

DETERMINATION AND STATEMENT OF REASONS

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	3 June 2024
DATE OF PANEL DECISION	3 June 2024
DATE OF PANEL BRIEFING	28 May 2024
PANEL MEMBERS	Alison McCabe (Chair), Tony McNamara, Tony Tuxworth, Greg Flynn
APOLOGIES	Roberta Ryan
DECLARATIONS OF INTEREST	None

Papers circulates electronically on 21 May 2024.

MATTER DETERMINED

PPSHCC-173 – Central Coast – DA/1260/2021/A at 315 The Entrance Road, Long Jetty 2261 –Modification to Seniors Housing Development (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 material presented at briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The application is for modification to an approval granted by the Hunter Central Coast Regional Planning Panel in September 2022. The Modification Application was initially presented to the Panel in December 2023 and at that time the Council recommended refusal of the application. The Panel deferred determination for the provision of amended plans and information that:

- Provided sufficient storage that is responsive to the demographic;
- Provided sufficient car parking including visitor car parking, bicycle storage and scooter spaces;
- Did not reduce compliance with ADG when compared against the original approval; and
- Addressed the matters raised in the assessment report.

The application has been amended to address the above matters, and Council has prepared a supplementary report and modified conditions of consent to address these matters.

The Panel notes that there is now a further increase in Gross Floor Area (GFA) from 388m² as reported in December 2023 to 573m². This additional GFA does not result in any noncompliance with the Floor Space Ratio (FSR) controls.

The concerns raised by the Panel and Council have been address in the amended plans. While the Panel notes that there is a decrease in units having access to 3 hours of solar access, 73.5% of the units achieve 2 hours with a number of these benefiting from western solar access after 3:00pm and views.

The supplementary report included additional conditions to be modified and the Panel is supportive of these modifications. These include clarification of road works and 7.11 contributions. No changes are proposed to the requirement for a bus stop location and shelter. The location on the amended plans is not supported.

The proposed development is considered to be substantially the same development when considered against the original approval and complies with the provisions of Section 4.55(2) of the EP&A Act, 1979. The Panel is satisfied that the design and amenity outcomes have been maintained when compared against the original approval.

The Panel considers that the application as amended could be approved.

Modification application

The Panel determined to approve the modification application pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the following reasons:

1. The proposed development is substantially the same development.
2. The development will provide additional housing in a well-located area.
3. The design and amenity outcomes of the modified development area acceptable.
4. The impacts arising from the development are not unreasonable.



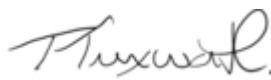

CONDITIONS

The modification application was approved subject to the modifications to the conditions in Schedule 2 and includes:

1. Modification to conditions 1.1, 2.3, 2.4, 2.6, 2.13, 2.14, 5.20 and 7.1.
2. Addition of condition 2.15.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Tony McNamara
 Tony Tuxworth	 Greg Flynn

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-173 – Central Coast – DA/1260/2021/A
2	PROPOSED DEVELOPMENT	Section 4.55 (2) Modification to Seniors Housing Development
3	STREET ADDRESS	315 The Entrance Road, Long Jetty 2261
4	APPLICANT/OWNER	HCL1 Pty Ltd / Tuggerah Lakes Memorial Club
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.55(2) Modification Application
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Industry and Employment) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Housing) 2021 State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 State Environmental Planning Policy (Housing) 2021 Wyong Local Environmental Plan 2013 Central Coast Local Environmental Plan 2022 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Wyong Development Control Plan 2013 Central Coast Development Control Plan 2022 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Nil 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> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 28 November 2023 Council supplementary report: 16 May 2024 Total number of unique submissions received by way of objection: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Preliminary Briefing: 19 April 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Greg Flynn, Tony Tuxworth <u>Council assessment staff</u>: Salli Pendergast <u>Department</u>: Lisa Foley Site inspection: <ul style="list-style-type: none"> <u>Panel members</u>: <ul style="list-style-type: none"> Alison McCabe (Chair) – 29 October 2021 Greg Flynn – 14 April 2023

		<ul style="list-style-type: none"> • Final briefing to discuss Council's recommendation: 5 December 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara, Greg Flynn, Tony Tuxworth ○ <u>Council assessment staff</u>: Salli Pendergast <u>Applicant representatives</u>: <u>Department</u>: Leanne Harris, Holly McCann • Final briefing to discuss council's recommendation: 28 May 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Greg Flynn and Tony Tuxworth ○ <u>Council assessment staff</u>: Salli Pendergast, Tania Halbert, Nathan Burr and Michelle Gilson ○ <u>Department</u>: Leanne Harris
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report

SCHEDULE 2

Instrument of Modification to Conditions – DA/1260/2021/A

1. Modify condition 1.1 to reflect the following condition.

1.1 Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

<i>Description/Title</i>	<i>Drawing No</i>	<i>Rev</i>	<i>Date</i>	<i>Author</i>
<i>Detailed Site Analysis</i>	<i>A002</i>	<i>6</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>Site Plan</i>	<i>A003</i>	<i>6</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>Ground Floor Plan</i>	<i>A100</i>	<i>6</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>Level 1</i>	<i>A101</i>	<i>6</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>Level 2</i>	<i>A102</i>	<i>6</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>Level 3</i>	<i>A103</i>	<i>6</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>Level 4</i>	<i>A104</i>	<i>6</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>Level 5</i>	<i>A105</i>	<i>6</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>Roof</i>	<i>A106</i>	<i>6</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>Proposed Link to Club</i>	<i>A107</i>	<i>4</i>	<i>07.06.22</i>	<i>ADG Architects</i>
<i>Section A, B & C</i>	<i>A200</i>	<i>4</i>	<i>07.06.22</i>	<i>ADG Architects</i>
<i>Section D, E & F</i>	<i>A201</i>	<i>4</i>	<i>07.06.22</i>	<i>ADG Architects</i>
<i>North & South Elevation</i>	<i>A300</i>	<i>5</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>East & West Elevation</i>	<i>A301</i>	<i>5</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>Internal Elevations</i>	<i>A302</i>	<i>5</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>Height Plane Diagram</i>	<i>A400</i>	<i>5</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>Landscaping & Tree Retention</i>	<i>A401</i>	<i>5</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>Deep Soil</i>	<i>A402</i>	<i>5</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>Common Outdoor Area</i>	<i>A404</i>	<i>5</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>Ventilation Diagram</i>	<i>A604</i>	<i>2</i>	<i>07.06.22</i>	<i>ADG Architects</i>
<i>FSR and Calculation</i>	<i>A405</i>	<i>5</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>GFA Plans vs Previous Envelope</i>	<i>A406</i>	<i>5</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>GFA Plans 2</i>	<i>A407</i>	<i>2</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>GFA Plans – Approved DA</i>	<i>A408</i>	<i>1</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>Schedule- POS & Storage</i>	<i>A409</i>	<i>3</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>Wayfinding RFI</i>	<i>A700</i>	<i>5</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>Section G, H, I & J</i>	<i>RFI103</i>	<i>4</i>	<i>07.06.22</i>	<i>ADG Architects</i>
<i>Fencing types</i>	<i>A710</i>	<i>5</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>Waste Plan</i>	<i>A730</i>	<i>5</i>	<i>23.04.24</i>	<i>ADG Architects</i>
<i>Edge Interface Sections</i>	<i>A740</i>	<i>4</i>	<i>28.02.24</i>	<i>ADG Architects</i>
<i>Accessible Path to Bus Stop</i>	<i>RFI117</i>	<i>4</i>	<i>07.06.22</i>	<i>ADG Architects</i>
<i>Landscape Plan Coversheet</i>	<i>C0</i>	<i>H</i>	<i>19/04/24</i>	<i>Contour Landscape Architecture</i>
<i>Landscape Masterplan</i>	<i>C1</i>	<i>H</i>	<i>19/04/24</i>	<i>Contour Landscape Architecture</i>
<i>GL Landscape Plan</i>	<i>C2</i>	<i>H</i>	<i>19/04/24</i>	<i>Contour Landscape Architecture</i>
<i>L1 Landscape Plan</i>	<i>C3</i>	<i>H</i>	<i>19/04/24</i>	<i>Contour Landscape Architecture</i>
<i>L2 & L5 Landscape Plan</i>	<i>C4</i>	<i>H</i>	<i>19/04/24</i>	<i>Contour Landscape Architecture</i>

D15105719	<i>and Correspondence prepared by Traffix dated 11 March 2022</i>	
D14840948	<i>Preliminary (Stage 1) Site Investigation (Contamination) prepared by JK Environments, Ref: E33829PHrpt.</i>	<i>19 April 2021</i>
D14840954	<i>Detailed (Stage 2) Site Investigation (Contamination) prepared by AssetGeoEnviro/Reditus, Ref: 6520-E1. Rev.0</i>	<i>21 July 2021</i>
D14841054	<i>Draft Operations Agreement</i>	<i>13 July 2021</i>
D15342890	<i>Revised Community Management Statement</i>	<i>13 Sept 2022</i>
D14840990	<i>Draft Management Statement</i>	<i>4 September 2021</i>
D15165730	<i>Correspondence – RFI response prepared by ADG Architects</i>	<i>12 May 2022</i>
D14840972	<i>Geotechnical Investigation prepared by JK Geotechnics Ref: 33829PNrpt</i>	<i>8 April 2021</i>
D15165719	<i>Correspondence (Groundwater) prepared by Reditus (Ref:21122L01)</i>	<i>16 March 2022</i>
D14841047	<i>Building services statement prepared by Epicentre Consulting Engineers, (Ref. 22315-001) Rev.A</i>	<i>14 May 2021</i>
D14841014	<i>Accessibility Design Review Report prepared by Mackenzie Group (Job No.210090) Rev.1</i>	<i>12 August 2021</i>
D14841010	<i>BCA Regulatory Compliance Report prepared by Mackenzie Group Rev.2</i>	<i>13 July 2021</i>
D14841045	<i>Section J Report prepared by Credwell Energy, (Ref. E21055-Senior Living Office SJ Report-Draft-r1</i>	<i>1 July 2021</i>
D14840992	<i>View Sharing Analysis Report prepared by ADG Architects, Rev.3</i>	<i>September 2021</i>
D14841043	<i>Water and Sewer Capacity Assessment Report prepared by RGH Consulting</i>	<i>3 May 2021</i>

As modified under DA/1260/2021/A including the following documents:

<i>Document</i>	<i>Title</i>	<i>Date</i>
D15489657	<i>Planning Report S.4.55(2) Application prepared By Tim Shelley Planning (Job 20-20 Rev.B) as amended in correspondence</i>	<i>15 Dec 2022</i>
D16177020	<i>Design Excellence Report – S4.55 Application Prepared by ADG Architects (RFI #5)</i>	<i>April 2024</i>
D15878777	<i>Traffic Statement prepared by Traffix (Ref 21.057r06v01) & HRV swept path</i>	<i>15 Sept 2023</i>
D16201339	<i>Basix Certificate No. 1358626M_02 and commitments table</i>	<i>11 March 2024</i>
D15489664	<i>Section J Energy Efficiency Report prepared by Yash Kaushik – Final – Rev 1</i>	<i>7 Dec 2022</i>
D16201351	<i>NatHERS Certificate No, 0008276030</i>	<i>11 March 2024</i>
D15489669	<i>BCA Compliance Statement prepared by McKenzie Group</i>	<i>7 Nov 2022</i>
D15489673	<i>Access Report prepared by Lindsay Perry Access (Ref.LP_22308, Rev 2)</i>	<i>7 Nov 2022</i>

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: *an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.*

2. Modify condition 2.3 to reflect the following condition.

2.3 *Before the issue of a Construction Certificate, pursuant to Section 7.11 of the Environmental Planning & Assessment Act, the applicant must pay the following contributions to Council for:*

The Entrance/Long Jetty Roads	\$ 666,099.34
The Entrance/Long Jetty Open Space Land	\$ 25,382.40
The Entrance/Long Jetty Open Space Works	\$ 207,519.37
The Entrance Community Facilities Land	\$ 119,442.70
The Entrance Community Facilities Works	\$ 213,896.29
Total	\$ 1,232,340.10

The total contribution payable to Council under this condition is \$1,232,340.10, as calculated at the date of this consent, in accordance with The Entrance District Section 7.11 Plan.

The total amount payable may be adjusted at the time the payment is made, in accordance with the provisions of The Entrance District Section 7.11 Plan.

Contributions under The Entrance District Section 7.11 Plan are subject to quarterly indexation by CPI.

A copy of the Contributions Plan is available for inspection at 2 Hely St, Wyong or on Council's website: <https://www.centralcoast.nsw.gov.au/plan-and-build/development-contributions-plans-and-planning-agreements>

3. Modify condition 2.4 to reflect the following condition.

2.4 *Before the issue of a Construction Certificate, pursuant to Section 7.11 of the Environmental Planning & Assessment Act, the applicant must pay the following contributions to Council for:*

Shire Wide Regional Open Space	\$ 15,192.91
Shire Wide Cycleway Network	\$ 31,169.81
Shire Wide Performing Arts & Public Art	\$ 35,169.89
Shire Wide Administration	\$ 6,751.82
Total	\$ 88,284.43

The total contribution payable to Council under this condition is \$88,284.43, as calculated at the date of this consent, in accordance with the Shire Wide Section 7.11 Plan.

The total amount payable may be adjusted at the time the payment is made,

in accordance with the provisions of Shire Wide Section 7.11 Plan.

Contributions under the Shire Wide Section 7.11 Plan are subject to quarterly indexation by CPI.

A copy of the Contributions Plan is available for inspection at 2 Hely St, Wyong or on Council's website: <https://www.centralcoast.nsw.gov.au/plan-and-build/development-contributions-plans-and-planning-agreements>

4. Modify condition 2.6 to reflect the following condition.

- 2.6 Obtain a Roads Act Works Approval by submitting an application to Council *for a Section 138 Roads Act Works Approval for all works required within the road reserve. The application is to be lodged using an Application for Subdivision Works Certificate or Construction Certificate, Roads Act Works Approval and other Development related Civil Works form.*

The application is to be accompanied by detailed design drawings, reports and other documentation prepared by a suitably experienced qualified professional in accordance with Council's Civil Works Specifications.

Fees, in accordance with Council's Fees and Charges, will be invoiced to the applicant following lodgement of the application. Fees must be paid prior to Council commencing assessment of the application.

Design drawings, reports and documentation will be required to address the following works within the road reserve:

- a) *Up to half width road construction including kerb and guttering, subsurface pavement drainage, concrete footpath, verge formation, street stormwater drainage (as required) and new road pavement with end transitions across the full frontage of the site in Gallipoli Road.*
- 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.*
- c) *Construction of the road verge/footway formation from the top of existing kerb to the property boundary, across the full frontage of the site in Archbold Road. Construction to include transitions to existing formation at the eastern end of the site and into new Gallipoli Road formation at the western end of the site.*
- d) *Construction of concrete footpath 1.5 metres wide for the full street frontage of the development in Gallipoli Road and Archbold Road. Extend the concrete footpath approximately 3.5m to north of site, to adjoin the existing 18 Gallipoli Road property vehicle access, and to adjoin the existing footpath on The Entrance Road.*
- e) *Construction of kerb ramps fronting Archbold Road, in a suitable location toward the western end of the site frontage and directly opposite.*
- f) *Construction of a residential vehicle access crossing that has a width of 7.0 metres at the road gutter crossing and 6.0 metres at the property boundary including construction of a gutter crossing and road pavement adjacent to the gutter crossing.*
- g) *Removal of two redundant vehicle gutter crossings / laybacks, one each fronting Archbold Road and The Entrance Road, and replacement with kerb and gutter.*
- h) *Removal and replacement of all damaged kerb and gutter with new kerb and channel, along all road frontages to the development, as required.*
- i) *Removal of all redundant vehicular access crossings. The road verge/footway formation is to be reinstated and stabilised with topsoil and turf from top of kerb to property boundary.*

- j) *Construction of any works required to transition new works into existing infrastructure and the surrounding land formation.*
- k) *Construction of a storm water drainage connection from the development site to Council's storm water drainage system within the road reserve. Connection is to be directly into the back of the existing kerb inlet pit (DPIT-3861) on Archbold Road.*
- l) *Road pavement designs. An Investigation and Design report prepared by a practising Geotechnical Engineer must be provided. The pavement design thickness must be determined in accordance with Council's specifications and the following traffic loadings:*

<i>Name of Street</i>	<i>Traffic Loading (ESAs)</i>
<i>Gallipoli Road</i>	<i>2 x 10⁶</i>

- m) *A bus shelter is to be created for the existing bus stop on The Entrance Road along the frontage of the site (the proposed location shown on the plans is not supported). Design plans for the bus shelter and adjacent footpath shall be prepared in consultation with Council's Traffic Committee and the relevant Bus Service provider. The provision of the bus shelter will require dedication of land on the subject site of up to 10m² and up to 1.8 metres in depth which shall be provided at no cost to Council.*

The final location of the bus shelter may be adjusted in consultation with Council traffic committee and relevant bus service provider.

The design is to be certified by a registered practising Civil or Structural engineer as being in accordance with Australian Standards.

Where works required by this condition are located on a Classified Roads concurrence to the design of the works from The Roads and Maritime Services (RMS) must be received by Council from the RMS and the developer will be required to enter into a Works Authorisation Deed (WAD) with the RMS prior to Council issuing the Section 138 Works Approval.

The section 138 Roads Act Works Approval must be issued by Council and all conditions of that approval must be addressed prior to occupying and commencing any works in the road reserve.

5. Modify condition 2.13 to reflect the following condition.

2.13 In accordance with the landscape plans replacement tree canopy planting comprising a minimum 26 canopy trees with root barriers are to be planted with sufficient soil volume free of obstructions to ensure that the long-term health and growth of each of these replacement trees is viable.

6. Modify condition 2.14 to reflect the following condition.

2.14 The schedules and finishes shall be consistent with those provided in the Design Excellence Report, and elevation plans (A300, A301 & A302) prepared by ADG Architects and are to be shown on Construction Certificate drawings.

7. Insert the following condition at the relevant part of the consent.

2.15 Prior to issue of a Construction Certificate, the relevant plans are to be amended as follows:

- *Removal of the existing bus stop details*
- *Fixed seating is to be included on the landscape plan detail for the landscape area Level 5.*
- *All bedrooms are to have a minimum dimension of 3m.*

- *Deletion of the notation “Private roof garden” on page A104 and removal of the notation “Common Roof Garden” on A106.*

8. Modify condition 5.20 to reflect the following condition.

5.20 The schedules and finishes shall be consistent with those provided in the Design Excellence Report, and elevation plans (A300, A301 & A302) prepared by ADG Architects.

9. Modify condition 7.1 to reflect the following condition.

7.1 Provide a minimum of 101 off-street car parking in the basement including 87 allocated for residents of the building and 14 spaces for the sole use of visitors to the building.