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| MEMO |  |
| To: | Hunter and Central Coast Regional Planning Panel |
| From: | Amy Regado, Section Manager Development |
| File: | DA/202/2016/a | **Reference:** | PPSHCC-80 | Date: | 15 November 2021 |
| Subject: | Supplementary information for Residential Aged Care Facility - 64-72 Warners Bay Road, Warners Bay |

At the determination briefing held on Thursday 11 November 2021, the Hunter and Central Coast Regional Planning Panel (Panel) requested Council staff provide a memo to the Panel addressing the following:

* Permissibility
* Eastern boundary acoustic fencing outcomes
* Details on the conditions proposed to be modified, and updated conditions of consent as resolved during the briefing meeting.

This memo responds to this request.

**Permissibility**

The original consent was approved under clause 7.12 of the *Lake Macquarie Local Environmental Plan* *2014*, which was in force at the time however ceased on 10 October 2016. This clause allowed for development of land for the purpose of Seniors Housing.

The original application approved demolition works, with this reflected in the approved plans and condition 58. Based on aerial images, demolition works have been complete between September 2017 and February 2018 and physical commencement has occurred.

The original consent remains valid and establishes a lawful and permitted use at the site.

Clause 4.70 of the *Environmental Planning and Assessment Act 1979* enables the modification of a development to which consent has been granted and is in force. The modified development is considered to be substantially the same, as detailed in the assessment report, and therefore can be considered as a modification to the original consent permitted land use.

**Acoustic fencing outcomes**

The applicant has provided clarification from their acoustic consultant confirming the fence along the eastern boundary can cease at the southern edge of the delivery / waste area and return toward the building (without encroachment on the fire egress path). Condition 39 has been updated to reflect these outcomes.

Condition 39 has also been updated to include commentary around sensitive construction for the removal of the existing fencing and replacement fencing along the eastern boundary.

The applicant has provided clarification from their acoustic consultant the reduction of service delivery hours to 7pm is not required, and does not serve any benefit. Regardless, condition 37 has been modified to 7pm, however the Panel may seek to retain the approved 10pm limit if they so choose.

**Conditions of consent**

The following table outlines the conditions proposed to be modified, the condition description, and changes made.

A copy of the draft conditions via track changes, and without track changes is attached.

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| **Condition no.** | **Condition description** | **Change** |
| 3 | Approved documentation | New plan and documentation references |
| 8 | Development contributions | New contribution plan reference |
| 9 | Development staging | Deleted, as the application no longer proposes staging. |
| 10 | Use of health hub building | Deleted, as the application no longer proposes a health hub. |
| 11 | Staff numbers | Updated to reflect new staffing numbers |
| 12 | Ancillary uses | Updated to reflect ancillary uses |
| 13 | Restriction on balcony use | Updated balcony and room references |
| 14 | Window screening | Updated balcony and room references |
| 15 | Relocation of egress pathways | Deleted, as these pathways are no longer proposed. |
| 16 | Stormwater disposal | Updated to reflect Council’s current standard stormwater condition. |
| 17 | Additional flood mitigation measures | Reference to previous flood plan deleted. |
| 19 | GTAs – Controlled Activity Approval | New GTAs |
| 20 | Riparian zone protected in perpetuity | Updated to delete reference to concrete path delineation, and refer to southern extent of building. |
| 22 | Construction environmental management plan | Updated to reflect Council’s current CEMP condition. |
| 23 | Retention of trees and native vegetation | Updated to remove reference to repealed LEP clause for tree removal. |
| 25 | Driveway design and construction | Updated to reflect Council’s current standard condition. |
| 27 | Parking areas and access ways | Updated to reflect Council’s current standard condition. |
| 28 | Concrete footpath | Updated to reflect Council’s current standard condition. |
| 30 | Landscape works | Updated to reflect the modification and Council’s current standard condition. |
| 31 | Tree protection measures | Updated references to Arborist Report and Vegetation SEPP. |
| 32 | Public domain works – landscaping | Updated to reflect the modification and Council’s current standard condition. |
| 37 | Service delivery vehicles | Reduced servicing hours |
| 38 | Safety and security | Delete reference to previous CPTED report |
| 39 | Boundary fencing | Updated to include new eastern boundary fencing outcome, and reformatted. |
| 40 | Advertising structures and signs | Deleted, as the application proposes signage. |
| 41 | Car parking and allocation of spaces | Updated to reflect new car parking numbers, and removal of signage detail. |
| 42 | Bicycle parking racks | Updated to include reference to approved plans |
| 44 | Disability access requirements | Updated to include reference to approved Access Report |
| 47 | GTAs – mine subsidence  | Deleted, as the site is no longer in a mine subsidence district |
| 65 | Acoustic requirements and certification | Updated to include reference to approved Acoustic Report. Western boundary reference removed as it no longer is required for acoustic purposes.Updated certification details. |
| 66 | Noise – ongoing operation | Updated Noise Policy reference |
| 67 | Noise – sleep arousal | Updated Noise Policy reference |
| 69 | Odour control | Updated to include reference to approved Odour Report.  |
| 72 | Garbage storage areas | Delete refence to provision of facilities as these have been demonstrated on the approved plans |
| 74 | Building over drainage easements | Include detail requiring construction plans to address works with/over easement. |
| 78 | Construction and fit-out of food premises | Include detail requiring construction plans to comply with relevant standards |
| 79 | Certification of food premises | Include requirement to register food business with Council |
| 81 | Public Works Certificate | Updated to reflect Council’s current standard condition |
| 82 | Kerb and gutter | Updated to reflect the modification and Council’s current standard condition. |
| 83 | Linemarking and signposting | Updated to reflect the modification and Council’s current standard condition. |
| 84 | Pavement standards | Updated to reflect Council’s current standard condition |
| 87 | Notice of commencement of works in public domain | Renamed to reflect Council current standard condition |
| 88 | Compliance certificate for works | Updated to reflect Council’s current standard condition |

Should you have any further questions, or require further information to assist in the Panel’s determination of the application, please contact me on 0439 222 469 or aregado@lakemac.nsw.gov.au.

Amy Regado

Section Manager Development

Development Assessment & Certification