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| **MEMO TO PANEL**HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL  |

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| PANEL REFERENCE & DA NUMBER | PPSHCC-86 – Central Coast – DA/882/2021 (PAN-125315, CNR-26970) |
| PROPOSAL  | Seniors Housing Development in 2 stages comprising demolition works, construction of a residential aged care facility (RACF) and independent living units (ILU’s) with associated on-site support services and communal facilities, parking, landscaping, and other ancillary uses and works under SEPP (Housing for Seniors and People with a Disability) 2004. |
| ADDRESS | 19 Bias Avenue Lot 524 DP 823143 and 1 Harbour Street Lot 16 DP240129Bateau Bay (known as Nareen Gardens) |
| APPLICANT | Gyde Consulting (formerly City Plan Strategy & Development) |
| OWNER | Uniting Church in Australia Property Trust NSW |
| DA LODGEMENT DATE | 12 August 2021 |
| APPLICATION TYPE  | Development Application with a Capital Investment Value > $30 million |
| REGIONALLY SIGNIFICANT CRITERIA | Clause 2, Schedule 7 of the SRD SEPP |
| CIV | $129,718,351 (excluding GST) |
| RECOMMENDATION | Approval subject to conditions |
| PANEL MEETING DATE | 16 November 2022 |
| PREPARED BY | S Pendergast - Principal Development Planner |
| DATE OF MEMO | 21 November 2022 |

**MATTERS RAISED**

DA/882/2021 seeks approval for a Seniors Housing Development in 2 stages comprising demolition works, construction of a residential aged care facility (RACF) and independent living units (ILU’s) with associated on-site support services and communal facilities, parking, landscaping, and other ancillary uses and works under SEPP (Housing for Seniors and People with a Disability) 2004.

Please find below response to the matters raised by the Panel in their meeting held 16 November 2022 for the determination of the DA.

Attached are revised and updated draft recommended conditions to reflect the discussions held at the Panel meeting.

**Applicants changes to conditions**

In response to the applicant’s requested changes to the draft conditions under their document titled ‘Appendix A -Revised Conditions’ (as uploaded to the planning portal 15/11/2022), the following comments are made:

* Condition 1.1 (under Parameters of this consent) changes by the applicant (shown in red) are sought to reflect the updated Basix Certificate and Report (and associated Nathers Certificate)

No objection to changes as the Certificates were updated to reflect the latest amended plans. Revised condition 1.1 to include the following update:



* Condition 2.1 (under Prior to issue of any Construction Certificate) changes by the applicant (shown in red) are sought as follows:

*2.1* ***ALL STAGES -*** *All conditions under this section must be met prior to the issue of the relevant Construction Certificate.*

No objection to changes proposed by the applicant.

* Condition 2.11 (under Prior to issue of any Construction Certificate) changes by the applicant (shown in red) are sought as follows:

*2.11* ***ALL STAGES*** *– Submit an application to Council under section 305 of the Water Management Act 2000 for a section 306 Requirements Letter. The Application form can be found on Council’s website centralcoast.nsw.gov.au. Early application is recommended.*

*The section 305 application will result in a section 306 letter of requirements which must be obtained prior to the issue of any Construction Certificate for the relevant stage of construction. The requirements letter will outline which requirements must be met prior to each development milestone for each construction stage, e.g., prior to Construction Certificate, Commencement of Works, Subdivision Works Certificate and/or Occupation Certificate.*

No objection to changes proposed by the applicant.

* Condition 3.12 (under Prior to Commencement of Work) changes by the applicant (shown in red) are sought as follows:

*3.12* ***ALL STAGES –*** *Submit an application to Council under section 305 of the Water Management Act 2000 for a section 306 Requirements Letter. The Application form can be found on Council’s website centralcoast.nsw.gov.au. Early application is recommended.*

*The section 305 application will result in a section 306 letter of requirements which must be obtained prior to the issue of any Construction Certificate for the relevant stage of construction. The requirements letter will outline which requirements must be met prior to each development milestone for each construction stage, e.g., prior to Construction Certificate, Commencement of Works, Subdivision Works Certificate and/or Occupation Certificate.*

No objection to changes proposed by the applicant.

* Condition 3.13 under Prior to Commencement of Work) changes by the applicant (shown in red) are sought as follows:

*3.13* ***STAGE 2*** *– The area covered by the existing Easement for Sewerage Purposes, as detailed within Deposited Plan 823143, is to be temporarily fenced as an exclusion zone for heavy machinery during construction works for Stage 2, unless alternative protective measures are in place.*

Objection raised to above wording from applicant, as this condition applies to both Stage 1 and 2 works. The Stage 1 works include construction of a workers car park where a worker may unwittingly park heavy machinery. Council needs to ensure this section of the easement is protected from heavy machinery during Stage 1 also.

The recommended rewording of condition 3.13 as follows:

*3.13* ***ALL STAGES*** *– The area covered by the existing Easement for Sewerage Purposes, as detailed within Deposited Plan 823143, is to be temporarily fenced as an exclusion zone for heavy machinery during construction works. The Easement area to be fenced for each Stage is to be relative to the applicable designated Stage areas, in accordance with the approved Staging Plans.*

* Condition 4.16 (under During Works) changes by the applicant (shown in red) are sought as follows:

*4.16* ***STAGE 2*** *– No above ground temporary or permanent structure is to be placed within the Easement for Sewerage Purposes, for a minimum clearance overhead height of 4 metres, as detailed within Deposited Plan 823143, and/or within the proposed amended Easement for Sewerage Purposes to cover the realigned sewer effluent pressure main.*

Objection raised to above revised wording from applicant, as 4 metres overhead clearance is not sufficient for the specific works (and clearance for equipment) that would be required to change a section of this pipe (i.e., considering the size of the excavator that could be required to undertake these works, the excavator arm could exceed 4.0m in height). It is suggested that an alternative height clearance of 10m above the easement would suffice for Council’s works requirements and permit the RACF roof overhang in this area.

The recommended rewording of condition 4.16 as follows:

*4.16* ***STAGE 2 –*** *No above ground temporary or permanent structure is to be placed within the Easement for Sewerage Purposes, for a minimum clearance overhead height of 10 metres, as detailed within Deposited Plan 823143, and/or within the proposed amended Easement for Sewerage Purposes to cover the realigned sewer effluent pressure main.*

* Condition 5.10 (under Prior to issue of an Occupation Certificate) changes by the applicant (shown in red) are sought as follows:

*5.10* ***STAGE 1 –*** *include on the Deposited Plan (DP) for the consolidated Lots an Instrument under the Conveyancing Act 1919 for the following:*

1. *Restrictive covenants, with Council having the benefit of these covenants and having sole authority to release and modify. Wherever possible, the extent of land affected by these covenants must be defined by bearings and distances shown on the plan.* *The plan and instrument must:*
2. *Create a ‘Restriction on the use of Land’ over any on-site interim water quality basin and/or any nutrient/pollution control facilities restricting any alteration to such facility or the erection of any structure over the facility or the placement of any obstruction over the facility, until such time as the final Stage 2 bio-filtration and/or nutrient/pollution control facilities are completed and accepted by Council.*
3. *Create an Easement to Drain Water along the eastern side of the site as indicated on approved plans.*
4. *Create a ‘Restriction on the use of Land’ over all land affected by a secondary flow path and/or permanent stormwater channel to ensure:*
	* 1. *the shape of the flow path is not altered.*
		2. *no structure is erected within or over the flow path, excluding fences that are flood* *compatible.*
5. *Positive covenants, with Council having the benefit of these covenants and having sole authority to release and modify. Covenant(s) required:*
6. *To ensure that, for any on-site interim water quality basin and/or any nutrient/pollution control facilities (until such time as the final Stage 2 bio-filtration and/or nutrient/pollution control facilities are completed and accepted by Council):*
7. *the facility will remain in place and fully operational.*
8. *the facility is maintained in accordance with the operational and maintenance plan so that it operates in a safe and efficient manner.*
9. *After a reasonable period of notice, if the owner does not repair the facility, Council’s officers are permitted to enter the land to inspect and repair the facility at the owner’s cost.*
10. *~~Council is indemnified against all claims of compensation caused by the facility.~~*

*Note: Standard wording, acceptable to Council, for covenants can be obtained by contacting Council Subdivision Certificate Officer.*

*Submit to the Principal Certifier copies of registered title documents showing the restrictive and positive covenants.*

No objection to changes proposed by applicant. It is noted that the bio-filtration basin will remain in the applicant’s ownership.

* Condition 5.11 (under Prior to issue of an Occupation Certificate) changes by the applicant (shown in red) are sought as follows:

5.11 ***STAGE 2 –*** *include on the Deposited Plan (DP) for the consolidated Lots an Instrument under the Conveyancing Act 1919 for the following:*

1. *Restrictive covenants, with Council having the benefit of these covenants and having sole authority to release and modify. Wherever possible, the extent of land affected by these covenants must be defined by bearings and distances shown on the plan. The plan and instrument must:*
2. *Create a ‘Restriction on the use of Land’ over all lots containing an on-site bio-filtration and/or nutrient/pollution control facility restricting any alteration to such facility or the erection of any structure over the facility or the placement of any obstruction over the facility.*
3. *Create a ‘Restriction on the use of Land’ over all land affected by a secondary flow path and/or channel to ensure:*
4. *the shape of the flow path is not altered.*
5. *no structure is erected within or over the flow path, excluding fences that are flood compatible.*
6. *Adjust the existing Easement for Sewerage Purposes 5 Wide (Vide Gov. Gaz. 14-8-1981 Fol. 4302) to be centrally located over the realigned sewer effluent pressure main.*
7. *Create a Right of Access to the adjusted Easement for Sewerage Purposes, to ensure Council’s officers can enter the land to undertake emergency maintenance works at any time such works are required.*
8. *Positive covenants, with Council having the benefit of these covenants and having sole authority to release and modify. Covenant(s) required:*
9. *To ensure on any lot containing an on-site bio-filtration and/or nutrient/pollution control facility that:*
10. *the facility will remain in place and fully operational.*
11. *the facility is maintained in accordance with the operational and maintenance plan so that it operates in a safe and efficient manner.*
12. *After a reasonable period of notice, if the owner does not repair the facility, Council’s officers are permitted to enter the land to inspect and repair the facility at the owner’s cost.*
13. *~~Council is indemnified against all claims of compensation caused by the facility.~~*
14. *To ensure for the realigned sewer effluent pressure main that:*

*i. Council’s officers are permitted to enter the land to inspect and repair the facility on reasonable notice (except in the case of emergency) ~~at the owner’s cost~~.*

*ii. Council is released by the owner of the land from any claim for loss or damage caused by the facility, to the extent caused or contributed to by the owner of the land.*

*iii. The owner must procure that the benefit of any warranties by its contractors for the works to the facility are assigned to Council on and from practical completion of the works to the facility.*

*ii. ~~Council is indemnified against all claims of compensation caused by the facility.~~*

*~~iii. Council is indemnified against all claims of financial loss and/or damages caused by any required maintenance being undertaken on the facility~~.*

*Note: Standard wording, acceptable to Council, for covenants can be obtained by contacting Council Subdivision Certificate Officer.*

*Submit to the Principal Certifier copies of registered title documents showing the restrictive and positive covenants.*

Objection raised to the revised wording from applicant for part 2b) of the condition. However, no objection is raised to the applicant’s revised wording under Part 2a) of this condition, noting that the bio-filtration basin (under 2a)) will remain in the applicant’s ownership whereas the sewer main (under Part 2b) will remain in Council’s ownership.

The intent of the wording for the condition is to ensure that Council is not liable for any damages to the driveway and carparking area (caused by any required Council maintenance on the main) or for any operational financial losses incurred by the RACF facility (due to the driveway and carparking area becoming unusable during the period required if Council have to do works on the main).

Council would seek to have the condition changed only as it relates to 2a) and not 2b), as follows:

*5.11* ***STAGE 2 –*** *include on the Deposited Plan (DP) for the consolidated Lots an Instrument under the Conveyancing Act 1919 for the following:*

1. *Restrictive covenants, with Council having the benefit of these covenants and having sole authority to release and modify. Wherever possible, the extent of land affected by these covenants must be defined by bearings and distances shown on the plan. The plan and instrument must:*
2. *Create a ‘Restriction on the use of Land’ over all lots containing an on-site bio-filtration and/or nutrient/pollution control facility restricting any alteration to such facility or the erection of any structure over the facility or the placement of any obstruction over the facility.*
3. *Create a ‘Restriction on the use of Land’ over all land affected by a secondary flow path and/or channel to ensure:*
4. *the shape of the flow path is not altered.*
5. *no structure is erected within or over the flow path, excluding fences that are flood compatible.*
6. *Adjust the existing Easement for Sewerage Purposes 5 Wide (Vide Gov. Gaz. 14-8-1981 Fol. 4302) to be centrally located over the realigned sewer effluent pressure main.*
7. *Create a Right of Access to the adjusted Easement for Sewerage Purposes, to ensure Council’s officers can enter the land to undertake emergency maintenance works at any time such works are required.*
8. *Positive covenants, with Council having the benefit of these covenants and having sole authority to release and modify. Covenant(s) required:*
9. *To ensure on any lot containing an on-site bio-filtration and/or nutrient/pollution control facility that:*
10. *the facility will remain in place and fully operational.*
11. *the facility is maintained in accordance with the operational and maintenance plan so that it operates in a safe and efficient manner.*
12. *After a reasonable period of notice, if the owner does not repair the facility, Council’s officers are permitted to enter the land to inspect and repair the facility at the owner’s cost.*
13. *~~Council is indemnified against all claims of compensation caused by the facility.~~*
14. *To ensure for the realigned sewer effluent pressure main that:*
15. *Council’s officers are permitted to enter the land to inspect and repair the facility at the owner’s cost.*
16. *Council is indemnified against all claims of compensation caused by the facility.*
17. *Council is indemnified against all claims of financial loss and/or damages caused by any required maintenance being undertaken on the facility.*

*Note: Standard wording, acceptable to Council, for covenants can be obtained by contacting Council Subdivision Certificate Officer.*

*Submit to the Principal Certifier copies of registered title documents showing the restrictive and positive covenants.*

* Condition 5.15 (under Prior to issue of an Occupation Certificate) changes by the applicant (shown in red) are sought as follows:

*5.15* ***ALL STAGES*** *– Obtain the Section 307 Certificate of Compliance under the Water Management Act 2000 for water and sewer requirements for the development from Central Coast Council (North) as the Water Supply Authority, prior to issue of the Occupation Certificate for the relevant stage of construction.*

*All water supply and sewer works for the development must be completed and all other conditions of the Section 306 letter satisfied. Completion of works includes the submission and acceptance by Council of all work as executed drawings plus other construction compliance documentation and payment of a maintenance / defects bond to Council in accordance with Council’s adopted fees and charges*.

No objection to the rewording of condition 5.15 as proposed by the applicant.

* Condition 5.16 (under Prior to issue of an Occupation Certificate) changes by the applicant (shown in red) are sought as follows:

*5.16* ***~~ALL STAGES~~*** *~~- Prior to the issue of any Occupation Certificate, implement all recommendations and noise control measures specified in the acoustic report by ADP Consulting Pty Ltd (CCC ref: D15177516).~~ Deleted*

No objection to the deletion above as proposed by the applicant. The objective of this condition is satisfied under Condition 5.17.

* Condition 5.19 (under Prior to issue of an Occupation Certificate) changes by the applicant (shown in red) are sought as follows:

*5.19 ~~ALL STAGES~~* ***STAGE 2*** *- Prior to the issue of any Occupation Certificate for the Residential Aged Care Facility, ~~a compliance certificate must be provided to~~ the Principal Certifying Authority is to be provided with evidence that provision has been made to allow for the future installation of ~~that~~ an odour control filtration system ~~has been appropriately installed and connected with the Residential Aged Care Facility ducted multi split air conditioner system~~ in accordance with the recommendations of the Odour Statement prepared by The Odour Unit, dated 20 May 2022.*

No objection to the revision of condition 5.19 as proposed by the applicant.

* Renumbering of draft conditions considered by Panel (Attachment 1 to assessment report) numbered 6.1 – 6.19 inclusive (under Prior to issue of an Occupation Certificate) to correct the numbering of these conditions to be as follows:

Condition 5.21 (was 6.2) *through to* Condition 5.41 (was 6.19) under Prior to issue of an Occupation Certificate.

* Removal of duplicated condition 6.17 of draft conditions considered by Panel (Attachment 1 to assessment report) and renumbering of conditions accordingly within draft conditions set.
* Condition 6.13 (now revised as Condition 5.32) (under Prior to issue of an Occupation Certificate) changes by the applicant (shown in red) are sought as follows:

*5.32* ***~~ALL STAGES -~~*** *~~Complete the landscaping works~~. Deleted*

No objection to the deletion of the condition as proposed by the applicant as condition 6.14 (now condition 5.34) requires completion of the landscaping in accordance with the approved landscape plan.

* Condition 6.14 (now revised as Condition 5.34) (under Prior to issue of an Occupation Certificate) changes by the applicant (shown in red) are sought as follows:

*5.34* ***ALL STAGES*** *- Provide the Principal Certifier with written certification from a qualified landscape designer certifying that landscaping for each stage has been implemented in accordance with the approved landscape plan as amended by any conditions of this consent*.

No objection to the rewording of the condition as proposed by the applicant.

* Condition 6.1 (under Ongoing) changes by the applicant (shown in red) are sought as follows:

*6.1 No above ground temporary or permanent structure is to be placed within the Easement for Sewerage Purposes for a minimum clearance overhead height of 4 metres.*

Consistent with the changes to Condition 4.16, objection is raised to the revised wording from the applicant, as 4 metres overhead clearance is not sufficient for the specific works. Condition 6.1 is conditioned to read as follows:

*6.1 No above ground temporary or permanent structure is to be placed within the Easement for Sewerage Purposes for a minimum clearance overhead height of 10 metres.*

* Condition 6.17 (under Ongoing) changes by the applicant (shown in red) are sought as follows:

*6.17 A minimum of 15 accessible parking spaces are to be provided for the self-contained dwellings of which 6 spaces are to have a space dimension of 3.8m and 9 spaces are to be designed in accordance with AS 2890.6 (2009) with a shared space. This number of spaces is a minimum as enough accessible parking spaces are to be always provided on the site according to demand.*

No objection to the rewording of condition 6.17 as proposed by the applicant.

* Condition 6.19 (under Ongoing) changes by the applicant (shown in red) are sought as follows:

*6.19 Site management are to adopt a policy requiring any resident’s caravans to be stored either off-site, in the designated approved caravan/boat parking spaces, or in an off-site and off-street location and not in immediate surrounding streets.*

Condition 6.19 is proposed to be amended as follows:

*6.19* *Resident’s caravans are not to be stored in the streets surrounding the site.*

* Condition 6.24 (under Ongoing) changes by the applicant (shown in red) are sought as follows:

*6.24 The development is to be always carried out in accordance with the Operational Management Plan prepared by Uniting and updated from time to time.*

No objection to the changes to condition 6.24 as proposed by the applicant.

**Affordable housing**

The following new condition 5.42 (under Prior to Issue of an Occupation Certificate) has been included in relation to the affordable housing units upon which the proposal relies for the bonus floor space.

*5.42 ALL STAGES - Execute a section 88E instrument under the Conveyancing Act 1919 to establish the following positive covenants; with Council having the benefit of these covenants and having sole authority to release and modify.*

1. *the units as shown on the plans numbered R.1.01; R.1.02; R.1.06; R.1.09; R.1.10; R.2.01; R.2.02; R.2.05; R.2.10; R.3.01; R.3.09; R.3.10; R.4.01; R.4.02; R.4.10 on level 3 of the RACF building and units numbered 6.G.03; 6.G.04; 6.G.05; 6.1.03; 6.1.04; 6.1.05 at ground and level 1 in Block 6 and units numbered 3.1.03 and 3.1.05 at Level 1 in Block 3 are to be provided as affordable housing units within the development.*
2. *all accommodation that is used for affordable housing must be owned and managed by a registered community housing provider; and*
3. *the rent of the affordable units, is not to exceed the formula for ‘affordable place’ as defined in Clause 45(12) of State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004.*

**Community liaison**

New Condition 3.22 has been included to address the need for adoption of a communications/liaison strategy with the local community, recognising the importance of the issues raised by the community in submissions and during representations made to the Panel. This condition is proposed to be worded as follows:

*3.22* ***STAGE 1 -****Prior to any works commencing, a Community Consultation Strategy is to be prepared to facilitate communication between the applicant, the Council/PCA and the community (including adjoining affected landowners and others directly impacted by the development) immediately prior to the construction, during the construction of the development, and for a minimum of 6 months following completion of construction of Stage 2*

*of the development.*

*The strategy is to be prepared and implemented at the applicants cost and is to:*

1. *provide for the formation of a community consultative committee to advise on environmental management issues for the development including specific requirements around traffic, noise and vibration, and general amenity. The committee is to be established prior to the construction phase of the development and operate throughout the construction phase of the development.*
2. *Identify people (residing on the site and in surrounding properties) to be consulted during the construction phase of the project.*
3. *Set out procedures and mechanisms:*
	1. *Through which the community can discuss or provide feedback to the applicant,*
	2. *Through which the applicant will respond to enquiries or feedback from the community, and*
	3. *To resolve any issues and mediate any disputes that may arise in relation to the construction works.*

**Electric scooter/cart charging**

Conditions 2.19 and 5.41 have also been revised to make provision for charging facilities for electric scooters/carts as follows:

*2.19 ALL STAGES* ***-****Prior to the issue of the relevant Construction Certificate, the following must be demonstrated to the satisfaction of the certifying authority:*

1. *Each car park must provide Electric Vehicle (EV) Ready Connections (minimum ’Level 2’ electric vehicle circuitry).*
2. *EV Distribution Board(s) shall be of sufficient size and capacity to allow for any future EV connections to all residential car parks. C1 Electric circuitry to accommodate ‘Level 2’ electric vehicle charging points should be integrated into off-street car parking to ensure that car spaces can install electric vehicle charging points in the future. This must include:*
	1. *Ensuring adequate distribution board size for the electric vehicle charging point system and identifying load management requirements; and*
	2. *Providing either buried cables underground or cable trays sufficient to accommodate electric circuitry to each car space.*
3. *Locate EV Distribution board(s) so that no future EV Ready Connection will require a cable of more than 50m from the parking bay to connect.*
4. *Each EV Ready Connection is served from a cable tray and a dedicated spare electrical circuit provided in an EV Distribution Board to enable easy future installation of cabling from an EV charger to the EV Distribution Board and a circuit breaker to feed the circuit.*
5. *EV Load Management System is to be capable of:*
* *Reading real time current and energy from the electric vehicle chargers under management;*
* *Determining, based on known installation parameters and real time data, the appropriate behaviour of each EV charger to minimise building peak power demand whilst ensuring electric vehicles connected are full recharged;*
* *Scale to include additional chargers as they are added to the site over time.*
1. *The above EV electrical design is to be done by an appropriately qualified and licenced electrician and is to be done to the relevant Australian Standards and BCA requirements.*
2. *Charging points for mobility scooters shall also be provided.*

*5.41 ALL STAGES* ***-****The basement car park shall provide Electric Vehicle charging points in accordance with condition 2.19. Provision of charging facilities for mobility scooters shall also be included within the basement.*

**Sediment Control Plans**

The wording of Condition 3.7 has been revised to clarify that the Soil and Water Plans are to be provided to the Certifying Authority as follows:

*3.7* ***ALL STAGES -*** *Prior to commencement of construction or site works, a Soil and Water Management Plan (SWMP) in accordance with the latest edition of the Landcom Publication “Managing Urban Stormwater: Soils and Construction – Volume 1” (the Blue Book) is to be prepared and provided to the Certifying Authority. Sediment control fencing must remain in place until such time as the site is landscaped or turf is established.*

**Caravan storage condition**

The wording of Condition 6.19 has been revised for clarification as follows:

*6.19* *Resident’s caravans are not to be stored in the streets surrounding the site.*

**Summary of jurisdictional matters under Environmental Planning Instruments**

The following threshold issues apply to the proposal and have been satisfied as discussed in the assessment report:

* SEPP (Resilience and Hazards) - Chapter 4 (Remediation of Land) Section 4.6 (Contamination and Remediation to be considered in determining a development application).
* SEPP (Biodiversity & Conservation) 2021 – Chapter 3 (Koala Habitat Protection 2020) Section 3.6(1) reads:

*Before a council may grant consent to a development application for consent to carry out development on land to which this Part applies, the council must be satisfied as to whether or not the land is a potential koala habitat.*

* SEPP ((Housing for Seniors or People with a Disability) 2004:
	+ Clause 18(2)(Restriction on occupation of seniors housing allowed under this Chapter);
	+ Clause 26 (Location and access to facilities);
	+ Clause 27 (Bushfire Prone Land); Clause 28 (Water and sewer);
	+ Clause 29(2) (Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply);
	+ Clause 30 (Site analysis); Clause 32 (Design of residential development);
	+ Part 4 -Development Standards to be complied with (Clause 40(1));
	+ Clause 45(6) (Requirement relating to affordable places and on-site support services); and
	+ Clause 55 (Residential care facilities for seniors required to have sprinkler systems).

Condition 5.35 (Prior to Occupation Certificate) has been slightly amended to include reference to the provision of a fire sprinkler system within the residential aged care facility. Although noting this has been included in the applicant’s Preliminary BCA & Certification Assessment report (as referenced under Condition 1.2), its provision is a threshold matter and has also been included in the amended condition as follows:

*5.35* ***ALL STAGES -*** *Prior to the issue of any Occupation Certificate, comply with the access and usability standards outlined in Schedule 3 of State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 for the development (except for Clause 5) and comply with the provision of a fire sprinkler system within the residential aged care facility. Details of compliance are to be submitted to the Registered Certifier for approval.*

* Wyong LEP 2013:
	+ Clause 5.21(2) (Flood Planning);
	+ Clause 7.1(3) (Acid Sulphate Soils);
	+ Clause 7.3(3) (Flood Plan Risk Management); and
	+ Clause 7.9 (Essential Services).

**Dust monitoring**

As discussed in the meeting, the wording and content of Condition 2.13 has been revised to provide further clarification and include provision for dust monitoring. Existing Condition 4.20 in relation to dust control during works remains unchanged.

*2.13* ***ALL STAGES*** *- Prior to the issue of any construction certificate, a suitably qualified and currently practicing environmental consultant must prepare a Construction Environmental Management Plan for the approval of the Principal Certifying Authority.*

*The Construction Environmental Management Plan must address all environmental factors associated with this development and provide corrective actions for the entirety of the construction phase. These corrective actions and preventative measures must include:*

1. ***Erosion and Sediment Control Plan*** *designed in accordance with the ‘Blue Book’ (Managing Urban Stormwater: Soils and Construction, Landcom, 2004).*
2. ***Dust Control Plan*** *that includes a set of procedures on how the construction operators of the development will reduce the amount of dust being blown off the subject property. This will include but not limited to a monitoring checklist that considers which protective measures apply to the current environmental and physical conditions that may influence the movement and generation of dust.*
3. ***Unexpected Finds Management Plan*** *that includes a set of procedures for the management, monitoring, disposal and remediation of any land that has encountered unexpected land contamination.*
4. *All recommendations specified in the* ***Noise Impact Assessment*** *by ADP Consulting dated 19 May 2022, CM ref: D15177516.*
5. *All recommendations specified in the* ***Acid Sulphate Soil Management Plan*** *by Foundation Earth Sciences dated May 2022, CM ref: D15177528,*
6. ***Diesel Emission Management Plan*** *that is designed in accordance with the NSW Environment Protection Authority strategies for Reducing Emissions from Non-road Diesel Engines, these must include but not limited to*
7. *purchase/hire engines that conform with the highest available US, EU or equivalent international standards,*

*ii.           ensure any fuel used conforms with the national diesel fuel quality standard,*

*iii.          ensure engines are correctly repaired and maintained,*

*iv.          improve an engine’s emission performance by fitting it with an anti-pollution control device,*

*v.           restrict unnecessary engine idling,*

*vi.         locate plant and equipment away from sensitive populations (e.g. schools, hospitals, childcare facilities) and/or use lowest emissions equipment near these areas,*

*vii.         locate plant and equipment away from residential areas and restrict access to essential vehicles and machinery only,*

*viii.        avoid the onsite use of diesel- or petrol-powered generators by substituting mains electricity or battery powered equipment where possible.*

1. *The Biodiversity Management Plan as required under these conditions.*

**SEPP** **(Biodiversity & Conservation) 2021 and SEPP (Koala Habitat Protection) 2021**

On Page 22 of the Final Assessment Report under the section on SEPP (Biodiversity & Conservation) 2021 the report includes an error. The sentence which states: *Additionally, there is no record of a koala siting within 2.5km of the site within the last 18 months* should read:

Additionally, there is no record of a koala siting within 2.5km of the site within the last 18 years. This latter statement is consistent with the BDAR for the proposal.

**Draft SEPPS**

Clarification is provided regarding the mention of ‘Draft Design and Place SEPP’ and ‘Draft SEPP (Environment)’ on Pages 2 and 19 of the report but with no accompanying discussion.

In this regard, the following confirmation is made:

* Draft Design and Place SEPP is not applicable to the proposal in accordance with the Ministerial Media Release by Department of Planning dated 05.04.22 which states “*Following extensive consultation with industry and stakeholder groups the NSW Government will not introduce the State Environmental Planning Policy for Design and Place*.”
* Draft SEPP Environment is not applicable to the proposal. The former SEPP’s that were consolidated into this SEPP are not applicable to the subject site or proposed development.

**The draft revised conditions in accordance with the above are attached to this memo.**