

# SUPPLEMENTARY REPORT

## HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL



<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSHCC-221 MA2023/00221
<b>LGA</b>	City of Newcastle (CN)
<b>PROPOSED DEVELOPMENT</b>	Sec 4.55(2) Modification to DA2019/01169 - additional level to eastern Tower B, reduction in the number of residential aged care facility beds (50 beds proposed), increased number of independent living units (107 units proposed), reduction and reconfiguration of residential apartments (159 apartments proposed) reduction and reconfiguration of commercial premises (two commercial tenancies proposed), reconfiguration of car parking and waste room, change to parking numbers and allocation 315 car spaces proposed), changes to landscaping and communal open space, stratum subdivision, staging of the development and amendments to conditions.
<b>STREET ADDRESS</b>	309 King Street Newcastle West
<b>APPLICANT</b>	GWH
<b>OWNER</b>	Western Suburbs Leagues Club Ltd
<b>DATE OF MODIFICATION LODGEMENT</b>	30 June 2023
<b>APPLICATION TYPE</b>	Modification Application under Section 4.55(2)
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	<p>Clause 2, Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021: General development with a Capital Investment Value (CIV) greater than \$30 million.</p> <p>Section 275 of the Environmental Planning and Assessment Regulation 2021 states that a council must not determine an application to modify a development consent under the Act, Section 4.55(2), on behalf of a regional planning panel, if the application is of a kind specified in the Instruction on Functions Exercisable by Council on Behalf of Sydney District or Regional Planning Panels—Applications to Modify Development Consents published on the NSW Planning Portal on 30 June 2020.</p>
<b>CIV</b>	\$146,232,599.00 (excluding GST)
<b>RECOMMENDATION</b>	Approval

### Background

This supplementary report provides further information in response to matters raised during the determination meeting held on 27 February 2024 and provides associated amended conditions of consent.

The Panel has considered the report prepared on this matter. Following a review of the report, and questions arising from the briefing with Council officers and the applicant, several issues required further assessment and / or clarification.

These matters relate to:

- (i) ADG compliance - comparison between the approved development and the modified

- 
- development in terms of amenity provisions
  - (ii) Carparking allocation - Disabled and visitor parking numbers.
  - (iii) Public Domain works - comparison between the approved development and the modified development
  - (iv) Accessibility provisions

The Panel requires further analysis of these matters raised above to make an assessment of the merits of the application and determine the matter.

The supplementary assessment should be read in conjunction with the original assessment report.

A version of the amended conditions is provided at **Attachment A**.

- (i) ADG compliance - comparison between the approved development and the modified development in terms of amenity provisions.

Applicant's response:

*"Side-by-side comparison plans have now been provided that show the approved v proposed natural ventilation outcomes for the development. It is unclear how and why certain single aspects apartments have been included in the overall ventilation calculations for the approved development, but seemingly similar apartments in the proposed modifications have been deemed non-compliant. For this reason, while the figures in the table above indicate a reduction in numerical compliance, we feel this does not accurately depict the impacts of the amendment. The proposed development has actually reduced the overall amount of single aspect Tower B residential apartments by 15 when compared with the approved plans, with the 'notch' on the southern façade in Tower A ILUs reducing single aspect units on each floor by 1. With the building massing, footprints, and orientation largely unchanged, we believe that the reduced number of single aspects apartments retains appropriate natural ventilation and broader amenity despite the numerical results.*

*To consider further detail, we believe that series of Tower B residential apartments numbered 211-911 (refer architectural sheet DA 121) provide an appropriate, if not optimal, degree of natural ventilation that is consistent with the ADG objectives. This is achieved (or can be by plan clarification) by ensuring that the bedroom 'slot' windows are fitted with maximum height louvres to allow a ventilation path between this window and those in the living areas. These apartments are presently nominated as non-compliant but if include would increase Tower B compliance from 54%-63%.*

*Of the single aspect apartments in the Tower A ILU tower, the majority of these (5 of 6) are orientated toward the north and the east. This orientation, within Newcastle's coastal environment, allows these apartments to capture the prevailing cooler ocean breezes. This will improve the overall amenity of these apartments, with the depth and width; window and opening sizing's; and façade treatments optimised to achieve alignment with the design objectives outlined in sections 4B-2 and 4B-2 of the ADG.*

*For the reasons outlined above, while the reporting might reflect a numerical non-compliance, we feel that assessment of the proposed changes supports a qualitative improvement in the design and amenity of the project."*

3D Communal & public open space	Applicant's response
<u>Approved Development</u> 2,370m <sup>2</sup> = 35.7% of site area  <u>Proposed Modification</u> 2,098m <sup>2</sup> of communal open space (31% of site area)  1,446m <sup>2</sup> communal space including indoor pool, gym, sky lounge etc. (21.8% of site area).	<p>The ADG provides that for development in higher density urban areas, in particular business centres, open space recommendations may not be achieved.</p> <p>The open space requirement can, &amp; has been in this instance, replaced with a reduced area of communal outdoor open space, complemented by substantial indoor communal facilities &amp; access to nearby public open space including National Park precinct.</p>

3,544m <sup>2</sup> total communal space (53.4% of site)	The development maintains compliance with the ADG requirements.
<b>3F Deep soil / landscaping</b>	<b>Applicant's response</b>
<p><u>Approved Development</u></p> <ul style="list-style-type: none"> <li>Total Landscaping = 2,105m<sup>2</sup> (31% of site area)</li> <li>Deep soil = 650m<sup>2</sup> deep soil (9.8% of site)</li> </ul> <p><u>Proposed Modification</u></p> <ul style="list-style-type: none"> <li>Total Landscaping = 1,509m<sup>2</sup> (22.5% of the site)</li> <li>Deep soil = 633m<sup>2</sup> (9.5% of the site).</li> </ul>	<ul style="list-style-type: none"> <li>Modification remains ADG compliant with 7% deep soil.</li> <li>Minor changes due to rationalisation of communal open space in ILU tower to provide more indoor, usable areas, instead of the approved outdoor terrace on level 5 Communal open space areas are accessible &amp; comfortable &amp; complement outdoor areas</li> </ul>
<b>4A Solar &amp; daylight access</b>	<b>Applicant's response</b>
<p><u>Approved Development</u></p> <ul style="list-style-type: none"> <li>72% (178) apartments achieve &gt;2 hours</li> <li>8% (19) apartments achieve 0-2 hours</li> <li>20% (51) apartments achieve 0 hours</li> </ul> <p><u>Proposed Modification</u></p> <ul style="list-style-type: none"> <li>65% (168) apartments achieve &gt;2hours</li> <li>21% (54) apartments achieve 0-2 hours</li> <li>14% (37) apartments achieve 0 hours</li> </ul>	<ul style="list-style-type: none"> <li>Development achieves ADG objectives, as building orientations maximise apartments with northern aspect.</li> <li>Single aspect apartments have been reduced.</li> <li>A large percentage of apartments achieve dual aspect, improving overall residential amenity.</li> <li>Living areas for most units are best positioned for solar access.</li> <li>Design development maximizes the number of units with northerly or easterly aspect.</li> <li>South facing units are to ensure the development presents appropriately to Bull Street</li> <li>Additionally, the southern aspect, particularly at higher elevations, will benefit from district views across the low density Cooks Hill heritage precinct, National Park open space precinct, &amp; further afield to the coastline &amp; ocean including the iconic Merewether surf beach.</li> <li>Units at lower elevation retain good amenity due to the wide &amp; treelined nature of Bull Street &amp; the existing setback &amp; low height of adjacent development.</li> <li>Only a very small percentage of apartments do not receive the required 1m<sup>2</sup> of direct sunlight to the POS &amp; living area,</li> <li>Consistent with Objective 4A-2, extensive glazing, building setbacks, &amp; internal configurations ensure apartments with limited sunlight achieve a high level of daylight access.</li> <li>General compliance with this guidance indicates the development is appropriately designed, orientated, &amp; units will have appropriate amenity.</li> <li>Both Towers also have communal areas with good direct sunlight &amp; daylight access to complement private spaces.</li> </ul>

4B Natural Ventilation	
<p><u>Approved Development</u></p> <ul style="list-style-type: none"> <li>• 115 of 178 (Combined) - 64%</li> <li>• 28 of 48 (Tower A) - 58% ILU</li> <li>• 87 of 130 (Tower B) - 67% RFB</li> </ul> <p><u>Proposed Modification</u></p> <ul style="list-style-type: none"> <li>• 83 of 163 (Tower A &amp; B) - 51%</li> <li>• 30 of 66 (Tower A) - ILU - 45%</li> <li>• 53 of 97 (Tower B) - 54 % RFB</li> </ul>	<ul style="list-style-type: none"> <li>• Refer attached side-by-side comparison plans of approved v proposed natural ventilation outcomes.</li> <li>• It is unclear why certain single aspect apartments considered compliant for the approved development, but similar apartments in the modification have been deemed non-compliant.</li> <li>• The modification reduces single aspect Tower B residential apartments by 15</li> <li>• The 'notch' on the southern façade in Tower A ILUs reduces single aspect units on by 1 unit per floor.</li> <li>• Building massing, footprints, &amp; orientation are largely unchanged, and the reduced number of single aspect apartments maintains appropriate natural ventilation &amp; broader amenity despite the numerical results</li> <li>• Further, the series of Tower B residential apartments numbered 211-911 (refer architectural sheet DA 121) provide an appropriate, if not optimal, degree of natural ventilation that is consistent with the ADG objectives. This is achieved by the bedroom 'slot' windows being fitted with louvres to allow a ventilation path between this window &amp; those in the living areas. These apartments are nominated as non-compliant but if included would increase Tower B compliance from 54%-63%.</li> <li>• Of the single aspect apartments in Tower A, the majority (5 of 6) are orientated north &amp; east. This orientation, in Newcastle's coastal environment, allows apartments to capture prevailing cooler ocean breezes, improving amenity.</li> <li>• The depth &amp; width; window &amp; opening sizing's; &amp; façade treatments are all optimised to align with the design objectives in sections 4B-2 &amp; 4B-2 of the ADG.</li> <li>• For the reasons outlined above, while the reporting reflects numerical non-compliance, we feel that assessment of the modification supports a qualitative improvement in the design &amp; amenity of the project.</li> </ul>

## (ii) Disabled Parking and Visitor Parking Provision

CN's Senior Development Engineer has provided the following additional comments:

*Recent changes to the SEPP guidelines require 10% of the car parking spaces to be designed as disabled parking spaces. The ILU component of the development is required to be provided with 107 car parking spaces, out of which 11 spaces (being 10% of 107) must be designed as disabled spaces.*

*Current plans indicate 6 dedicated disabled spaces with 9 flexible spaces. Although flexibility has been shown in the design, SEPP requirement is prescribed and therefore the development must*

---

*provide a minimum of 11 specifically designed disabled parking spaces.*

*In addition to the above, submitted plans indicate 1 visitor space and 2 RAC spaces being designed as disabled parking. Amended conditions now reflect these disabled parking spaces.*

*Similarly, part of the discussion during the panel's briefing made reference to the high demand for visitor car parking generated by the development, particularly for regular visitors to the residential, RAC, ILU and commercial users. It is concluded that the development would generate considerably more visitors and the development must provide additional parking than currently proposed. Further to this, proposed reduction of full-time visitor parking from the approved 24 to only 3 parking spaces could impact on surrounding built environment.*

*In reviewing the above, consideration has been given to similar types of developments in the CBD areas, some of which have been provided with visitor parking concessions of approx. 50%. A Similar concession could also be applied to this development and therefore 12 full time visitor car parking spaces is deemed to be an acceptable balanced number.*

*Consideration of the additional 8 commercial parking spaces proposed to be used as visitor parking provided further flexibility for off-peak visitor parking demand.*

*Car parking related conditions 4, 80 and 115 have been revised to reflect the above discussed recommendations for provision of disabled and visitor car parking.*

(ii) Public Domain Works and Local Area Traffic Management (LATM)

CN's Senior Development Engineer has provided the following additional comments:

*"Changes to the public domain Section 138 Roads Act condition has been recommended objectively, firstly for additional kerb extension works at corner of Bull St and Ravenshaw St and secondly, for the provision of detailed survey and alignment levels plans and these have been reflected in Condition 10 (g) and (n).*

*Notwithstanding the above, the remaining aspects of Condition 10 remain as per the previous approved DA Condition.*

*With regard to kerb extension works on Bull St/Ravenshaw St, CN's review of the submitted architectural and landscape plans highlighted that this development proposes raised landscaped planter boxes located along the property boundary along corner Bull St and Ravenshaw St. There are no noted setbacks at this location, which could stimulate the desire to have additional width for pedestrian activity.*

*It is anticipated that the development will generate and intensify pedestrian and vehicular movements. CN considers that additional LATM and safety works at Bull St and Ravenshaw St intersection is of very high importance and a matter that is directly related to and has risen due to the development.*

*Additional civil works including kerb extensions with water sensitive raingardens will provide a safer platform for pedestrians crossing at this intersection and will allow additional sightlines and the additional streetscape landscaping with water sensitive urban design features as recommended to be included in the overall design will provide a positive community outcome.*

*The requirement for the alignment level information has been recommended to ensure that the finalised construction certificate drawing can reasonably predict the finished levels along the boundary alignment. The development is proposed to be staged and basement levels up to the ground level will be required to be finished much earlier in the construction phase.*

*It is critical that elements such as accessible ramp designs, access and driveway entry levels and finishes along the boundaries and associated road footway levels are well designed and established. By providing the alignment level design upfront and incorporating these design*

---

*levels with the first stage of the construction process, the development will be able not only resolve matters for the other stages, but also much accurately predict the final overall building height and basement design levels."*

(iv) Accessibility provisions

Applicant's response:

*"On review of the amended Accessibility Report prepared by Lindsay Perry, dated 28 February 2024, we believe the concerns raised by the Panel have been covered in this report comprehensively, with some minor amendment undertaken to clarify a few points.*

*The amended report has been updated in line with the most recent plans, with compliance of lifts etc. clarified.*

*The executive summary (starting from page 3 of the attached Accessibility Report prepared by Lindsay Perry, dated 28 February 2024 lists all relevant standards related to the development and indicates whether or not compliance has been achieved. An explanation of the terms used relating to compliance is shown on page 2. As can be seen from this executive summary, the development complies with all major components.*

*Section 10 comprehensively assesses the development against the standards of universal design, standard by standard, with references to the plans.*

*Section 11 of the updated report comprehensively covers the requirements of the SEPP, standard by standard, with references to the plans.*

*All requirements relating to the ILUS are comprehensively assessed throughout the report, including in Section 11.*

*We believe the updated report is sufficient in addressing the concerns of the panel. The overall accessibility assessment has determined that the proposed development is compliant with relevant standards and no design modifications will be required to achieve compliance at detailed design stage."*

## **Conclusion**

The above supplementary report, in combination with the revisions to the draft conditions by the addresses the concerns and issues arising from the determination meeting.

Having regard to the assessment of the proposal from a merit perspective, Council Officers are satisfied that the development has been responsibly designed and provides for acceptable levels of amenity for future residents.

The development is consistent with the intentions of the relevant planning controls and represents a form of development contemplated by the relevant statutory and non-statutory controls applying to the land.

The application is recommended for approval subject to the imposition of appropriate conditions.

It is recommended that the application be supported on the combined basis of the 'Council Assessment Report' and this Supplementary Report subject to the revised draft conditions of consent.

**Attachment A** – Amended Conditions - highlighted in yellow.

**Attachment B** – Comparison Set of Plans

**Attachment C** - Updated accessibility Report