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| **COUNCIL ADDENDUM ASSESSMENT REPORT**  HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL | |

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| PANEL REFERENCE & DA NUMBER | PPSHCC-173  PAN-293107  DA/1260/2021/A |
| PROPOSAL | Section 4.55(2) modification to seniors housing development, strata subdivision and associated demolition and other works |
| ADDRESS | 24-26 Gallipoli Road, Long Jetty Lot 4 DP 271196  and 315 The Entrance Road Long Jetty (club) Lot 3 DP.2791196 |
| APPLICANT | Tim Shelly |
| OWNER | HCL1 Pty Ltd  Tuggerah Lakes Memorial Club Ltd |
| DA LODGEMENT DATE | 24 Jan 2023 |
| APPLICATION TYPE | Modification under S4.55(2) (to DA with a CIV >$30million) as specified under Section 275(2) EPAR 2021 |
| REGIONALLY SIGNIFICANT CRITERIA | S4.55(2) to Consent granted for development under Section 2, Schedule 7 of the SRD SEPP: Development Application with a Capital Investment Value > $30 million |
| CIV | $34,301,366 (excluding GST)  (Original DA $32,931,677.00 - excluding GST) |
| CLAUSE 4.6 REQUESTS | No |
| KEY SEPP/LEP | * *State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021* * *SEPP (Industry and Employment) 2021* * *SEPP (Transport and Infrastructure) 2021* * *SEPP (Planning Systems) 2021* * *SEPP No.65 - Design Quality of Residential Apartment Development* * *SEPP (Building Sustainability Index: BASIX)* * *SEPP (Housing for Seniors or People with a Disability) 2004* * *SEPP (Housing) 2021* * *Wyong Local Environmental Plan 2013* * *Central Coast Local Environmental Plan 2022* |
| TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS | None |
| DOCUMENTS SUBMITTED FOR CONSIDERATION | Architectural and Landscape Plans |
| RECOMMENDATION | Approval |
| DRAFT CONDITIONS TO APPLICANT | N/A |
| SCHEDULED MEETING DATE | 28 May 2024 |
| PLAN VERSION | Amended Architectural Plans Revisions 5 & 6 dated 23.04.24 prepared by ADG Architects.  Landscape Plans C0-C10 Rev.H dated 19.04.24 |
| PREPARED BY | Principal Development Planner - Salli Pendergast |
| DATE OF REPORT | 16 May 2024 |

**EXECUTIVE SUMMARY**

The matter was reported to and considered by the Hunter and Central Coast Regional Planning Panel at the Panel meeting held 11 December 2023.

The application was recommended for refusal.

The Panel deferred the matter to provide the applicant one final opportunity to address the concerns raised during the assessment and in the officer’s report.

Amended plans and information were provided by the applicant and these are the subject of the report.

Following the submission of additional information and a detailed assessment of the proposal, and pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*, modification application No. DA/1260/2021/A is recommended for approval subject to the schedule of modified conditions contained at **Attachment A** of this report.

**THE SITE AND LOCALITY**

* 1. **The Site**

The site is a large irregularly shaped corner lot with a road frontage on three sides extending between the western side of The Entrance Road (Central Coast Highway), the eastern side of Gallipoli Road, and the northern side of Archbold Road. The broader site (including community Lots 2 and 4) accommodates an existing recreational club known as ‘Diggers at The Entrance’, car park and a multi-level hotel building.

The immediate site area comprising Lot 4 is 7,144m² and is occupied by two dwellings and an at-grade car park (102 spaces) for the Club. Lot 4 has frontage to The Entrance Road to the east of 89.23m, a frontage to Archbold Road to the south of 69.905m, and a frontage to Gallipoli Road to the west of 80.535m. The Site has a cross fall of 8.75m from the lowest point on the south-west corner to the highest point on the north-east corner.

Two single-storey weatherboard cottages are currently located on the two former residential properties on the western side of the site fronting Gallipoli Road. The eastern half of the site is occupied by the southern section of the main carpark for the Diggers Club and comprises an asphalt surface and 102 line-marked car parking spaces.

Surrounding the site on all sides is predominantly residential development including both single dwellings and medium density residential development. There are also varied commercial activities along The Entrance Road in the vicinity of the site. Tuggerah Lake is 170m to the west of the site and there are views from the site across to the lake.

There are scattered trees (approximately 42) along the site frontage (on the adjoining former residential lots) around the perimeter of the carpark, otherwise, vegetation on the site is minimal. The site is not identified as bushfire prone, or flood affected land. The site slopes from where the club is situated down towards Archibald Street.

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Above: Aerial view of site

* 1. **The Locality**

The site is located around 750 metres south of The Entrance Town Centre and 600m north of the Long Jetty local centre. To the west of the site (170m) is Tuggerah Lake and to the east (1.2km) are various beaches including The Entrance, Blue Bay, and Toowoon Bay. The Entrance Road, also known as the Central Coast Highway, is the main road extending north- south on the eastern part of the lake. Regular bus services travel along The Central Coast Highway.

The site is located within an established and well serviced area with various retail and commercial businesses in the surrounding area. The immediately surrounding development in the area comprises one and two storey scale development with mainly low to medium density residential to the north, west and south, and scattered residential and commercial along The Entrance Road.

1. **THE PROPOSAL AND BACKGROUND** 
   1. **The Proposal**

The proposal seeks modification under Section 4.55(2) of the EP&A Act to the consent recently granted for a seniors housing development comprising 89 dwellings, strata subdivision and associated demolition and other works on the subject site.

The matter was reported to and considered by the Hunter and Central Coast Regional Planning Panel at their meeting held 11 December 2023. The application was recommended for refusal. The Panel deferred the matter to provide the applicant one final opportunity to address the concerns raised in the assessment and in the assessment report.

In this regard, the Panel noted:

*The Panel is not supportive of modification applications that result in diminution of amenity and design outcomes when compared against the original approval. The application currently reduces the amenity outcomes of the original approval and would potentially warrant refusal.*

*The Panel is prepared to defer the application to allow the lodgement of amended plans that respond to the issues raised in the Council report and do not detract from the amenity and design outcomes of the original approval.*

Amended plans and information were provided by the applicant.

Under the latest plans, the modifications include:

* Unit Mix and Number and unit layouts

* An adjustment to the unit configuration as follows:
  + An increase in the number of three-bedroom ILUs from 2 to 18; and
  + A reduction the number of two-bedroom ILUs from 87 to 69.
* The above change has resulted in a reduction in the overall number of dwellings in the development from 89 to 87;
* There has also been a change to the internal layout of apartments to incorporate a bath in the bathroom of 22 units;

*Applicant’s reason for changes*:

- to diversify the room typology and provide a better and more varied apartment mix;

- to better respond to feedback from the initial marketing campaign of the development;

- to better respond to current gaps in the market and a shortage of 3-bedroom seniors accommodation; and

- to provide greater amenity for residents by including baths in bathrooms.

* Floor Space Ratio
* The total gross floor area (GFA) of the development has increased by 573m² from 9,195m² to 9,768m². In this regard, the additional floor area is mainly to be contained within the section of the site covered by the higher FSR – i.e. 0.85:1, which also includes the existing Diggers Club – such that the FSR in this section has increased very slightly from 0.74:1 to 0.76:1 and increased to 8,759m²).
* The gross floor area contained within the lower FSR section of 0.5:1 has only increased by 11m² such that the FSR has remained under 0.5:1 (being 0.498:1).
* Basement arrangements
* The provision of enclosed parking spaces (15 spaces) and a reduction of 5 spaces in the overall number of approved car parking from 106 spaces to 101 spaces as follows:
  + A change in the number of parking spaces allocated to units (reduced by 3 spaces) from 90 to 87 spaces; and
  + A change int the number of spaces allocated as visitor parking (from 16 to 14)
  + Basement scooter parking includes 18 dedicated scooter parking spaces (all with chargers). Basement motorcycle spaces provided (2 spaces).
  + Additional bicycle parking provided in a separate area on the southern side of basement and in storage cages for each unit.
  + Waste area shifted slightly to the west.
  + Access to unit 7 has been updated with entry from pedestrian side.
  + Layout of meeting rooms and reception area adjusted, and new entry door and airlock added.

*Applicant’s reason for changes*:

There are 87 spaces now provided for 87 units at a rate of 1 space for each unit (including 5 accessible spaces). The inclusion of enclosed car parking spaces in the basement is aimed at providing more secure parking and additional secure storage for residents.

A new egress path has been provided within the car park. The wall adjacent to the egress pathway running parallel to the northern boundary of the site in front of units 9 and 10 in the western building has been changed from timber slat fence to a 1.8m high masonry wall to comply with the National Construction Code.

*Applicant’s reason for changes*:

The inclusion of the new egress path within the carpark and the change to the wall adjacent to the egress pathway in front of units 9 and 10 in the western building is to ensure compliance with the BCA.

* Storage Arrangements

The basement floor plan has been amended to provide an increase in the number of lockable storage cages – such that one cage is provided for each unit.

* External changes
* Changes to the external appearance of the development (i.e., location of windows, and privacy screens and shape of balconies) to accommodate the change in bedroom mix and internal apartment configuration.

*Applicant’s reason for changes*:

The proposed external changes (i.e., changes to window and privacy screen locations and shape of balconies) are simply in response to, or necessitated by, the proposed changes to the internal configurations and inclusion of 3-bedroom apartments.

* Open space, bus stop and landscaping
* An increase in the communal outdoor open space area on level 2 has been reduced back to 2397m2 to provide a more efficient and useable layout.
* Provision of a covered bus stop on The Entrance Road remains the subject of the original condition of the consent (condition 2.6(m)) as it is no longer proposed to be addressed under the plans.
* Additional canopy tree planting is proposed to address condition 2.13 of the consent. The additional trees to be planted (minimum 26) are shown on the amended landscape plan.

*Applicant’s reason for changes*:

The Communal open space is still 33%, which is well in excess of the required amount of 25% of the site (i.e. 1,768m2)

Condition for the provision of a sheltered bus stop (under conditions 2.6(m)) still applies and requires details to be provided as part of engineering design as currently required under condition 2.6(m). Further input is required by Transport for NSW.

The minor change to the layout of landscaping on the ground level is simply in response to, or to match up with, the proposed changes to the configurations of apartments.

* Contributions

The modifications to the contributions imposed on the consent are no longer sought as part of this application.

* Civil works

It is requested that condition 2.6(b) be deleted. Condition 2.6(b) requires roadworks be undertaken within Gallipoli Road as follows:

*“Up to full width road reconstruction in Gallipoli Road, comprising new road pavement, for approximately 8m from the intersection with Archbold Road”.*

*Applicant’s reason for change*:

The applicant argues that these works are not generated by, and have no nexus to the proposed development, and as such are not a reasonable requirement to be imposed on the consent.

The key development data is provided in **Table 1**.

**Table 1: Key Development Data**

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| --- | --- |
| **Control** | **Proposal** |
| Site area | The development takes place over the following lots:   * Lot 4 (24 Gallipoli St) – 7,143m² * Lot 3 (315 The Entrance Rd) – 16,740m² * Lot 2 (existing hotel site) - 2,670m²   Total - 23,884m²  The development takes place within the following FSR site areas:  Area K: 24,543m²  Area D: 2011m² |
| GFA | Approved  8495m² proposed (Lot 4)  Existing club (Lot 3) GFA 8,060m²  Existing hotel (Lot 2) GFA 1,999m²  Substation (Lot 1) – no FSR  Proposed  The applicant has argued for an increase of an additional 573m² GFA from 9,195m² to 9,768m² for the proposed development under the modified plans.  The total GFA under the modified Seniors development plus the existing GFA on the site (for the club and hotel) results in a proposed increase in GFA across all lots (and both Areas D & K) to 19,827m². |
| FSR | There are two FSR’s applying to the development:  Approved D Area  0.49:1 (GFA 992m²) was approved, and a max permitted of 0.5:1.  Proposed D Area  The proposal includes a minor increase (of 11m²) in GFA within the (D area) which would maintain a compliant FSR of 0.498:1 which is under the 0:5:1 maximum.  Approved K Area  0.72:1 (approved GFA Seniors is 7,503m² (minus Area D) and existing GFA Club of 8,060m² which totals approved GFA of 15,734m²) and a max permitted of 0.85:1 (has an area of 21,873m²).  Proposed K Area  Increase in GFA for Seniors to 8,759m² plus existing GFA Club and Hotel which totals proposed GFA of 18,698m² (0.76:1). This complies and is below the max permitted FSR of 0.85:1).  The modified proposal complies with the mapped FSR. |
| No of apartments | Approved:  89 Independent Living Units  The units comprise:   * 87 x two bedroom * 2 x three bedroom   Proposed  87 Independent Living Units  The units comprise:   * 69 x two bedroom * 18 x three bedroom |
| Max Height | There are two height limit controls applying to the development.  Approved  8.5m  16m  Proposed  There is no change to the approved height. |
| Landscaped area | Approved 3,763m² (52% site area)  Proposed 3,470m² (48% site area)  Required under SEPP SH- 2143m² (30% site area) |
| Deep Soil | Approved 1,306m² (18% site area)  Proposed 1371m² (19% site area)  Required under SEPP SH- 1071m² (15% site area) |
| Communal Open Space | Approved 2,524m² (35% site area)  Proposed 2,397m² (33% site area)  Required under SEPP SH-1786m² (25% site area) |
| Car Parking spaces | Approved  106 Spaces   * 90 allocated * 16 visitor * No enclosed * 3 motorcycle spaces   Proposed  101 spaces   * 87 allocated * 14 visitor * 14 enclosed spaces * 18 motor scooter spaces * 2 motorcycle spaces |
| Loading | Approved  Waste vehicle loading bay 11m HRV  Proposed  Waste vehicle loading bay 11m HRV |
| Setbacks | Approved  Frontages all levels: 7.5m  Side/Rear (northern): 6m (all storeys)  Complies except that the 5th storey side/rear setback under the DCP requires 9m setback but only 6m proposed. The applicant has argued that the ground level of this part of the building is below the ground level so that there are only 4 levels of the building above ground level.  Proposed  No change to the approved setbacks. |

* 1. **Background**

The development application was lodged on 24 January 2023. A chronology of the development application since lodgement is outlined below including the Panel’s involvement (briefings, deferrals etc) with the application:

**Table 2: Chronology of the application**

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| --- | --- |
| **Date** | **Event** |
| 24 January 2023 | DA lodged |
| 3 February 2023 | Exhibition of the application |
| 25 January 2023 | DA referred to external agencies |
| 10 February 2023 | Request for Information from Council to applicant |
| 23 February 2023 | Amended plans and information provided |
| 19 April 2023 | Panel briefing |
| 28 June 2023 | Clearer floor plans provided. |
| 23 August 2023 | Report to Council on applicant’s request to vary the Contributions Plan. Council resolved not to waive the Contributions applicable under the adopted contributions plans. |
| 24 August 2023 | Request for Information from Council to applicant.   * ADG and Design concerns * Advice that the variation proposed to the contributions plan is not supported. * Requested a graphic analysis of the modification comparing the approved and proposed and justifying the reasons. * Requesting consideration for the withdrawal of the application. |
| 3 September 2023 | Update from applicant advising not withdrawing and intend on providing information in 2 weeks and requesting clarification on Condition 2.6(b) |
| 3 September 2023 | Clarification regarding Condition 2.6(b) provided. |
| 27 September 2023 | Amended plans and information provided. |
| 25 October 2023 | Meeting with applicant held to discuss latest plan changes. |
| 26 October 2023 | Request for Information from Council to applicant   * ADG and design concerns |
| 13 November 2023 | Amended plans and information provided. |
| 5 December 2023 | HCC Regional Planning Panel Determination Meeting. Matter deferred. |
| 18 December 2023 | In person meeting held between Council officers and the applicant and their team at Wyong. |
| 5 February 2024 | Amended plans and information provided. |
| 8 & 27 Feb 2024 | RFI’s forwarded to applicant identifying plan inconsistencies and seeking clarification and solar diagrams. |
| 1 & 11 March 2024 | Updated solar diagrams and amended plans provided. |
| 11 April 2024 | RFI requesting correct shadow diagrams, amended landscape plans and amended plans showing all previously requested amendments to plans. |
| 30 April -1 & 14 May 2024 | Amended plans and information provided. |
| 28 May 2024 | HCC Regional Planning Panel Determination Meeting. |

* 1. **Application History**
* Development Consent No DA/1260/2021 (PPSHCC-91) was granted by The Hunter and Central Coast Regional Planning Panel on 26 September 2022 for a proposed Seniors Housing Development comprising 89 dwellings, strata Subdivision & Associated Demolition and other works at Lots 3 & 4 DP 271196, 24 Gallipoli Road, Long Jetty.
* Council considered the matter of the variation to the development contributions levied under *The Entrance District Contributions Plan* and the *Shire wide Infrastructure, Services and Facilities Development Contribution Plan* sought by the applicant in respect of DA/1260/2021/A at its Ordinary meeting of 23 August 2023.

Council resolved at that meeting:

1 *Not support the request to amend the development contributions relating to DA/1260/2021/A at 24 Gallipoli Road, Long Jetty.*

*2 Advise the Hunter and Central Coast Regional Planning Panel of its decision.*

This aspect of the modification has been withdrawn from the application by the applicant.

* Hunter and Central Coast Regional Planning Panel considered the modification application DA/1260/2021/A at their meeting held on 11 December 2023. The modification was recommended for refusal. The applicant requested the Panel defer consideration of the application to allow them time to address the matters raised in the assessment report.

The Panel deferred to the item.

The Panel noted:

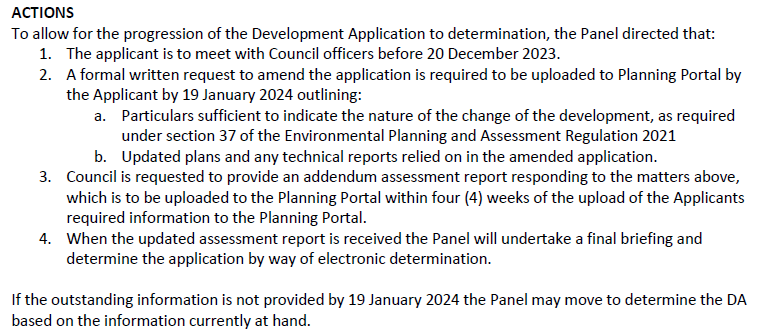
*The applicant needs to meet with Council to identify key differences and provide plans that comply with the SEPP 65 requirements or the objectives, and address Council concerns. These include compliance with SEPP 65, efficiency in layout and reasonable storage to meet the needs of the development Ie. aging population.*

*…*

*The Panel agrees to defer the determination of the matter. The matter was deferred to allow for the provision and assessment of amended plans and information that:*

* *provide sufficient storage and that is responsive to the demographic;*
* *provide sufficient car parking including visitor carparking, bicycle storage and scooter spaces;*
* *do not reduce compliance with the ADG when compared against the original approval; and*
* *address matters raised in the report.*

The actions identified by the Panel were:



1. **STATUTORY CONSIDERATIONS**

**Modification of Consents- Section 4.55**

In accordance with Section 4.55 (2) of the EP&A Act, a consent authority may modify a consent provided:

1. *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 (if at all), and*
2. *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*
3. *it has notified the application in accordance with—*
4. *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*

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

Substantially the same development (s.4.55(2)(a))

A consent authority must be 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. This is a necessary jurisdictional position that must be established in the assessment of the proposal.

The proposed modifications to the development as *originally* approved, inclusive of the latest plans are as follows:

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| **Modified Development** | **Original Development** |
| **Quantitative Assessment** | |
| 87 units | 89 units |
| 18 x 3 bedroom  69 x 2 bedroom | 2 x 3 bedroom  87 x 3 bedroom |
| GFA - 9,768m² (Additional 573m²) | GFA – 9,195m² |
| FSR - 0.76:1 and 0.5:1 | FSR - 0.74:1 and 0.5:1 |
| Landscaped area 3,470m² (48% site area) | Landscaped area 3,763m² (52% site area) |
| Deep Soil - 1371m² (19% site area) | Deep Soil - 1,306m² (18% site area) |
| COS - 2,397m² (33% site area) | COS - 2,524m² (35% site area) |
| Parking - 101 spaces (87 allocated & 14 visitor & 14 enclosed spaces & 18 motor scooter spaces, 2 motorcycle spaces)  192 bedrooms (SEPP HSD – 0.5spaces per bedroom) = 96 spaces needed. 101 spaces provided  DCP required 18 visitor spaces (1 space/5 units) | Parking - 106 Spaces (90 allocated & 16 visitor & no enclosed & 3 motorcycle spaces  180 bedrooms (SEPP HSD – 0.5spaces per bedroom) = 90 spaces required. |
| The proposal complies with the ADG storage requirements with at least 50% of required storage located within the unit plus 88 storage cages in the basement. | The original proposal complied with the storage provisions of the ADG having storage within units and the remaining shortfall provided in the basement. |
| Private Open Space  96% of units (84/87 units) have POS that complies with the ADG. The proposal is an improvement on the approved scheme. | Private Open Space  The approved scheme had 5/89 units (6%) that did not comply with the ADG or the SEPP Seniors. |
| Under the latest revised plans, the apartment sizes and layouts comply with minimum dimensions and areas. | Under the approved plans, apartment sizes and layouts complied. |

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| **Modified Development** | **Original Development** |
| **Qualitative Assessment** | |
| The change to the internal layout of most apartments to incorporate a bath in the bathroom has been reduced to only with 22 units under the amended plans. | |
| There are changes to the external appearance of the development (i.e., location of windows, and privacy screens and shape of balconies) to accommodate the change in bedroom mix and internal apartment configuration | |
| Building separation is considered satisfactory with visual privacy having been addressed and direct lines of sight avoided. The proposal does not comply with acoustic privacy in some areas of the development. However, the latest plans for the design of the proposed modification improves on privacy (visual and acoustic) compared to the approved DA. | |
| Basement storage is now increased such that each unit now has a storage cage in the basement as well as many having internal storage within each unit.  This responds to increase in the number of 3-bedroom units within the development that require more stage area (2 bed units require 8m3 and 3 bedroom units require 10m3). | |
| The revised basement parking arrangements including parking space numbers, enclosing or spaces, accessible parking, storage cages, scooter parking, motorcycle parking and bike parking are satisfactory. Waste vehicle manoeuvring continues to be provided. | |
| Total car parking provision has been reduced under the modified proposal but continues to comply with the SEPP. There is a minor variation to visitor parking under the DCP of 4 spaces, however this is acceptable as the development is located next to the existing club off street car park. | |
| The proposed modification has 18 x 3-bedroom units, offering a better range of apartment types. Layouts have been improved which allow for a variety of needs. | |

The applicant has argued that the modified development is substantially the same development to that originally approved and that the impacts of the change are minimal. Under the amended plans and information that has been provided (including the withdrawal of the changes to the contributions), the modified proposal is considered substantially the same development as that which was originally granted approval.

It is noted that there is no change to the building height or approved boundary setbacks and the development continues to generally comply with the relevant planning controls. The modified development does not represent a radical change to the form, bulk, and scale of the originally approved development on the site and there is little to no change to the scale and external appearance of the proposal when viewed from surrounding streets.

The proposal does not represent a transformation of the qualitative and quantitative elements of the originally approved development and the development is considered to be substantially the same development for which consent was originally granted. The amended plans have greatly improved the quality of the housing outcome under the proposal and improve the amenity for the future occupants.

Consultation (s.4.55(2)(b)

The original and modified applications were not required to be referred to any external authorities for comment.

Notification (s.4.55.(2)(c)(d))

The application was notified from 3 February 2023 until 24 February 2023 in accordance with Wyong DCP Chapter 1.2- Notification of Development Proposals. There were no submissions received.

Section 4.55(3)

Section 4.55 (3) reads:

*In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

Section 4.55(3) requires the consent authority to consider matters referred to in Section 4.15(1) as are relevant to the application for modification of the development consent.

* *Matters for Consideration (Section 4.15(1))*

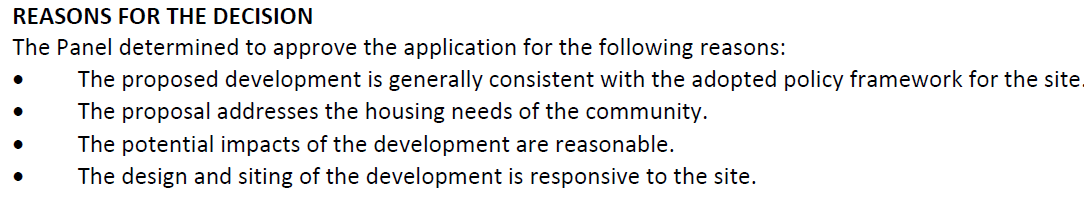
When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* (‘EP&A Act’). The matters relevant to the development application include the following:

1. *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
2. *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
3. *the suitability of the site for the development,*
4. *any submissions made in accordance with this Act or the regulations,*
5. *the public interest.*

The modification has been assessed against the matters for consideration under Section 4.15 of the Act and found to be satisfactory with regard to impacts upon the residential amenity of future occupants and compliance with the relevant ADG planning controls. These matters are discussed later in the report.

* *Reasons for the Decision*

Additionally, under Section 4.55(3) consideration must be given to the reasons for the granting of the original approval as outlined below.



The modified proposal is considered satisfactory with regard to the above original reasons for the granting of approval, particularly in relation to the potential impacts of the development.

* 1. **Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

* *State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021*
* *SEPP (Industry and Employment) 2021*
* *SEPP (Transport and Infrastructure) 2021*
* *SEPP (Planning Systems) 2021*
* *SEPP No.65 - Design Quality of Residential Apartment Development*
* *SEPP (Building Sustainability Index: BASIX)*
* *SEPP (Housing for Seniors or People with a Disability) 2004*
* *SEPP (Housing) 2021*
* *Central Coast Local Environmental Plan 2022*
* *Wyong Local Environmental Plan 2013*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

**Table 3: Summary of Applicable State Environmental Planning Policies**

|  |  |  |
| --- | --- | --- |
| **EPI** | **Matters for Consideration** | **Comply (Y/N)** |
| SRD SEPP | * Section 2.19 declares the proposal as regionally significant development pursuant to Section 2 (General Development over $30 million) of Schedule 6 of the SEPP (Planning Systems) 2021. The application is a S4.55(2) modification as specified under Section 275(2) EPAR 2021 | Y |
| SEPP 65 | * Clause 30(2) - Design Quality Principles –   The modified proposal includes further amended plans which now address the original concerns raised regarding compliance with regard to a number of the design quality principles and ADG requirements when compared with the earlier approved plans). An amended SEPP 65 Design Report has been provided by the applicant in relation to the revised plans. This is discussed further below. | Y |
| SEPP (Resilience and Hazards) 2021 | Contamination and remediation were considered in the original development application and there is no change to this aspect under the modified proposal.  The site is located within both the Coastal Use Area and Coastal Environment Area. The modified proposal remains consistent with Sections 2.10 and 2.11 of the SEPP. | Y |
| SEPP (Transport and Infrastructure) 2021 | There is no change proposed under the modified development to the original considerations of the development under Sections 2.119, 2.120, and 2.122 of the SEPP at the time at which the consent was granted. The application was referred to Transport for NSW who rejected the referral for both concurrence and a referral under s2.121. | Y |
| Seniors Housing SEPP | The modifications do not result in any non-compliances to the applicable planning controls under the SEPP (Housing for Seniors or People with a Disability) 2004. It is noted that the original SEE stated that the DA had not been lodged under SEPP (Housing for Seniors or People with a Disability) 2004. | Y |
| BASIX SEPP | An amended Basix Certificate was provided for the latest revised proposal under the application. | Y |
| SEPP (Housing) 2021 | This SEPP commenced on 26 Nov 2021.The DA was lodged prior to the commencement of this SEPP and the savings provisions apply. | N/A |
| SEPP (Industry and Employment) 2021 | The consent included new identification signage assessed as ‘business identification signs’ with regard to Section 3.6 of the SEPP. There is no change proposed to the signage approved under the proposed modification | Y |

State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Building and the Apartment Design Guideline (ADG)

State Environmental Planning Policy 65 (Design Quality of Residential Apartment Development) (SEPP 65) applies to the development and requires the design quality of the development to be taken into consideration and evaluated against the design quality principles.

The latest revised plans for the modification generally address most of the previously raised non-compliances with the ADG. The modifications largely comply with the ADG and SEPP but will result in minor and acceptable non-compliances with a number of ADG planning controls. The latest revised plans for the modified proposal are supported.

The previously raised non-compliances under the modified development (as outlined in the earlier report to the Panel) are discussed below.

* *Private Open Space (POS)*

The previous approved DA complied with the minimum POS required under the ADG for nearly all apartments. Under the proposed modification, the proposal included an increase in the number of 3 bedroom units that was not followed by the required corresponding increase in POS for these large units. This resulted in 34% of units have less than the minimum POS required under the ADG and 22% of units have less than the minimum under the SEPP. Additionally, there were usability issues resulting from obstructions like a/c units.

Under the latest amended plans, the proposal largely complies. There are three minor instances where the minimum dimension is slightly under the required minimum. Two units 53 and 69 have a balcony that is 2.3m wide (not 2.4m), and one unit 20 has a courtyard with a minimum dimension of 2.8m (not 3m). But the overall area provided is greater than the required minimum area, and therefore the balcony space is practical and usable.

The modified proposal is considered satisfactory with regard to POS provision throughout the development and is supported.

* *Building Separation*

In the earlier plans (Rev 2), there were 13 instances of inadequate separation between rooms in 26 separate units. Whereas in the approved DA there were seven instances between 14 units.

The latest revised plans have reduced the extent of separation issues.

Building separation to the northern boundary for storeys 2-4 is at least 6m which is the required minimum and so complies with this control in these areas.

Building separation to the northern boundary for units 1 and 2 on the ground floor has been reduced from 6.1m in the approved DA to 5.5m in the proposed modification. This is less than the required minimum of 6m but is isolated to these two units only, and no building is proposed in the vicinity on the opposite site. Although it doesn’t strictly comply, building separation is not an issue in this area.

Rear setback from the northern boundary for units 1 and 2 on the ground floor has been reduced from 6.1m in the approved DA to 5.5m in the proposed modification. This is less than the required minimum of 6m but is isolated to these two units only, and car parking is proposed on the other side adjacent to these two units. Again, although it doesn’t strictly comply, rear setback non-compliance is not an issue in this area.

There are no other changes to side and rear setbacks proposed for the first 4 storeys and no changes to side and rear setbacks for storeys 5-6.

There is no change under the modification to the separation distances proposed to the approved development near the northern boundary for storeys 5-6. There is no change to street setbacks under the modification. There is no significant change to future residential amenity under the modified plans.

* *Visual Privacy*

The earlier plans for the proposed modification had nearly doubled the number of instances of where direct lines of sight without adequate separation can occur, which would result in poor amenity outcomes. Improvements have been made under the latest amended plans to improve visual privacy.

Although the proposed modification does not strictly comply with the minimum separation distances between rooms of different units within the development, visual privacy has been provided by way of operable screens and offset balconies and windows where possible. The development achieves the objective of this control for visual privacy.

Direct lines of sight have been avoided in the proposed modification by providing screening or offsetting windows and/or balconies. Landscaped buffers are generally provided between bedrooms and common areas. The building design is quite unusual with high degrees of articulation in plan and building form, which has been balanced with amenity for the units in the proposed modification.

* *Acoustic Privacy*

The proposal does not comply with acoustic privacy in some areas of the development. However, the latest plans for the design of the proposed modification improves on privacy (visual and acoustic) compared to the approved DA. Visual privacy is no longer an issue in the proposed modification, but there are still some areas where acoustic may be an issue. For example, inadequate separation between bedroom windows. It may be that occupants will have to close bedroom windows and use air conditioning. Given that the modification has an improved level of privacy overall, a variation on acoustic privacy may be considered.

* *Apartment and Bedroom size*

The earlier version of the plans for the modified development included 53% of units with a second or third bedroom with a minimum dimension of less than 3m and 11% less than 9m² in size.

Under the latest revised plans, the apartment sizes and layouts comply with minimum dimensions and areas. All master bedrooms have a minimum area of 10m². All bedrooms have a minimum dimension of 3m, and so it follows that all bedrooms have a minimum area of 9m². Apartment layouts have been improved in the latest proposed modification, and more 3-bedroom units allow for a variety of needs. These changes will provide for a satisfactory level of future amenity for occupants.

* *Storage*

Concerns were originally raised with the earlier plans that the internal storage areas (ie. within each unit) appear to have been sacrificed to fit a bath into each unit and to provide an additional bedroom for 15 units. The approved plans included larger laundry areas that could readily accommodate storage, and larger storage areas within units, in addition to more generous storage areas in the basement. The proposed modification had reduced storage areas so that 39% of units (34 out of 87 units) did not have the minimum storage required for compliance.

Under the latest revisions to the plans all units have sufficient storage with at least 50% of required storage located within the unit.

There are 88 storage cages in the basement, enough for 1 for each unit and 1 extra. There are 19 storage cages in the basement less than 4m³.These cages will be sufficient for 2-bedroom units that have excess storage located within the units. There are 10 storage cages with volume greater than or equal to 5m³. These cages will be sufficient for 3-bedroom units that have a minimum of 5m³ storage located within the unit.

The proposal complies with the storage requirements.

* *Parking*

The increase in number of bedrooms in the development increases the potential demand for car parking including for permanent residents and visitors. However, total parking provision has been reduced under the modified proposal from 106 spaces (as approved) to 101 spaces (under modification), and this change also included fewer provision of visitor parking spaces which were reduced to 5 spaces from 16 spaces (approved).

Although WDCP Chapter 2.11 requires a total of 114 spaces for the development, the SEPP requires 96 spaces (and is silent on visitor spaces), so the modified proposal continues to comply with the total number of spaces.

However, under the latest plans, the number of enclosed spaces has been reduced (from 23 enclosed to 14) and the allocation of visitor (relative to private unit parking) has been increased so that the proposal will now include 14 visitor parking spaces. There are 87 spaces allocated to the 87 units as 1 space for each unit (including 5 accessible spaces). The visitor parking is a reduction by 2 spaces from the 16 visitor spaces that were included under the approved plans. It is noted that this number does not comply with the WDCP Chapter 2.11 requirements for 1 space per 5 units totalling a requirement for 18 spaces. However, the change on the latest revised plans is an improvement from the earlier plans and is considered satisfactory for the development.

* *Bicycle parking*

Under WDCP Chapter 2.11 Parking and Access, Bicycle Parking, for residential flat development comprising six or more dwellings and where resident carparking for the development is provided in a common carpark area, bicycle parking facilities shall be provided at a rate of one per three dwellings.

The proposed modification requires 29 spaces be provided, however, noting that the original approved DA had no bicycle parking on the basis that the storage cages were sized to accommodate scooter and/or bicycle parking. Under the modified development, a private lockable storage cage has been provided in the basement for each unit. The letter accompanying the proposed modification states that storage cages are of sufficient size to contain a bicycle. Plus, additional bicycle parking is provided in a separate area on the southern side of the basement.

The bicycle parking arrangements are an improvement on the earlier plans and these proposed arrangements are considered satisfactory.

* *Motorcycle Parking*

Under the original approval 3 motorcycle spaces were provided and under the modified proposal this has been reduced to two motorcycle spaces. Under WDCP Chapter 2.11 Parking and Access, Motorcycles and Motor Scooters, parking is to be provided at the ratio of at least 1 motorcycle space for 50 car spaces. The two basement motorcycle parking spaces provided are considered acceptable in the context of the revised plans which also accommodate increased scooter parking, a storage cage for each unit and increased visitor parking spaces.

* *Scooter parking*

Under the original consent, no bicycle parking facilities were provided with the justification being that the storage spaces for 43 motor scooters with charging stations was to be provided as an alternative, given it was a senior’s housing development. However, under the earlier plans provided for the modification there appeared to be limited space in the reconfigured basement for storage of any motor scooters. The proposed four scooter spots for 87 seniors living units were deemed to be insufficient and many of the proposed storage cages were of insufficient size to accommodate a bike or scooter.

The latest plans have been revised to accommodate 18 dedicated scooter spaces. This arrangement is considered acceptable as a number of units can also internally accommodate a scooter.

* *Solar Access*

Under the original proposal 80% (72/89 units) of the living areas and POS area of all units within the development were to receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter which complied with the ADG, and SEPP Seniors. The ADG requires that living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9am and 3pm at mid-winter. The number of units complying with this control has been reduced under the current modified proposal. The proposed modification includes 61% of units (53/87 units) receive a minimum of 3 hours. In this instance, a variation is supported as the overall design quality of the apartments has improved.

Additionally, there are 11/87 units that receive over 2 hours of solar access, and these units are getting extra solar access from 3pm until sunset. If these units are included the calculation is 64/87 units which is 73.5% of units.

The original proposal also included a minor variation (4%) to the ADG criteria as 15.7% of apartments (14/89 units) were to receive no solar access mid-winter. Although this has been reduced by one unit to 13/87 units (15%), the proposal continues to comply with the requirement that a maximum of 15% of apartments in a building are permitted to receive no direct sunlight between 9am and 3pm mid-winter. This is by virtue of the overall reduction in the development by two units and is consistent with the original approval.

* *Miscellaneous plan corrections*

The latest revised plans have also updated the provision for access to unit 7 with entry from pedestrian side; and the layout of meeting rooms and reception area adjusted, and new entry door and airlock added.

*Wyong Local Environmental Plan 2013*

*Permissibility and zone objectives*

The development application was assessed under Wyong Local Environmental Plan (WLEP) 2013 which was in place at the time. The site was zoned RE2 under that Plan.

The proposed modified development continues to be defined as *Seniors Housing* which is prohibited within the RE2 zone under clause 2.3 of WLEP 2013. However, the site is identified as ‘item 4’ under Schedule 1 (Additional Permitted Uses) of WLEP which permits development for the purposes of seniors housing if the development is associated with a registered club in accordance with clause 2.5.

Clause 2.5 of WLEP reads:

*2.5   Additional permitted uses for particular land*

*(1)  Development on particular land that is described or referred to in Schedule 1 may be carried out—*

*(a)   with development consent, or*

*(b)   if the Schedule so provides—without development consent,*

*in accordance with the conditions (if any) specified in that Schedule in relation to that development.*

*(2)  This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.*

Schedule 1 (Additional Permitted Uses) or WLEP reads:

*Use of certain land at Bateau Bay, Canton Beach, Doyalson, Gorokan, Gwandalan, Halekulani, Killarney Vale, Lake Munmorah, Norah Head, Ourimbah, Shelly Beach, The Entrance, Toukley, Tumbi Umbi and Wyong*

*(1)  This clause applies to the land identified as “Item 3”, “Item 4”, “Item 5”, “Item 6”, “Item 7”, “Item 8”, “Item 9”, “Item 10”, “Item 11”, “Item 12”, “Item 13”, “Item 14”, “Item 15”, “Item 16”, “Item 17”, “Item 18”, “Item 19”, “Item 20” and “Item 21”on the*[*Additional Permitted Uses Map*](https://www.planningportal.nsw.gov.au/publications/environmental-planning-instruments/wyong-local-environmental-plan-2013)*.*

*(2)  Development for the purposes of hotel or motel accommodation, residential care facilities, seniors housing and serviced apartments is permitted with development consent if the development is associated with a registered club.*



Above: Extract from the WLEP Additional permitted uses map

The proposed development is to be associated with the existing Diggers RSL club and as such is permissible with development consent if this association can be satisfactorily demonstrated.

The development as proposed to be modified does not alter those aspects of the development upon which the original development relied to demonstrate compliance with Clause 2.5 for permissibility.

The modified proposal continues to be permissible and consistent with the RE2 zone objectives.

*General Controls and Development Standards (Part 2, 4, 5 and 6)*

The LEP also contains controls relating to development standards, miscellaneous provisions, and local provisions. The controls relevant to the proposal are considered in **Table 4** below.

**Table 4: Consideration of the LEP Controls**

|  |  |  |  |
| --- | --- | --- | --- |
| **Control** | **Requirement** | **Proposal** | **Comply** |
| Height of buildings  (Cl 4.3) | The WLEP map indicates that there are two height limits apply to the land comprising the site. The building heights are 16m and 8.5m apply to the parts of the site as shown in the map below.    Above: WLEP Height of buildings map | No change to height | Yes |
| FSR  (Cl 4.4(2)) | The WLEP map indicates that there are two FSR limits applying to the land comprising the site. These FSR’s are 0.85:1 and 0.5:1 and apply to the parts of the site as shown in the map below. The proposed FSR is based upon the site area within both Lots 3 and 4 (but not including Lots 1 and 2). The existing GFA for the hotel on Lot 2 predated the community title subdivision of the site and as such was based on a total site area that included the area of current Lot 3 (containing the club) and part of the area known as Lot 4.    Above: WLEP FSR map for the site | The modified development proposal results in additional GFA but continues to comply with the maximum FSR requirements for the relevant part of the site. In this regard a proposed FSR of 0;5:1 for the area shown in blue and 0.80:1 for the remaining area within Lots 3 and 4 combined. | Yes |
| Acid sulphate soils  (Cl 6.1) | The site is mapped as potentially containing acid sulphate soils (Class 5) and under Clause 7.1 and this has been assessed with the original development application. | There are no changes proposed to the approved basement depth or other aspects under the modified proposal | Yes |
| Essential Service (Cl 7.9) | Under the development application, satisfactory servicing was demonstrated for the development in accordance with Clause 7.9 for the supply of water, electricity, the disposal and management of sewer, stormwater drainage and suitable vehicle access. | There are no changes to these aspects of the approved development under the modification. | Yes |

The proposal is consistent with the relevant provisions of the LEP.

**Central Coast Local Environmental Plan 2022**

The Central Coast Local Environmental Plan 2022 (CCLEP) was finalised on 24 June 2022 and came into effect on 1 August 2022. Applications lodged prior to 1 August are subject to the provisions of planning controls that existed at the time of lodgement, being the Wyong Local Environmental Plan 2013. Notwithstanding, the proposed development remains permissible under the CCLEP.

* 1. **Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

* **Wyong Development Control Plan 2013**

The following Chapters of *Wyong Development Control Plan 2013* (‘the DCP’) are relevant to this application:

*-* Chapter 1.2 - Notification of Development Proposals

- Chapter 2.4 - Multiple Dwelling Residential Development

- Chapter 2.6 – Signage

- Chapter 2.11 - Parking and Access

- Chapter 3.1 - Site Waste Management

- Chapter 5.3 – The Entrance Peninsula

The modified proposal remains generally consistent with the relevant parts of the DCP chapters and there are no further variations proposed.

* **Central Coast Development Control Plan 2022 (CCDCP 2022)**

The application predates the operation ofCCDCP 2022 and therefore Wyong DCP 2013 applies. There is no significant change in relevant DCP controls for parking or any other matters under CCDCP 2022.

* **Contributions Plans**

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and continue to apply to the development.

* The Entrance District Development Contributions Plan
* Shire wide Infrastructure, Services and Facilities Development Contributions Plan

Conditions 2.3 and 2.4 were imposed on the consent that was granted, requiring payment of a monetary contribution in accordance with the adopted plans. These conditions have been updated and revised to reflect the modified proposal including the change in unit size and number.

The modification application originally sought to significantly reduce the “road” component of the contribution thereby reducing the amount of the overall contribution. The application also sought the deletion of condition 2.4 arguing that it is not applicable. A Council report was prepared in relation to the request by the applicant to vary the development contributions levied under *The Entrance District Contributions Plan* and the *Shire wide Infrastructure, Services and Facilities Development Contribution Plan*. Council considered the report at its Ordinary Meeting held 23 August 2023 and resolved not to support the change.

However, the applicant is no longer seeking this change and has since withdrawn this component from the Section 4.55 application.

* 1. **Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act**

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

* 1. **Section 4.15(1)(a)(iv) - Provisions of Regulations**

The modification does not affect any considerations under Clause 92(1) of the *Environmental Planning and Assessment Regulation 2000*.

* 1. **Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality have been considered. In this regard, the application is considered satisfactory and will maintain a high level of residential amenity afforded for future occupants of the development. The application is supported as discussed earlier in the report.

* 1. **Section 4.15(1)(c) - Suitability of the site**

The revised modified proposal is considered suitable for the site as the modified proposal will maintain and enhance the approved level of residential amenity and will continue to provide a quality housing outcome for the site as discussed earlier in the report.

* 1. **Section 4.15(1)(d) - Public Submissions**

There are no submissions associated with the original or modified proposal.

* 1. **Section 4.15(1)(e) - Public interest**

There are no matters contrary to the community or public interest associated with the modified development as proposed.

1. **REFERRALS AND SUBMISSIONS** 
   1. **Agency Referrals and Concurrence**

The Section 4.55 application was not required to be referred to agencies for comment/concurrence/referral.

* 1. **Council Referrals**

The development application has been referred to various Council officers for technical review as outlined in the table below.

**Table: Consideration of Council Referrals**

|  |  |  |
| --- | --- | --- |
| **Officer** | **Comments** | **Resolved** |
| Senior Development Engineer | Condition 2.6(b) of the DA consent was included to cover reconstruction of the damaged sections of road pavement along the south of Gallipoli Road, approaching the intersection with Archbold Road. The Gallipoli Road half road works, including kerb and guttering and new road pavement extension to adjoin the new kerb alignment, required by DA consent Condition 2.6(a), will extend to approx. 12.7m short of the Gallipoli and Archbold Road intersection. The condition to extend the pavement works “up to full width” was intended to repair the damaged road pavement within and immediately adjacent to the transitional works area of the required road works, to provide a smooth transition between the new works and exiting road infrastructure.  Furthermore, the proposed development will introduce significantly more vehicles to the Gallipoli and Archbold Road intersection daily, in comparison with the existing site usages and access locations. Condition 2.6(b) has been amended to be more precise on the extent of these required pavement reparation works.  It is deemed that the Applicant has provided insufficient information to date to correctly justify a “negligible /minimal” impact on the Gallipoli Road & Archbold Street intersection by the development. No accurate traffic counts/surveys on the existing traffic along Gallipoli Rd and at the Gallipoli Road & Archbold Street intersection to clearly justify that the additional 189 daily vehicle trips for the development will not have a significant numerical impact on the existing traffic along this road / through this intersection. | Y |
| Urban Designer | The original concerns raised regarding the ADG non- compliances related to the application have been largely addressed under the amended plans and the application is supported | Y |
| Asset Management | No comment |  |
| Environmental Protection Officer | No objection | Y |
| Contributions | Revised contributions are included under a modified condition in response to the modified number of units under the amended plans | Y |
| Tree Officer | No objection | Y |

* 1. **Community Consultation**

The proposal was notified in accordance with Wyong DCP Chapter 1.2 - Notification of Development Proposals from 3 February 2023 until 24 February 2023. No submissions were received. It is noted that no submissions were received for the original development application either.

1. **SUMMARY OF CONDITION CHANGES**

The following conditions are the subject of the assessment of this application and having considered the relevant planning controls and the proposal in detail the following changes are recommended:

* Condition 1.1 (approved architectural & landscape plans and documentation).

Comment: Modification is supported, and the amended plans are referenced.

* Conditions 2.3 & 2.4 (contributions under The Entrance District Contributions Plan)

Comment: The amended proposal includes a change to the number/size of units and revised and updated contributions apply. The original condition has been revised and updated to reflect the modified proposal.

* Condition 2.6(b) (Works in the road reserve)

Comment: The requested deletion of the condition is not supported, however, a modification to the wording of the condition to clarify the works required is supported.

Current condition reads:

1. *Up to full width road reconstruction in Gallipoli Road, comprising new road pavement, for approximately 8m from the intersection with Archbold Road.*

Proposed revised wording for condition reads:

*b) Up to full width road pavement reconstruction in Gallipoli Road, within proximity of the intersection with Archbold Road, as required to replace the damaged sections of road pavement approaching the intersection and ensure a smooth transition between the required works and existing road infrastructure.*

* Condition 2.6(m)– requesting deletion of the condition requiring a bus shelter as has been shown on the plans.

Comment: Deletion of the condition is not supported, condition to remain unchanged other than a note clarifying that the bus stop location shown on the plans is not supported. The details shown on the plans for the placement of the proposed bus shelter is not satisfactory and requires further discussion with Transport for NSW.

* Condition 2.13 requiring replacement tree canopy planting in a viable arrangement and placement for a minimum of 26 canopy trees.

Comment: Deletion of the condition not supported however a modified wording of the condition has been made. An amended landscape plan has been provided and this is reflected in the re-wording of the condition.

* Condition 2.14 and Condition 5.20 are to be updated to reference the latest plans showing the external finishes schedule for the development.
* Condition 215 is to be inserted to require some minor plan amendments.
* Condition 7.1 is to be updated to reference the revised parking allocation for the development.

1. **CONCLUSION**

The modified proposal under the latest amended plans and information (including the removal of the proposed deletion being sought to the contributions conditions) is considered satisfactory and is supported.

Following a thorough assessment of the relevant planning controls and the key issues identified in this report, it is considered that the amended modification application can be supported subject to modified conditions at **Attachment A**.

1. **RECOMMENDATION**

That the Section 4.55(2) application for the proposed modification to development consent 1260/2021 for a seniors housing development, associated works and subdivision at 24-26 Gallipoli Road and 315 The Entrance Road Long Jetty be APPROVED pursuant to the *Environmental Planning and Assessment Act 1979* subject to the modified conditions attached to this report at Attachment A.

The following attachments are provided:

* Attachment A: Modified conditions
* Attachment B: Panel Record of Deferral for PPSHCC-173 (DoD 11 Dec 2023)
* Attachment C: Amended Architectural Plans and Landscape Plans