

DETERMINATION AND STATEMENT OF REASONS HUNTER AND CENTRAL COAST JOINT REGIONAL PLANNING PANEL

DATE OF DETERMINATION	26 April 2018
PANEL MEMBERS	Stuart McDonald (Acting Chair), Susan Budd, Peter Brennan and Chris Burke
APOLOGIES	Jason Perica, Kara Krason, Michael Leavey, Jane Smith and Kyle MacGregor
DECLARATIONS OF INTEREST	Nil

Public meeting held at Wyong Council on 26 April 2018, opened at 1.35 pm and closed at 3.15pm.

MATTER DETERMINED

Panel Ref- 2016HCC061 - LGA: Central Coast Council, DA Number: 1283/2016, Address: 149-157 Main Road and Nos 6-12 Tamar Avenue, Toukley (AS DESCRIBED IN SCHEDULE 1).

PANEL CONSIDERATION AND DECISION

The Panel considered the matters listed at item 6, the material listed at item 7, and the matters observed at the site inspection listed at item 8 in Schedule 1.

The Panel determined to approve the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

In approving the development application the Panel determined to:

- Amend recommended condition 2.7 as follows:

An amended Landscape Plan must be submitted to the Accredited Certifier for approval that incorporates the following:

- mass plantings of suitable canopy species with a minimum height of 5 metres at maturity are to be provided within the site along the eastern, western and southern boundary of the site, to achieve visual screening between the care facility and the neighbouring residential dwellings.

[NOTE: the rest of the condition i.e. remaining 5 bullet points have not been amended and remain in their original form].

- Include a new condition 2.12(b) as follows:

The provision of a new 1.5m wide footpath along the Main Road frontage of the site prior to the issue of an Occupation Certificate. The design and construction of the new footpath is to be in accordance with Council's *Civil Design Guide*, Construction Specifications and Standard Drawings and the full cost of the construction is to be borne by the applicant.

Recommended conditions 2.12 (b) to (e) to be renumbered accordingly.

- Amend recommended condition 5.28 to require the section 88E instrument required by Clause 18(2) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* to be registered on title as follows:

Execute and register on title to the land the subject of this consent, an instrument under section 88E of the *Conveyancing 1919* for the following restrictive covenants, with Council having the benefit of these covenants and having sole authority to release or modify:

The approved development is only to be occupied by:

- a) people aged 55 years or over or people with a disability as defined by the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*
 - b) people who live with such people as defined in sub-clause above; and
 - c) staff employed to assist in the administration of and provision of services to housing provided in this development
- Insert a new condition 5.28(a) restricting occupancy to the specified classes of occupants as follows:

The approved development is only to be occupied by:

- a) people aged 55 years or over or people with a disability as defined by the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*
 - b) people who live with such people as defined in sub-clause above; and
 - c) staff employed to assist in the administration of and provision of services to housing provided in this development
- Insert a new condition 7.19

There is to be no form of pedestrian or vehicular access to or from Tamar Avenue to the completed and occupied development. All ongoing access is to be exclusively from the Main Road frontage.

The decision was unanimous.

REASONS FOR THE DECISION





1. The Panel accepts the applicant's written requests prepared under clause 4.6 of Wyong Local Environmental Plan (LEP) 2013 to contravene the building height development standard under clause 4.3 of Wyong LEP 2013 and the floor space ratio development standard under clause 4.4 of Wyong LEP 2013, for the written reasons stated by the applicant and accepting that:
 - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
 - (b) there are sufficient environmental planning grounds to justify contravening the development standards; and

(c) the minor departures from the development standards will result in a better planning outcome.

2. The development will provide a residential care facility in the locality meeting a growing need for the supply and diversity of housing for seniors to meet the demands of an aging population.
3. The development is well placed to make efficient use of existing transport infrastructure and services to meet the needs of the future residents and facility support staff.
4. The application is consistent with the relevant statutory provisions and Design Principles of State Environmental Planning Policy (SEPP) Seniors Housing of People with a Disability.
5. The application is generally consistent with the requirements of SEPP 55, SEPP Infrastructure, SEPP 71, and Wyong LEP 2013.
6. The application, subject to the recommended conditions of consent, and as amended by the Panel, will not have any unacceptable impacts on the local road system or unacceptable environmental impacts on adjoining and surrounding properties.
7. Given reasons 1 to 6 above, approval of the application is considered to be in the public interest.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report, as amended by this Determination.

PANEL MEMBERS	
 Stuart McDonald (Acting Chair)	 Susan Budd
 Peter Brennan	 Chris Burke

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	Panel Ref- 2016HCC061 - LGA: Central Coast Council, DA Number: 1283/2016
2	PROPOSED DEVELOPMENT	
3	STREET ADDRESS	149-157 Main Road and Nos 6-12 Tamar Avenue, Toukley
4	APPLICANT/OWNER	Opal Aged Care TYDK Property Pty Ltd and Ms S Ku and Ms K L Yeong
5	TYPE OF REGIONAL DEVELOPMENT	Capital Investment Value over \$20 million
6	RELEVANT MANDATORY CONSIDERATIONS	<p>Environmental planning instruments:</p> <ul style="list-style-type: none"> • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy No. 71 – Coastal Protection • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy (Infrastructure) 2007 • Draft State Environmental Planning Policy (Coastal Management) 2016 • Wyong Local Environmental Plan 2013 • Wyong Shire Development Control Plan 2013 <ul style="list-style-type: none"> - Chapter 1.2 – notification of development proposals - Chapter 2.11 – parking and access - Chapter 3.1 – site waste management - Chapter 3.6 – tree and vegetation management - Chapter 6.1 – key sites • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> and Regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Clause 4.6 variation request • Council assessment report, recommended conditions of consent, documents submitted with the original and amended application and written submissions. • Written submissions during public exhibition: 3 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Object – two (2). Submissions were made by Denise Yalden 174 Main Road Toukley and Chris Meech, 11 Tamar Avenue Toukley

		<ul style="list-style-type: none"> ○ On behalf of the applicant – Greg Zeischang
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection – 26 April 2018 • Final briefing meeting to discuss council’s recommendation, 26 April 2018 from 1.00 pm to 1.30 pm. • Attendees: <u>Panel members</u>: Stuart McDonald (Acting Chair), Susan Budd, Peter Brennan and Chris Burke <p><u>Council assessment and technical staff</u>: Ross Edwards, Emily Goodworth, Jamie Loader, Steve McDonald and Brendan Dee</p>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report.