79ha Part (east of spine road): 30.68ha Total: 63.47ha 	Slight reduction in the overall site area for the balance lot in the north to account for the spine road being included in the super lot and the increase in the super lot for the additional residential portion added to the proposal.
Lot 938 (northern park land – dark red)	 Part (eastern portion): 4.304ha Part (western portion): 2,094m2 Total: 4.513ha 	 Part (eastern portion): 4.489ha Part (western portion): 1001m2 Total: 4.589ha 	Slight adjustment of the boundaries for the park in the north (i.e. structure open space and open space park).

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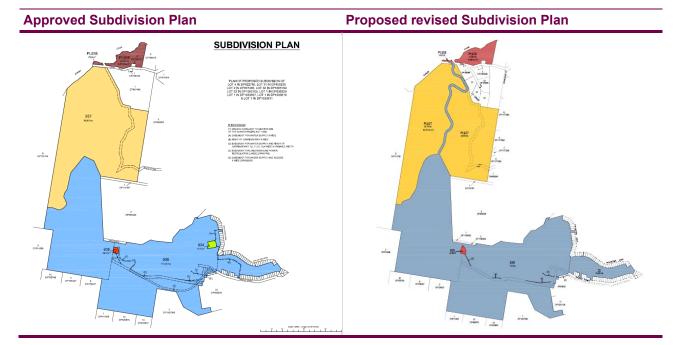


Figure 5: Comparison of Subdivision Plans

3.3.11 Vehicle Generation and road upgrades

The approval currently accounts for 5,452 vehicles per day (vpd), with a limit of 3,221 vpd on Kennedy Drive, as per Condition B2.

Under Council's Resolution the development can still only achieve a total of 3,221 trips per day entering Kennedy Drive. Considering an 80% distribution of residential traffic, this approximates Stages 1-4 of the approved development being developed.

Overall traffic generated by the site is proposed to be reduced significantly by comparison to previously approved development yield. The net change in development trips is estimated as (-) 3,688 daily trips, (-) 295 AM peak hour trips, and (-) 324 PM peak hour trips. As such no detailed traffic analysis is considered warranted as part of this modification application.

Traffic assessment demonstrates that by comparison the proposed modification results in a reduced level of traffic generated on the network. As such, no additional mitigation measures are required for any external networks or intersections.

Road upgrades relevant to the proposed development site include:

- The Scenic Drive / McAllisters Road intersection upgrade. This upgrade is complete, with a roundabout being installed in 2019.
- The Piggabeen Road / Gollan Drive / Kennedy Drive intersection upgrade. This upgrade is understood to be unconfirmed from a funding and concept planning perspective.

There are no proposed changes within the proposed modification that impact the existing on-street parking supply.

Refer to the Traffic and Transport Assessment by Bitzios consulting in **Appendix F**.

3.3.12 Building Heights

The current approval allows for a mix of heights up to 2, 3 and 4 storeys and 13.6 metres throughout the site (as per the approved Building Heights Summary plan) and allows for building heights in the Village Centre up to 6 storeys and 19 metres.

In addition to the building heights plan, these maximum building heights are also reflected in Condition B1 of the Concept Plan approval. In particular, it is acknowledged that Condition B1(3) provides a set of criteria where it can be demonstrated the building height in the village centre can extend to 19 metres.

It is proposed to provide a clearer built form outcome in the Village Centre where development is permitted up to 6 storeys and 19 metres without the need to meet additional criteria. It is submitted the original development application demonstrated, particularly through its Visual Impact Assessment, the higher building height was suitable for that part of the site.

Table 4, below, provided a comparison of the approved and proposed changes to building height that are also reflected in the amended Building Heights Plan (**Appendix D**).

Table 4: Building heights summary - comparison

Village centre: Up to 6 storeys and 19m (Village Centre, subject to condition criteria) Remainder area (excl. open space and reservoir): Up to 2 storeys Up to 3 storeys Up to 4 storeys (max 13.6m) Proposed Building Heights Summary plan Village centre: Up to 6 storeys and 19m Remainder area (excl. open space and reservoir): Up to 4 storeys and 13.6m

As a result of the change proposed and the amended building heights plans, it is requested Condition B1 is amended as follows:

- Delete Condition B1(2) to remove reference to modifying the building height plan where buildings are shown on the plan as five and six storeys; and
- Deleted Condition B1(3), which refers to the criteria to vary the building height criteria for the village centre.
- Amend Condition B1(1) to allow for the additional height in the Village Centre, as follows [inclusions in Bold]:

Condition B1

(1) Approval is given to a maximum building height of 13.6m and a maximum of four storeys, except within the Village Centre precinct which can have a maximum building height of 19m and six storeys.

The change to the condition will allow for flexibility across the site when it comes to detailed design.

State Environmental Planning Policy (Precincts - Regional) 2021

In addition to the commentary above, as a result of the repeal of the Part 3A process under the *Environmental Planning and Assessment Act 1979*, the project was also reflected in the *State Environmental Planning Policy (Precincts - Regional) 2021* (SEPP Precincts). Under this SEPP the proposed building heights across the site do not exceed 13.6m, except where the Minister has given approval in a Concept Plan for the building height to be exceeded.

Therefore, the proposed change is consistent with the SEPP and by permitting the additional height in the Village Centre, provides a clearer interpretation that permits 13.6 metres (4 storeys) across the site with an additional height limit of 19 metres (6 storeys) in the Village Centre.

3.3.13 Open Space

There have been various changes to the location and types of open space proposed throughout the site that better aligns with the site's natural constraints, including protection of biodiversity areas, catchment areas for local parks and creation of buffer areas to accommodate stormwater.

There is an overall increase in open space and conservation land from 31.8% (38.8 ha) to 37.7% (45.4 ha), with a net increase of approximately 6.6 ha, which has arisen from reviewing the vegetation mapping. As such, it is proposed to amend Condition A1 (a) as follows:

(g) The provision of 45.4 ha of open space and conservation lands, and

It is proposed to provide the following types of open space in the amended Precinct Plan:

- Conservation area
- Open space

As illustrated in the proposed Community Facilities plan and the amended Landscape Master Plan and report, consideration has been given to the potential for additional open space in the form of local parks, neighbourhood parks and structured open space within the development. The final form and location of these additional open space areas will be confirmed as part of subsequent development applications to Council. Where implemented, these additional open space areas will increase the potential area of open space across the development to approximately 51.4ha or 48.8% of the Concept Plan area.

Refer to the amended Community Facilities plan in **Appendix D** and Landscape Master Plan and Report is in **Appendix K**.

3.3.14 Conservation areas

Through a review of the biodiversity values to inform this modification application, it is proposed to increase the area of land for conservation area on the southern and western portions of the site from 31.584 ha to 35.25 ha. The boundary between conservation and development areas has been realigned to better align with biodiversity areas and allow for more logical development patterns.

The increase in conservation areas is primarily a result of:

- a. an increase in the overall area of the southern conservation area as a result of the potential layout and realignment of the spine road to run through the middle of the development footprint; and
- b. an increase in the area of the conservation area located centrally in the site, adjacent to the existing and proposed reservoir (Precinct B on the staging and sequencing plan)

Refer to Amended Precinct Plan in Appendix D.

Clause 3A Certification

It is noted that significant work was undertaken as part of the Concept Plan Approval in circa 2009 regarding offsetting arrangements with conservation areas under the now repealed *Environmental Planning and Assessment Act 1979*. However, in 2017 the *Biodiversity Conservation Act 2016* (BC Act) commenced and changed the way biodiversity impacts are assessed for proposed development.

To protect the existing rights associated with biodiversity protection and offsetting arrangements for the site under the Concept Plan Approval, a Clause 34A (3) certification pursuant to *Biodiversity Conservation* (Savings and Transitional) Regulation 2017 has been prepared and will be lodged concurrently with this modification application. The intention of the certification is to confirm the previous assessment of biodiversity values was sufficient.

If approved, the clause 34A certification recognises biodiversity impacts of the proposed development, which is to be the subject of a development application forming part of the Concept Plan Approval, were satisfactorily assessed before the commencement of the *Biodiversity Conservation Act 2016* (BC Act) and no further assessment is required against the provisions of the BC Act.

4 STATUTORY CONTEXT

Below is a summary of the Commonwealth and State legislation relevant to the development and indicates the implications, if any, for the proposed modification.

4.1 Modification Pathway

4.1.1 Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017

The applicant is seeking to modify Concept Approval MP08_0234 under Section 3BA of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017.* For the purpose of assessing this modification application, consideration is given to the requirements of Section 4.55(2) or 3BA(5)(C) *Environmental Planning and & Assessment Act 1979* (EP&A Act). The table below lists the requirements and details how each of the requirements is addressed by the proposal.

Section 4.55(2)

Proposed Modification 3

Other modifications:

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 development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified The purpose of Modification 3 is to implement an updated Concept Plan that changes the internal layout, residential product type, uses and precincts, and internal road network.

The changes would result in minimal environmental impacts based on the following:

Natural – There will be an increase in conservation areas and open spaces throughout the site. Consideration has been given to mitigating impacts on areas with biodiversity value, which has resulted in a net environmental gain across the site.

<u>Built Environment</u> – Building heights will generally be more residential in nature as a result in a change to the residential product type, which will predominantly be detached dwellings. A slightly higher density will remain only in and around the Village Centre, similar to the approved concept plan. Any amenity impacts have been considered in the design, including mitigating undue overlooking, overshadowing, and noise. These impacts will be residential in nature and therefore consistent with the intent of the development and would not result in unreasonable on-site impacts. Matters such as noise will be addressed as part of a subsequent development application with appropriate mitigation measures deployed.

Similarly, the scaling back of the overall number of dwellings will reduce traffic volumes on the local street network. Therefore, the changes will decrease the amenity and associated impacts through a reduction in traffic in the locality.

Social and economic – Removal of the proposed school and nursing home and reduction in retirement living would not likely create social impacts as there is considered to be insufficient demand for these uses in the area and higher demand for general housing, which will help to address the current housing crisis. The Village Centre, including the retail, commercial and community uses, will remain but be slightly reduced in

Section 4.55(2)

Proposed Modification 3

size, as per recommendations from an independent economic needs assessment. The proposed changes are considered to meet the future needs of the community.

The term "substantially the same development" has been interpreted by the NSW Land and Environment Court and have applied the following principles:

- 'substantially' means essentially or materially or having the same essence. This involves a comparison of the before and after. Differences may involve differences of process (which have environmental implications) or differences in outcomes;
- the qualitative and quantitative differences between the two developments should be considered in context.

With the above in mind, the changes proposed via this modification application will:

- alter the product mix, but retain a predominately residential development outcome;
- increase the amount of open space and conservation area, while also resulting in a small increase in the overall development footprint;
- reduce the scale of commercial activities and increase the height of buildings in the Village Centre;
- replace the school precinct (1% of project) and nursing home precincts (3% of project) with residential development;
- change the tenure of the project from a community title scheme to Torrens title; and
- · reduce the amount of retirement living proposed

Despite these changes, wholistically the project will continue to provide for predominately residential development supported by commercial and retail uses. Furthermore, the biodiversity values of the site, protected through the conservation precinct, are being retained and expanded.

Therefore, the project if modified will result in a project can be considered 'substantially the same' as it will continue to deliver a mixed residential development including residential dwellings, retail and commercial space, associated infrastructure and landscaping and will result in a project that is substantially the same as the project the subject of the modified Concept Plan Approval.

b. it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

Consultation with the approval body has been undertaken with the Department and there has been no objection to the lodgement of this modification application.

Se	ection 4.55(2)	Proposed Modification 3	
c.	it has notified the application in accordance with—	The proposed modification will be notified, and we understand that DPHI will refer the modification to Tweed Shire Council for comment.	
	 (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 		
d.	it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	There has been consideration of the submissions received during the formal consultation, which was undertaken as part of the original Concept plan application in 2009. A review and revised response to the submissions indicates that the proposed modification adequately addresses previous issues that were raised by submitters in 2009. Any new submissions will be considered by DPHI.	

In conclusion, a modification under section 3BA of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* is an appropriate approval pathway for Modification 3. This Modification Report demonstrates:

- while the proposed modification will have implications in the change in product mix, open space, yield, conservation areas, development footprint and tenure, these changes do not have a material impact on the outcomes of the Concept Plan Approval when compared to the outcome and environmental impact assessed as part of the original approval; and
- the Development, as proposed to be modified, will be substantially the same development for which consent was originally granted.

4.1.2 SEPP (Precincts - Regional) 2021

State Environmental Planning Policy (Precincts – Regional) 2021 was created as a transitional framework following the repeal of Part 3A of the EP&A. Appendix 4 of this SEPP applies to the subject site, referred to as 'State Significant Precinct – Rise Bilambil Heights'.

As the project known as Rise sits outside of the Tweed Shire Council's Local Environmental Plan (Tweed LEP), the SEPP provides guidance on the development outcomes for the site. In particular, the SEPP establishes zones, permissibly for land uses, building height limits and some controls regarding miscellaneous land uses.

The provisions outlined in the SEPP reflect the broad development outcomes for the site that were established thought the Concept Plan approval.

For example, the SEPP's zoning map creates three (3) zones over the site. These zones include:

- R1 General Residential
- E2 Environmental Conservation
- B4 Mixed Use

The boundaries of these zones match each of the corresponding development areas outlined in the Concept Plan (ref to **Figure 6**).

Proposed Changes

While the proposed changes outlined in this modification and the amended plans prevail, consideration has been given to how these changes align with the development outcomes contemplated in the SEPP.

With respect to permissibility, the new Design Code has drawn on the permissibility of land uses outlined in the SEPP and has adopted the same levels of permissibility for the land uses. There have been minor changes to ensure those uses Permitted with Consent align with the land uses proposed within the original and amended Concept Plan. Refer to the Design Code within the Urban design report (**Appendix G**).

The zones, when compared, are largely the same with changes in the Village Centre through a reduction in the scale of the zone footprint. Separately, there has been an increase in the conservation land, currently mapped as E2 zone. In comparison, there are no meaningful conflicts between the zone in the SEPP and the amended Concept Plans.

As discussed earlier, the Concept Plan establishes a maximum building height of 13.6 metres (4 storeys) across the site and allows for an increase in building height within the Village Centre up to 19 metres (6 storeys). The 13.6 metre building height limit is reflected in the SEPP and includes provisions that recognise the Concept Plan has facilitated greater buildings heights. The proposed changes do not conflict with the SEPP. However, it is noted the additional height in the Village Centre is permitted where criteria is satisfied. Through the modification, it is proposed to remove these criteria and amend the Concept Plan Approval to allow buildings up to 19 metres within the Village Centre without the need to meet additional criteria.

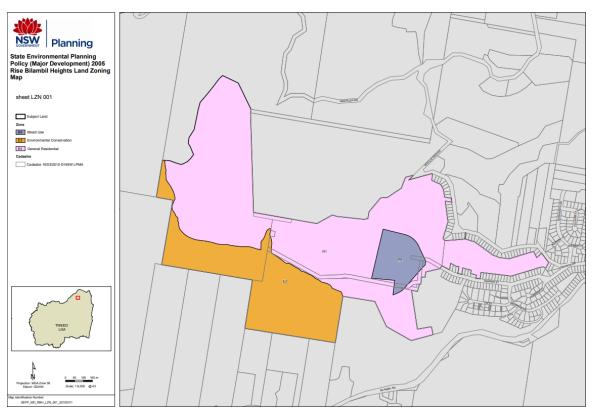


Figure 6: Land zone mapping (Source: SEPP (Precincts - Regional) 2021)

4.2 Environmental Planning Instruments

4.2.1 Tweed Shire Local Environment Plan 2014

For the purposes of the Tweed Shire Local Envelopment Plan (Tweed LEP), the subject site sits outside of the Tweed LEP. This is illustrated in the extract of Council's zoning map in **Figure 7.**

Accordingly, the development of the site is regulated by either the Concept Plan or the SEPP, depending on which instrument the development application is lodged under.

Regardless of the instrument used, Tweed Shire Council will be the assessing authority and will assess the subsequent application against the modified Concept Plan where the SEPP is not relied upon.

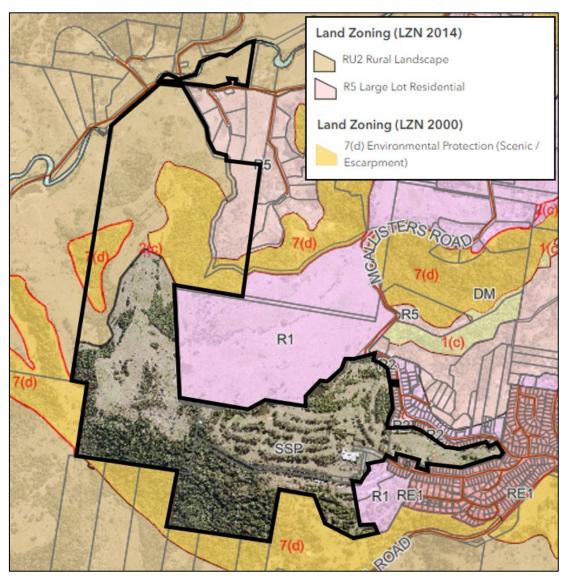


Figure 7: Zoning (Tweed LEP)

4.3 Zoning

The original approval included a plan of proposed zones, located within the Annexure 2 Preferred Project Report of the RISE approval.

With changes proposed for Elysian to the residential footprint, the village centre and the conservation area, an amended zoning plan has been prepared, as seen in **Figure 8** below and in **Appendix D**.

The purpose of providing an amended zoning plan is to replace the zoning map that formed part of the original approval and to provide consistency between the revised precinct to ensure there is consistency across the amended concept plan package.

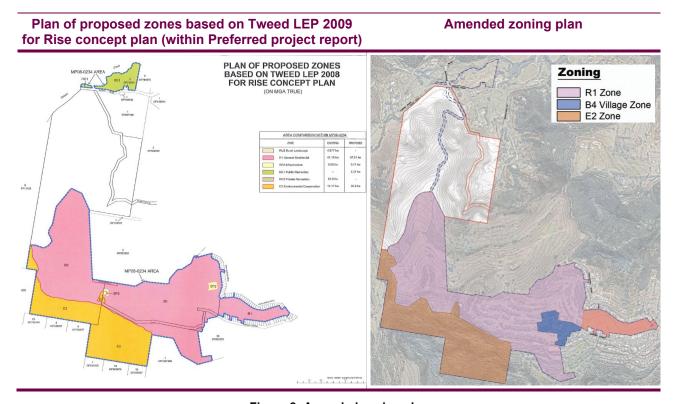


Figure 8: Amended zoning plan

5 ENGAGEMENT

No formal or statutory consultation regarding the proposed modification has occurred. Several prelodgement meetings have been held with the Department of Planning Housing and Infrastructure and the local authority, Tweed Shire Council.

Once submitted, the modification request will be appropriately notified and exhibited by DPHI for a minimum of 28 days. Surrounding residents will be notified in writing of the modification.

5.1 Previous Preferred Project Report

5.2 Revised response to submissions and revised Statement of Commitments

It is acknowledged that formal consultation was undertaken as part of the original Concept Plan application. The Environmental Assessment was publicly exhibited from 19 August 2009 until 18 September 2009. Seventeen (17) public submissions and twelve (12) submissions from Public Authorities were received during the exhibition period. On 22 October 2009 the Department of Planning raised an additional seven key issues.

Annexure 2 of the Concept Plan approval (MP 08_0234) included a Preferred Project Report prepared by Darryl Anderson Consulting dated February 2010. The report provided a response to submissions received from the Department of Planning, State Agencies and the community during the exhibition of the Major Project Application.

The primary purpose of the Preferred Project Report was to outline any changes to the project plans in response to the submissions received and provide a response to the submissions received. For the purpose of the modification application, new comments have been included that compares to the changes proposed via Mod 3 to justify the changes proposed. A revised response to those submissions is included in **Appendix H**.

Accompanying the report was a revised Statement of Commitments for the project. For the purpose of the modification application (Mod 3), we have reviewed and amended the Statement of Commitments in response to the changes proposed. The additions are in bold and those aspects to be deleted have been struck through. A revised response Statement of Commitments is included in the **Appendix I**.

6 ASSESSMENT OF IMPACTS

This section provides a detailed summary of the findings of a further assessment of the impacts of the proposed modifications, including details about the impacts of the modifications and the impacts of the modified project.

This section considers strategic issues, statutory requirements, government plans, policies and guidelines governing the assessment of key matters, and findings of specialist studies and investigations.

Given the nature of the changes proposed, some reports have been redrafted and others have been updated, as outlined in the table below.

6.1 Impacts of the proposed modifications

The following specialist studies and investigations support this modification request. The status of the reports and the key findings are summarised in **Table 5** below. Refer to the reports in the appendices.

Table 5: Summary of specialist studies and investigations

Document	Author	Key findings	Appendix
Updated Concept Plans Package (amended plans)	RPS	 The suite of plans associated with the Concept Approval have been updated to reflect the revised development layout. The plans replicate the plans that formed part of the Concept Plan Approval. 	D
Economic Needs Assessment	Think Economics	 The economic needs assessment has considered the local market and need to determine an appropriate scale of services for the revised Elysian project. The report confirms there is an overwhelming need for the proposed village centre and the scale of the development is suitable for the scale of the proposed development. 	E
Traffic and Transport Assessment	Bitzios Consulting	The modified development aligns with the outcomes of the original approval. The proposed reduction in the scale of the residential development and village centre results in a reduced level of traffic generation and no additional traffic related mitigation measures are required as a result of the proposed change.	F
Urban Design Report	RPS	An updated Urban Design Report has been prepared to replace the approved Architecture & Urban Planning report. The report provides a greater level of detail regarding the potential built form and design elements of the project, including a Design Code.	G
Visual Impact Assessment	RPS	An updated Visual Impact Assessment report compares the changes to the viewpoints since the original assessment was undertaken. The report demonstrates there will be no additional visual impacts due to the growth of vegetation and additional built form occurring in these viewpoints.	J
Landscape Master Plan and Report	RPS	An updated landscape master plan has been prepared to reflect the revised development layout and continues to promote a vegetated and landscaped urban environment.	К

Document	Author	Key findings	Appendix
Cultural Heritage Assessment	Everick Heritage	 An updated cultural heritage report has been prepared and demonstrates there are no additional heritage items or mitigation measures required. 	L
Ecological Assessment	JWA	 An updated assessment has been completed and the revised development footprint responds to the biodiversity values identified on the site following recent ecological assessment. 	M
Site Rehabilitation and Pest Management	JWA	 An updated Site Rehabilitation and Pest Management has been prepared that provides management guidelines for pest animal species that may occur on the site as well as guidelines for the on-going conservation of native vegetation and fauna species on the site. 	N
Bushfire Assessment Report	Bushfire Certifiers	 An updated bushfire risk assessment has been completed. The report confirms the site continues to be capable of being developed for residential purpose and appropriate bushfire risk mitigation measures can be adopted through the inclusion of asset protection zones, esplanade roads and bushfire trails. 	0
Agriculture Buffer Zone and Land Use Conflict Risk Assessment (LUCRA)	G + S	An updated report has been completed and demonstrates that an appropriate separation distance can continue to be provided without the need for additional mitigation measures.	Р
Conceptual Erosion and Sediment Control Plan	G + S	 An updated report has been provided with more contemporary mitigation measures that align with current industry standards. 	Q
Integrated Stormwater Quality and Quantity Assessment	G+S	This report presents a conceptual stormwater quality treatment proposal incorporating bioretention devices and vegetated buffers to demonstrate that, with provision of suitable devices, the Elysian development can meet the pollutant load reduction targets required by Council.	R
Contamination Land Investigations	G + S	 A cover letter has been provided that confirms there is no change to the original contamination findings and mitigation measures. 	S
Preliminary Engineering Report	Mortons Urban Solutions	An amended report has been prepared in response to the revised layout and demonstrates the site is capable of being developed in a manner that is substantially the same with the original consent.	Т

^{*}Gilbert and Sutherland (G + S)

6.1.1 Built form

The Urban Design Report prepared by RPS will replace the approved Architecture & Urban Planning report from the original approval. The Urban Design report includes a vision for the Elysian development, supported by a Design Code which includes development controls to manage the built form outcome.

The vision for Elysian is summarised as follows:

- Develop a harmonious blend of nature and community nestled atop rolling hills with ocean views, with a
 focus on environmental sustainability.
- Neighbourhood pockets are designed to maximize scenic views.
- Elysian offers pleasant gently graded walks to the vibrant village centre that seeks to offer luxury, comfort and a place for gathering and celebration that will be a destination for residents, visitors and tourists.
- Elysian seeks to be a diverse community that activates its streets, local places, shops and restaurants.

The Urban Design report includes a range of indicative rendered built form images of the village centre, cross sections of streets, laneways and bushfire trails to provide examples of how the vision can be met. Larger cross sections are included to demonstrate the correlation between the various uses and how the built form and heights correspond to the contours of the site, while maintaining scenic views and managing amenity impacts between uses.

The Design Code provides development controls to guide appropriate development across the site, including identifying permitted land uses in each precinct, as well as design controls regarding setbacks, built to boundary walls, site cover, private open space, garages and carports, pools, secondary dwellings, refuse, storage, lot size and shape, fencing, retaining walls, amenity impacts etc. The Design Code has been based on the Tweed Shire Council DCP, the LEP and the Precincts SEPP and varied where appropriate.

Refer to the Urban Design Report by RPS in Appendix G.

6.1.2 Economic

Think Economics prepared a Needs Assessment report to analyse and quantify the opportunity for a range of non-residential land uses onsite at the Elysian Heights masterplan community development. Refer to **Appendix E**.

The key findings of this report are:

- The Elysian Heights community development will significantly increase the local population and urbanised area directly west of Bilambil Heights.
- While this increase in resident population will generate an increase in demand and need for a range of community land uses, existing residents in the local area also support strong need conditions based on the current imbalance between demand and supply conditions across a range of land uses.
- The Village Centre is expected to be anchored by a range of key community land uses and services that will support convenience, accessibility, amenity and employment opportunities in the local area.
- These land uses will include retail, food and drink outlets, licensed hotel, commercial offices, medical services, and childcare services.
- These uses are consistent with the day-to-day lifestyle needs of a residential community and will significantly contribute to the efficient delivery and functionality of the Elysian Heights community development, and the existing community in the local area.
- The analysis presented in the Needs Assessment very clearly demonstrates that there is an existing and/or increasing undersupply and need for all of those land uses expected within the planned Village Centre.
- There is considered significant and overwhelming economic, community and planning need conditions supporting the planned Village Centre, including the mix of land uses proposed within the centre.

6.1.3 Traffic

An updated Traffic and Transport Assessment has been prepared by Bitzios Consulting in **Appendix F**.

The key findings of the Traffic and Transport Assessment are as follows:

- The proposed modification provides an overall reduction in ultimate development yields with the removal of the previously proposed school and nursing home uses. The site now includes 1,300 residential dwellings (including 195 retirement living dwellings), and 6650 m2 of commercial and retail space. Access is provided via an extension of Marana Street and a new intersection with Cobaki Road. The adjacent Gemlife (Lot 32) site will not be connected to the Elysian site and will provide separate access via either McAllisters Road or Marana Street. The Gemlife site has been included in this assessment for the purposes of traffic impact analyses only.
- The development maintains the north-south connection between Marana Street and Cobaki Road. This connection provides an alternative route to the motorway and regional destinations for Bilambil Heights and Bilambil residents if Scenic Drive is closed or unavailable.
- The development site is subject to an existing Council Resolution that limits traffic volumes on Kennedy Drive (located to the east as the only connection road to the Pacific Motorway). This resolution limits traffic generated by the site to 3,221 vehicles per day (vpd), including the adjacent Gemlife seniors living site. This equates to approximately Stages 1 4 of the proposed modified development being developed.
- We understand no change is proposed to this Resolution and that Council is currently beginning new traffic modelling investigations associated with Kennedy Drive. As such, this assessment has excluded development impact in the wider regional road network.
- The proposed site is separated into 8 stages to be rolled out sequentially, except for the Gemlife site (Lot 32) which will be developed separately. This staging allows the site to develop up to the allowable Council Resolution limit before proceeding with latter stages.
- The proposed road hierarchy is clear and generally consistent with Councils Standard Drawings.
- No items raised in the Tweed Road Development Strategy (TRDS) impact the subject site.
- Traffic assessment demonstrates that by comparison the proposed modification results in a reduced level of traffic generated on the network. As such, no additional mitigation measures are required for any external networks or intersections.
- There are no proposed changes within the proposed modification that impact the existing on street parking supply.
- There are no additional impacts associated with the existing external public or active transport networks.
 Internal networks are subject to terrain constraints and are designed to cater for user desire lines to and from the site's proposed commercial centre.
- No changes are proposed to the external road network and development yield has decreased overall.
 As such there are no additional road safety impacts associated with this modification on the external road network
- Internal road network layout generally conforms with Councils Subdivision manual while allowing for the site's geometric constraints. The network limits 4-way intersections, provides separation between intersections and presents a winding horizontal alignment of long road lengths to minimise vehicle speeds.

6.1.4 Visual impact Assessment

A revised Visual Impact Assessment has been undertaken by RPS and is included in **Appendix J**. The report provides a visual comparison of photos taken as part of the original assessment and compares them to photos taken from the same or similar location.

The comparison confirms there has been a change in either built form and/or vegetation growth, which confirms the outcomes of the original visual impact assessment remain or have been improved. More specifically, the growth of vegetation has typically further obscured views of the site or buildings in the foreground.

6.1.5 Cultural heritage

Everick Heritage prepared a Cultural Heritage Assessment for the proposed modification application. Refer to **Appendix L**.

The report concludes that the recommendations of the 2009 and 2020 assessments are supported and no additional cultural heritage constraints to the project has been identified. Everick's 2009 recommendations remain appropriate and unchanged, aside from allowing for the salvage of Bilambil Rise Isolated Artefact 01 and proposing a reburial procedure for new finds identified during the project.

The 2020 survey identified one new archaeological find, being the Bilambil Rise Isolated Artefact 01, which was located on an agricultural track which had at the time recently been subject to significant disturbance from cattle movement. This artefact is not considered to require amendment of the cultural heritage management conditions of the current approval. The location of Bilambil Rise Isolated Artefact 01 is shown in Figure 8-7 of the report and is provided as an extract in **Figure 11** of this report.

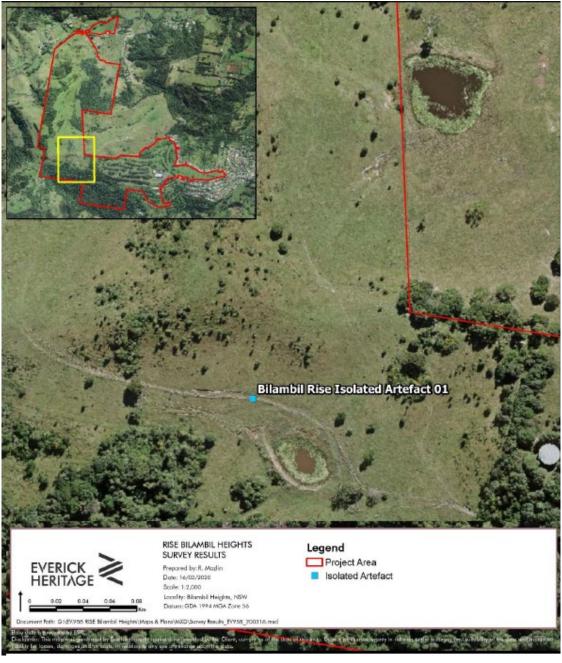


Figure 9: Location of Bilambil Rise Isolated Artefact 01

(Source: Everick Heritage Report 2024)

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6.1.6 Ecological

A revised Ecological Assessment report and Site Rehabilitation and Pest Management Plan has been prepared by JWA Pty Ltd, in **Appendix M and N**.

The development area has been revised to better protect biodiversity areas and reduce disturbance. The proposed development is not considered likely to impact existing vegetation to the point where terrestrial fauna dispersal will be impeded. The ecological assessment concludes that the areas being retained for environmental purposes across the subject site provides the highest quality value for connectivity in the context of the immediate and broader landscape.

The original Site Rehabilitation and Pest Management Plan was an overarching concept document that subdivided the conservation areas into twelve (12) separate rehabilitation areas. This approved document mandated that individual Regeneration and Revegetation Plans were to be prepared for each rehabilitation area at the relevant Operational Works stage.

The overall intent is still relevant to the proposed Modification application, and the only changes are to the location and extent of proposed conservation areas (including some new areas previously proposed for development).

The revised Site Rehabilitation and Pest Management Plan provides management guidelines for pest animal species that may occur on the site as well as guidelines for the on-going conservation of native vegetation and fauna species on the site.

6.1.7 Bushfire

Refer to the Bushfire Assessment Report prepared by Bushfire Certifiers in **Appendix O**. This report makes recommendations that will be considered in future development applications and detail design. The report confirms the revised development footprint can occur through the implementation of suitable asset protection zones (APZ) and or use of esplanade roads to separate dwellings for potential bushfire hazards.

Within the report, *Table 1: Summary of acceptable solutions PB2019* provides a summary of acceptable solutions and requirements for performance solutions under Planning for Bushfire Protection (2019) for the following considerations:

- Construction BAL ratings
- Asset Protection Zone Requirements
- Water Supply
- Electricity
- Gas Supply
- Landscape
- Access

It is recommended that any future detail design and development applications for further development of the site can address the measures and recommended conditions in Table 1 of the report Bushfire Assessment Report.

Agricultural Buffer Zone and Land Use Conflict Risk Assessment Gilbert and Sullivan prepared an Agricultural Buffer Zone and Land Use Conflict Risk Assessment (LUCRA) for the proposed modified development. Refer to report in **Appendix P.** The key findings in this report are listed below:

- The perimeter of the proposed Elysian development is adjoined by land zoned as rural, rural living, low-density residential, urban expansion and environmental protection. To ensure disturbance to residents of future urban development is minimised and the intrinsic values of the adjacent land uses are maintained, buffer zones are recommended. The specific separation distance (applicable within the Elysian development site) and the buffer element proposed for each sub-section of the site's boundary is outlined in Table 8.1 of the report. The subsections are shown on Drawing 003 in the report.
- The location and width of the proposed buffers are shown on the Drawing 005 Proposed Buffers. The recommended width of buffers varies between 20m and 50m.

 Open space buffers can incorporate public open space, road reserves and/or natural features such as watercourses. Additionally, and like vegetated buffers, they can be incorporated into large residential allotments so long as the specified separation distance is maintained between the source and sensitive receptor.

Future development applications and detail design can incorporate suitable buffers as recommended in this report.

6.1.8 Erosion and sediment control

Refer to the Erosion and Sediment Control Plan (ESCP) prepared by Gilbert and Sutherland in Appendix Q.

A conceptual ESCP structure is provided recommending a set of performance criteria and guiding principles with which the future detailed engineering designs for the subdivision should comply with. The plans and specifications forming part of the construction contract for each future development application and stage should also include these performance criteria. The ESCP provide recommendations relevant to the following construction phases:

- Vegetation clearing/soil disturbance
- Dust management
- Erosion controls
- Sediment control
- Sediment basin monitoring
- · Rehabilitation and landscaping
- Contract management

The report recommends that the project should be developed in Precincts and stages of Precincts to minimise the potential for soil erosion and water pollution, and this would enable the site to be progressively rehabilitated as the development proceeds. As soon as is practicable, after the completion of the earthworks in each stage, the lots will be topsoiled and reseeded to establish a fast-growing cover crop to minimise erosion and movement of sediment across and off the site. On steeper slopes, hydro mulching or other suitable stabilisation methods may be required. Wherever possible the site will remain vegetated and otherwise undisturbed until construction commences.

6.1.9 Integrated Stormwater Quality and Quantity Assessment

Refer to the Integrated Stormwater Quality and Quantity Assessment by Gilbert and Sutherland in **Appendix** R

This report provides a conceptual assessment of the stormwater quality and quantity management requirements for the proposed Elysian development. The report further concludes:

"A conceptual stormwater quality treatment proposal has been presented incorporating bioretention devices and vegetated buffers to demonstrate that, with provision of suitable devices, the Elysian development can meet the pollutant load reduction targets required by Tweed Shire Council's Development Design Specification D7.

The final treatment strategy for each precinct will be based on detailed design and may not be limited to these options alone. Should alternative strategies become apparent during the planning and design process, or if detailed design indicates that some devices are impracticable, alternative treatment trains will be assessed, designed and proposed as part of future precinct-by-precinct Development Applications.

Stormwater quantity will be managed across the site with adequate on-site detention where required to ensure no increase in peak flows and water depths at Cobaki Creek and other discharge points for all storm events up to and including the 1% Annual Exceedance Probability (AEP) event (formerly 100 years ARI). Further details on flood mitigation and management strategies will be finalised as part of future precinct-by-precinct Development Applications".

6.1.10 Contamination

No changes are required to the Contamination Report by Gilbert and Sutherland, as the original assessment is still valid. Refer to the contamination cover letter in **Appendix S**.

6.1.11 Preliminary Engineering Report

Refer to the Preliminary Engineering Report by Morton Urban Solutions in Appendix T.

The report provides an overview of the proposed development that includes the grading of the site and proposed configuration of the internal road grades, intersections and water and sewer servicing of the site. Components reviewed include:

- Construction of spine road
- Construction of local access streets/roads
- Earthworks, proposed levels and rock walls
- Proposed Access points
- Road hierarchy
- Road design
- Public transport
- Sewer and water reticulation and booster pump stations

Due to the relative steepness of the site and to reduce earthworks on site road grading has been reviewed and it was determined that some departures are required from Council's specification to minimise the earthworks but still have an engineering design that incorporates safe sight lines and road speeds.

The report concludes that, based on the proposed preliminary engineering design, the infrastructure required to service the development can be constructed substantially the same for which the Concept Plan Approval was originally granted.

6.1.12 Geotechnical and landslip

Historically, there have been geotechnical reports undertaken over the site and referenced in the Engineering Report that formed part of the original Concept Plan application.

These geotechnical investigations were previously undertaken by Border-Tech Geotechnical Engineering Services in November 1996 and by Gilbert & Sutherland in December 1997. The findings of the previous reports used by vkl consulting in their report of August 2010 confirmed there were no geotechnical conditions that impeded the development of the site as per the Concept Plan, which is ultimately approved.

Recent site inspection of the site identified that there have been no changes to the geotechnical condition of the land to warrant an updated detailed assessment or report. Therefore, no changes are proposed regarding geotechnical or landslip.

The original Major Project approval for the RISE used these previous investigations for the basis of the concept approval, as referred to in the 'Response to Director General's Environmental Assessment Requirements - Key Assessment Requirement No. 12 Site Preparation Works'.

The modified concept plan will continue to use the previous geotechnical investigations.

7 JUSTIFICATION OF MODIFIED PROJECT

Elysian (formerly RISE) was approved by the Minister in 2010 and since that time there has been significant change in the housing market in response to continued population growth in the Bilambil Heights and northern Tweed Shire. Changes to the housing market has facilitated a need to review and update the development to ensure a contemporary mixed residential development can be delivered that also responds to the constraints of the site. In response to market and updated assessment of the site's constraints, it has been necessary to modify the Concept Plan Approval to reflect more contemporary design that responds attributes of the site.

Despite the changes proposed, we submit to the Department the project remains consistent with the core elements of the project, being a mixed residential development supported by a village centre comprising commercial, retail, landscaping and associated infrastructure. The updated assessments demonstrates the proposed modification result in a development that continues to be consistent with the approved Concept Plan.

Revised Layout

The revised Concept Plan is underpinned by an updated site constraints analysis relating to flora/fauna, bushfire, slope analysis, visual impact analysis, stormwater management, urban design analysis and the efficient provision of infrastructure. These updated studies have confirmed the development footprint remains suitable for urban development having regard to all relevant planning considerations. The amended urban footprint of the development demonstrates there is an acknowledgement of the biodiversity values of the site and provides a development layout that is response to the engineering constraints.

These engineering constraints has also resulted in a revised alignment for the Spine Road to ensure it meets Council's design requirements. This new alignment with also direct traffic through the village centre as a natural extension to Marana Street. The result is an improved activation of the village centre and will make the village centre an entry statement to the Elysian development. The re-alignment of the spine road will also provide an opportunity to facilitate a road connection with the adjoining land to the north should it be development for residential purposes.

A review commercial needs of the locality has resulted in a reduction of the village centre to a scale that is sustainable and suitable for the size of the development and the Bilambil Heights catchment. The village centre, locationally, remains consistent with the Concept Approval.

An updated review of the ecological values of the site has resulted in an increase in land proposed for conservation purposes and open space across the site. In addition, neighbourhood parks will be provided, and their final location and size will be determined as part of subsequent development applications.

Lot 32 (Precinct B) is the only precinct not modified as a result of this application. It will continue to be earmarked for residential living and a yield of 195 dwellings.

Tenure

The current approval envisaged the development would be managed via a community title scheme. It is proposed to change the tenure of the development whereby the community title scheme tenure will be replaced with a traditional Torrens title tenure structured.

The change in tenure is both in response to market expectation and to simplify the tenure structure of this development. Under a community title scheme structure, there will have been a requirement to establish a complex tiered community title structure for separate parts of the development and the village centre. There would have also been significant amounts of common property in the form of roads, open space and conservation area that would have imposed significant operational impost.

The proposed Torres title (Freehold) structure provided a more traditional title structure that will be more familiar to purchasers without compromising the development outcome. It is acknowledged this change in tenure will require roads and open space and conservations areas to be managed by Council. The dedication of these public amenity area will occur in consultation to Council to ensure they are dedicated to Council at time that aligns with the staged development of the project.

Housing need

Tweed Shire continues to experience significant population growth and the Bilambil Heights Urban Release Area has been identified strategically as an area to accommodate this growth for many years. Initially, the Far North Coast Regional Strategy 2006 – 2031 identified the site (which the Concept Plan applies) as a Future Urban Area. The more recently released North Coast Regional Plan 2041 continues to identify the site as a significant residential development opportunity to provide much needed housing, as it is identified as an 'Existing Urban Release Area' in the Tweed Regional City Action Plan.

Furthermore, the 'Tweed Shire Narrative' in the North Coast Regional Plan 2041 identifies a need to enhance housing diversity and to deliver housing across the Tweed Shire to meet the impending growth within the shire and extending down from South East Queensland.

The modified layout and scale of the development demonstrates Elysian will provide a diverse range of housing options that are responsive to the local topography and constraints of the site. While the scale of the development is proposed to be reduced, it will still provide a significant contribution to the delivery of housing in the region.

Infrastructure

There are existing constraints on water and sewer infrastructure capacity, however appropriate augmentation will be undertaken as the modified Concept Plan is implemented. In particular, works are proposed that will upgrade the water and sewer capacity with the site. An additional reservoir will be colocated with the existing water reservoir. A new sewer connection will be provided via Cobaki Road/Piggabeen Road to the Gollan Drive pump station.

Where required, upgrades to Cobaki Road/ Piggabeen Road will be undertaken to the benefit the whole of the Bilambil Heights Urban Release Area.

Ultimately, the development is likely to have positive outcomes in terms of managing the existing traffic network by the early provision of this key infrastructure.

Visual Impact

The project will continue to permit the development of buildings up to 13.6 metres (4 storeys) across the site. For the Village Centre, there is the opportunity to extend the height of the buildings up to 19 metres (6 storeys). The original assessment confirmed these building heights are suitable for the site. An updated visual impact assessment concludes these buildings heights are still appropriate and the proposed buildings will not have a significant impact on the landscape and scenic quality of the locality because of their design and siting and because of the nature of the visual catchment.

8 CONCLUSION

This report outlines the applicant's updated vision for the Elysian project and this application to modify the Concept Plan MP 08_0234 outlines the changes that are considered appropriate for the development to both progress and make a positive contribution to Tweed Shire and provide housing needs to accommodate the anticipated population growth in the region.

The appropriate approvals pathway for Modification 3 is pursuant to Section 3BA of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017,* given the Concept Plan was originally approved under the repealed Part 3A of the EP&A Act.

The modifications proposed to the Concept Plan do not represent a significant departure from the current approved Concept Plan as the development outcome will continue to be for a mixed residential development supported by commercial and retail uses in the village centre. The changes to the proposed housing mix are consider an appropriate response to the demand for housing in the locality.

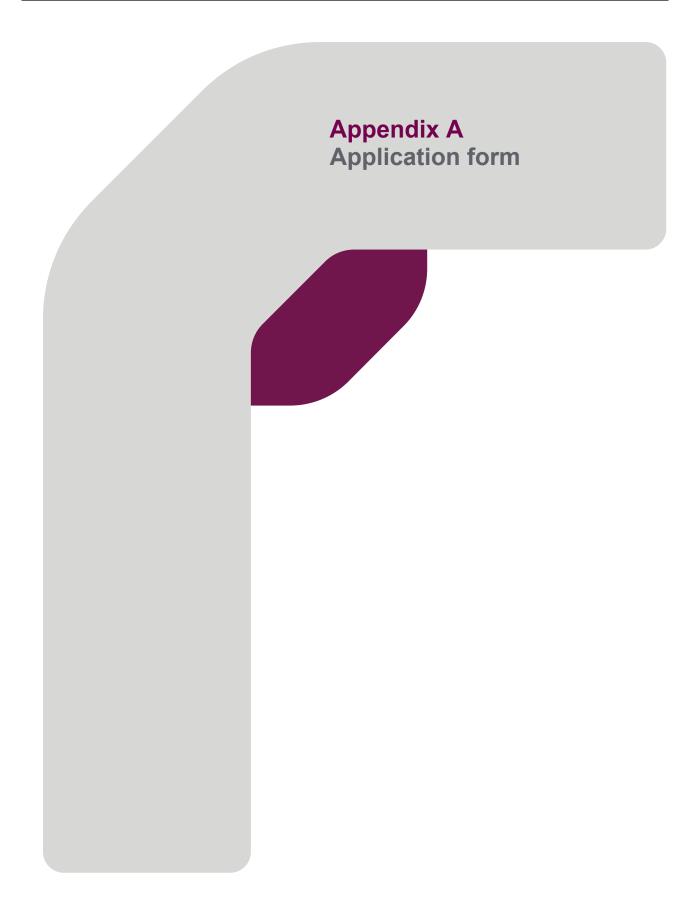
It is noted the development will also seek to alter the tenure for the project from a community title scheme to a more traditional Torrens title arrangement where all house lots will be freehold and all public infrastructure (i.e. roads, parkland, services and conservation areas) will be dedicated to Council for ownership and management. Overall, the changes proposed are intended to provide a development that will readily cater for the needs of the community.

While the intention is to develop the site in accordance with the modified Concept Plan, when having consideration to the SEPP (Regional – Precincts), the proposed changes remain generally consistent with the SEPP and therefore demonstrates the proposed changes will continue to achieve the outcomes originally intended for the site, albeit with a different housing mix and scale.

Therefore, the proposed modifications are not expected to result in a significant material change or generate new impacts that cannot be reasonably mitigated. The updated reports accompanying the project demonstrate the modifications will not negatively impact on matters such as visual amenity, noise emissions, or traffic generation. It does demonstrate there will be a net environmental benefit through the expansion of the conservation area and inclusion of additional passive open space areas.

The development of Elysian is important to the provision of much needed housing in the area and as an area identified for urban growth in the North Coast Regional Plan, its development will assist with achieving the intentions of the Regional Plan and Council's draft Growth Management and Housing Strategy.

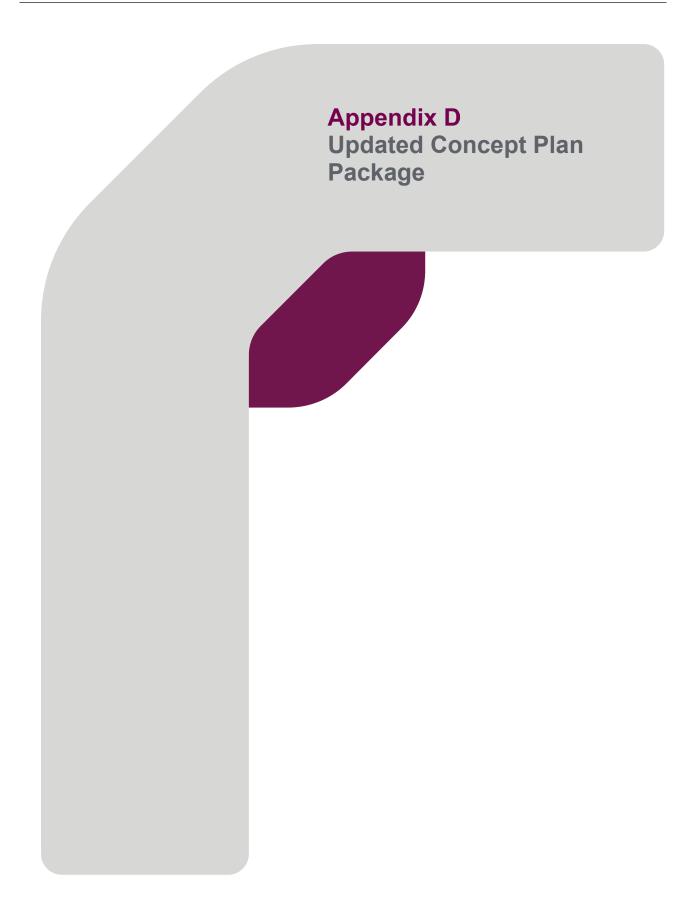
Therefore, support for the proposed modifications is an important step to successfully delivering this development.

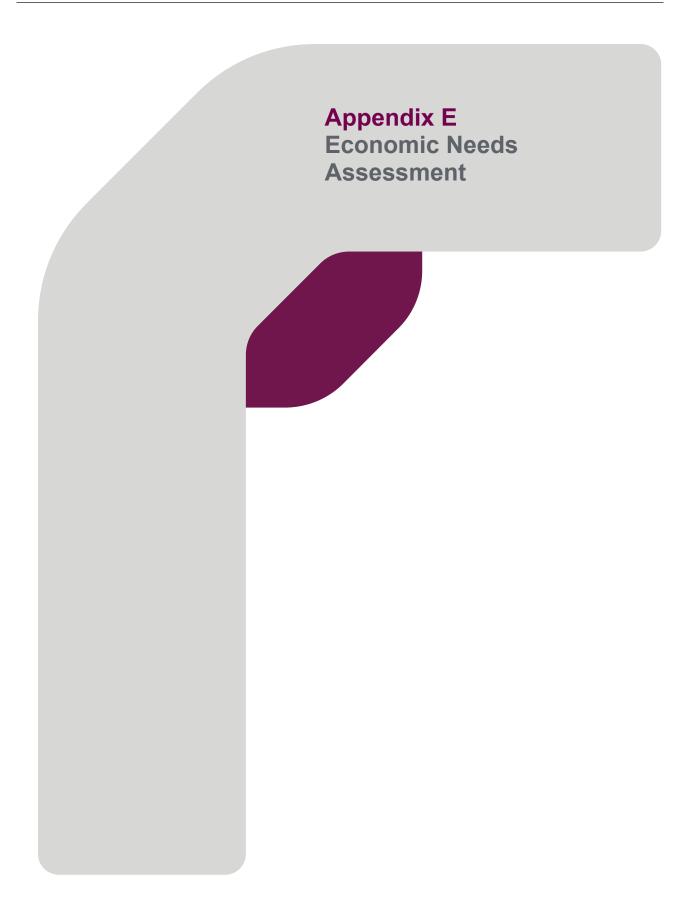


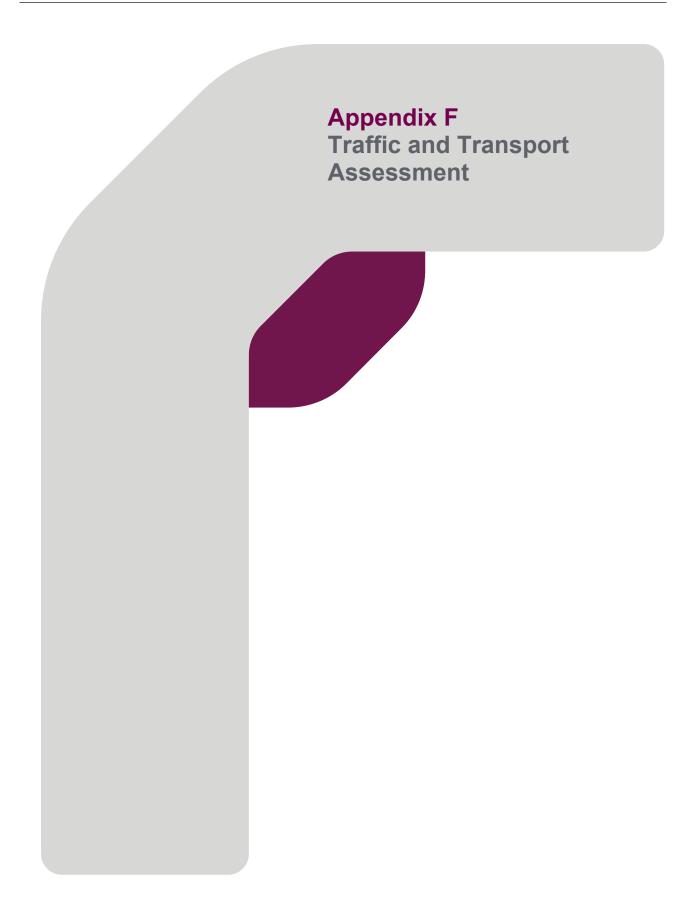






















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