

COUNCIL ASSESSMENT BRIEFING REPORT TO PANEL

SOUTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSTH-475 – DAM0146/2024
PROPOSAL	Modification to 7.2012.331.1 - (Seniors Living Development (Staged Concept Approval)) - Modifications include minor changes to the approved building envelopes including increased building separation, a minor increase in independent living units for Stage 1, increase in height, rationalisation of the basement, parking and access arrangements and improved internal amenity
ADDRESS	<p><u>Application Site</u></p> <p>171 Wattle Road, Shellharbour City Centre Lot 2 DP 1043053</p> <p><u>Associated Site</u></p> <p>191 Wattle Road, Shellharbour City Centre Lot 2001 DP 1250959</p>
APPLICANT	The Uniting Church in Australia Property Trust (NSW)
OWNER	The Uniting Church in Australia Property Trust (NSW)
DA LODGEMENT DATE	14 January 2025
APPLICATION TYPE	DA Modification
REGIONALLY SIGNIFICANT CRITERIA	<p>Section 2.19(1) and Clause 3 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal as regionally significant development as the proposal is council related development over \$5 million.</p> <p>Further, NSW Planning Panel document 'Sydney District and Regional Planning Panels Operational Procedures dated September 2022 requires planning panels to determine applications to modify consent for regionally significant development under section 4.55(2) of the <i>Environmental Planning and Assessment Act 1979</i>, which seek to modify development for which the applicant/landowner is Council. The proposed stormwater design is reliant upon drainage to</p>

	a detention basin located within Council owned land to the west of the subject site (Lot 2001 DP 1250959) and the CIV is more than \$5 million. As such the modification DA is referred to the Panel for determination.
CIV	\$110,269,814.00
CLAUSE 4.6 REQUESTS	None
LIST OF ALL RELEVANT PLANNING CONTROLS (S4.15(1)(A) OF EP&A ACT)	<ul style="list-style-type: none"> • <i>SEPP (Infrastructure) 2007</i> • <i>SEPP No. 55 Remediation of Land</i> • <i>SEPP (Housing for Seniors or People with a Disability) 2004</i> • <i>SEPP Policy No. 65 – Design Quality of Residential Flat Development</i> • <i>SEPP (Housing) 2021</i> • <i>Illawarra Regional Environmental Plan No.1 (Deemed SEPP)</i> • <i>Shellharbour Local Environmental Plan 2000</i> • <i>Shellharbour Development Control Plan 2013</i> • <i>Uniting Care Ageing Precinct Development Strategy (PDS)</i>
AGENCY REFERRALS	Transport for NSW (TfNSW)
TOTAL & UNIQUE SUBMISSIONS	Notification period - 13 February 2025 to 12 March 2025 No submissions received to date
KEY ISSUES	<ul style="list-style-type: none"> • Building separation • Engineering matters (bulk earthworks, retaining walls and access) • Further consideration of SEPP (Housing) 2021
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> • Concept plans approved under DA0331/2012 • Proposed modification plans • Concept approval Notice of Determination • Design Review Panel correspondence
PREVIOUS BRIEFINGS	N/A
PLAN VERSION	1 November 2024 Revision E
ASSESSMENT STATUS	<ul style="list-style-type: none"> • Preliminary assessment complete • DA is on notification until 12 March 2025 • External/internal referrals outstanding
PREPARED BY	Cleo Dyer – Town Planner – Statutory Planning
DATE OF REPORT	6 March 2025

1. THE SITE AND LOCALITY

1.1 The Site

The subject site is located at 171 Wattle Road, Shellharbour City Centre and has a legal description of Lot 2 DP 1043053 (see Figure 1). The site is currently vacant, however there are a number of established trees located throughout the site (primarily along the site perimeter) and a site access road through the centre of the site. The access road connects to Wattle Road at the northern end and traverses through the centre of the site to the southern boundary and provides vehicle access to the adjoining site to the south at 15 Benson Avenue. The site is a large allotment, with an area of 42,600m² and the topography is a notable feature of the land as the site falls from east to west by 12m and south to north by 7m.

The land is currently zoned as R3 Medium Density Residential in accordance with the Shellharbour Local Environmental Plan 2013 and seniors housing is permitted within consent.

The associated site at 191 Wattle Road is Council owned land and is known as Benson Basin. Stormwater arrangements are proposed within this land and as such from part of the application site (See Figure 1).



Figure 1: Subject site is highlighted in red and the Council owned land outlined in yellow.

1.2 The Locality

The neighbouring property to the south of the site at 15 Benson Avenue comprises of community housing owned by NSW Land and Housing Corporation. The site boundary to the east has a frontage to Wattle Road, with established residential development located along the opposite side of the road. A public reserve known as Benson Basin, which is Council

owned land and a vacant allotment are located to the west of the subject site. A concept DA has recently been approved for this land and includes a future precinct development strategy and stage 1 site preparation works. Shellharbour Stockland Shopping Centre, Shellharbour TAFE and Shellharbour Hospital are also located to the west and north of the site.



Figure 2: Subject site within locality and existing development context

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The modification application seeks to align the concept approval with updated planning instruments, such as the SEPP (Housing) 2021 and associated Apartment Design Guidelines (ADG's) which have been developed since the preparation and determination of the concept approval. Details of the proposed modifications are outlined below:

- creation of a stage 1 component as part of the concept approval, which includes buildings R1, R2, R3 and R4 (see Figure 3). All remaining buildings/works will form stage 2 of the concept approval;
- the overall GFA of the development will remain as approved (45,800m²), however an increase to the GFA within stage 1 is proposed (increase of 246m²);
- setback amendments, to include revised setbacks along the eastern and western boundaries, Building R1 and R3 front setbacks along Wattle Road and Building R2 and R4 setbacks along Road no.1;
- amended landscape setbacks and provision of on-street parking along the western boundary;

- the overall number of units remains as per the concept approval (352 x units), however an increase in the number of units proposed as part of stage 1 (additional 11 x units);
- the overall GFA of communal facilities remains as approved, however, 536m² of this space is to be reallocated to stage 1, within building R3;
- overall car parking remains as approved (456 x spaces); however, stage 1 will result in a reduction in 9 x parking spaces;
- basement entry reconfiguration via a single access between Building R2 and R4;
- reduction in the level of the excavation associated with the basement car parking area;
- minor increase to building heights to address flood affection and improve Wattle Road interface of approximately 800mm (maximum), noting that the increase in height remains consistent with the maximum height approved under the concept approval;
- modification to the approved building envelopes to provide increased separation between buildings;
- Park Road amended to reference Road No.1;
- Road no.1 realignment; and
- other minor modifications are also proposed, including, but not limited to, waste collection design, solar access, cross ventilation, natural light to corridors and deep soil zones

Key development data is provided in **Table 1**.

Table 1: Key Development Data

Control	Concept Approval	Proposed Stage 1
Site area	42,600m ²	19,012.1m ² (inclusive of site road)
GFA	45,800m ²	17,567m ²
Clause 4.6	Not Applicable – The Concept Approval prevails over the Shellharbour Local Environmental Plan 2013 in regard to floor space ratio and height of building clauses.	
No of apartments	352	152
Max Height	20m	19.5m
Car Parking spaces	456	157
Setbacks	Wattle Road – 8m Western Boundary – 17m	Wattle Road – 7m Western Boundary – 15.8

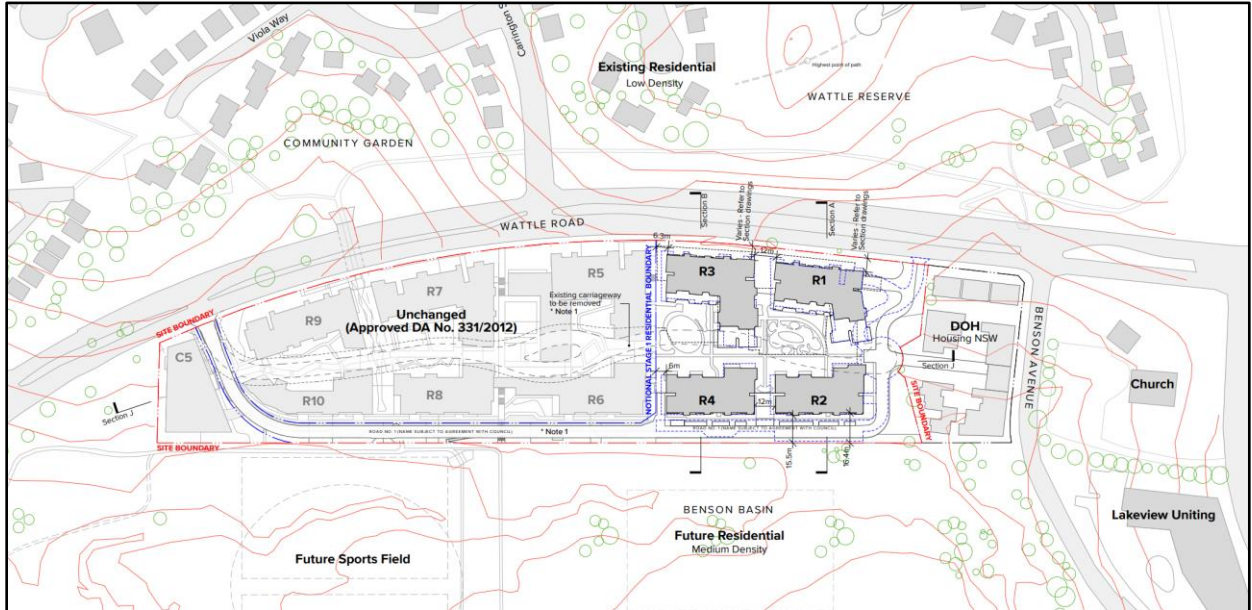


Figure 3: Stage 1 of Seniors Housing Development (Buildings R1 to R4)

2.2 Background

The development application was lodged on 14 January 2025. A chronology of the development application since lodgement is outlined in **Table 2**.

Table 2: Chronology of the DA

Date	Event
13 February 2025	Exhibition of the application
5 February 2025	DA referred to external agencies
12 March 2025	Panel briefing

2.3 Site History

The original concept development approved under DA0331/2012 for seniors housing and ancillary non-residential development determined the key development components of the proposal, including the total number of buildings, overall height, building envelopes, vehicle access, floor space ratio (FSR), overall number of units and ancillary non-residential uses. Details are provided below:

- building envelopes, inclusive of roof plants and articulation zones, for 11 buildings;
- 456 x on site car parking spaces; and
- maximum gross floor area of 45,800m².



Figure 4: Concept approval site plan

A list of all relevant site history is outlined in **Table 3**

Table 3 – Relevant Site History

Reference No.	Description	Date	Decision
DA0331/2012	Seniors Living Development – Stage Concept approval)	10.02.2014	Approved. Development is considered to be substantially commenced as an interim OC has been issued for the construction of the driveway setback from Wattle Road
DA0120/2018	Staged development: Earthworks for stage One of The Site Only – Provision of A New Road and Roundabout in Stage One with Temporary Batters and Temporary Stormwater Connection to Existing Infrastructure Beneath Road	12.09.2018	Approved
DAM0093/2018 (Part 2) – DA0120/2018	Stage 1 – New Internal Road, Civil and Drainage Works	14.03.2019	Approved

	Modify condition 8b and propose new drainage solution		
DAM0094/2018 (Part 3) – DA0120/2018	Stage 1 – New Internal Road, Civil and Drainage Works Modify condition no.5 and condition no.6	14.05.2019	Approved
CC0072/2019	CC – Stage 1 Roadway and Layback Excluding Stormwater	04.02.2019	Approved
OCC0544/2019	Interim OC – Footpath and driveway layback only. OCC excludes roadway and works within the allotment boundary	09.08.2019	Approved
DRP0006/2023	The subject modification application and associated proposed development application for stage 1 development of the concept approval was referred to DRP following a pre-lodgement meeting with Council on 22 August 2023	30.10.2023	Supported. Correspondence included in Attachment 4
DA0365/2024	Demolition of existing structures, construction of four residential flat buildings with 152 independent living units and a clubroom and library, two levels of basement parking, associated landscaping and a new road	-	Under Assessment

3. PLANNING CONTROLS

The proposed modifications to the concept approval for the development site are to be assessed against the legislation applicable at the time of approval of DA0331/2012 as outlined below.

- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartments
- Shellharbour Local Environmental Plan 2000
- Uniting Care Precinct Development Strategy

Consideration has also been given to State Environmental Planning Policy (Housing) 2021 and the associated Apartment Design Guidelines (ADG) to ensure the modified concept DA aligns with updated planning legislation/documentation applicable to the detailed design stage 1 application (DA0365/2024) currently being assessed.

A summary of the key matters for consideration arising from the relevant EPIs are outlined in **Table 4**. The pre-conditions to the grant of consent have been considered and are outlined in bold.

Table 4: Summary of Key Matters in the Relevant EPIs

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	<p>The modifications proposed under the concept approval will be assessed under the saving provisions contained under Schedule 7A Saving and transitional provisions of the SEPP (Housing) 2021.</p> <p>1. General savings provisions (1) This policy does not apply to the following matters- (d) a development consent granted on or before the commencement date</p> <p>The proposed modification application is generally consistent with the provisions and objectives of the <i>SEPP (Housing for Seniors or People with a Disability) 2004</i>, as per the originally approved concept development. The rationale remains consistent, retaining the approved 325 x self-contained, self-care dwellings to serve as seniors living.</p> <p><u>Note:</u> The subsequent stage 1 development application (DA0365/2024) cannot be considered under the saving provision listed within Schedule 7A of the <i>SEPP (Housing) 2021</i> and as such is required to be assessed under the updated provisions contained in Part 5 of <i>SEPP (Housing) 2021</i>, which relates to development for seniors housing. Preliminary review of the <i>SEPP (Housing) 2021</i> has been undertaken as part of subject modification application, to ensure that the concept approval generally aligns with the applicable instruments relevant to the detailed design stage of the development.</p>	Y
State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65)	<p>The modification proposed under the concept approval is subject to assessment in accordance with the SEPP No 65. The proposed modification is considered to be substantially the same development and generally aligns with the approved conceptual design for seniors living.</p>	Y

	<p>Notwithstanding that, as noted above, the proposed modification seeks consent to amend the conceptual design of stage 1 building envelopes to ensure consistency between recent planning framework, policies and design standards, including the <i>SEPP (Housing) 2021</i> and associated ADG's to ensure alignment with subsequent development applications associated with the concept approval.</p> <p>Most notably, the building separation between stage 1 building envelopes is proposed to be increased from 9m to 12m to comply with section 2F of the ADGs. Council notes that this is generally consistent in terms of the design and arrangement between the buildings, however, notes a reduced setback in accordance with separation requirements of the ADG. The setback between Buildings R2 and R3 of has been increased to 10.6m from 9m (as approved), however presents a 1.4m departure from the requirements specified with the ADGs. Council to further review the setback design in accordance with the applicable legislation.</p> <p>The concept approval includes other minor modifications to improve compliance with the ADGs, in particular the following design matters:</p> <ul style="list-style-type: none"> • solar access refinements to increase the capability of apartments across the overall concept design to receive 3 hours of direct sunlight between 9am – 3pm during the winter solstice from 56.6% as approved, to 58.9%; • solar access refinements to increase capability of apartments across the overall concept design to receive 2 hours of direct sunlight between 9am – 3pm during the winter solstice from 71.1% as approved, to 79.7%; • enhancement to cross ventilation whereby approval granted 52.6% of apartments achieved cross ventilation, proposed increase to 56.9% across the concept development and 60.5% of apartments within stage 1 to feature cross ventilation; • redistribution of communal open space throughout stage 1 and improvement to solar access design; • Reduced deep soil zone from 25.6% to 20.6m² however compliance with the minimum being 15% for a site larger than 1500m² is retained; and • consideration of natural light to corridors and communal space. <p>A preliminary assessment of the ADGs has been completed and general compliance is noted, however a comprehensive</p>	
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	review of such design mechanism to be completed as part of the detailed assessment.	
State Environmental Planning Policy (Housing) 2021	As noted above, the savings provisions contained within Schedule 7A of the <i>SEPP (Housing) 2021</i> <u>do not apply</u> to the detailed design Stage 1 application currently under assessment by Council under DA0365/2024. As such, it has been necessary for the applicant to consider updated legislation and documentation in the design of the modified concept approval to ensure alignment between the concept approval and any future development applications. As discussed throughout this report, preliminary assessment of all applicable legislation/design guidelines have been undertaken and noted as generally compliant and unlikely to impact the progression of the modification application. A comprehensive review of the detailed design of the Stage 1 component will be undertaken against the provisions of the <i>SEPP (Housing) 2021</i> and associated ADGs as part of the detailed design stage under DA0365/2024.	Y
Shellharbour Local Environmental Plan 2000	The concept development was approved under the <i>Shellharbour LEP 2000</i> and remains consistent with the provisions under the legislation, specifically, in reference to the amended height of buildings and gross floor area.	Y
Uniting Care Precinct Development Strategy	<p>The site is identified as Precinct M Eastern Residential – Wattle Road within the Shellharbour City Centre Master Plan as per Chapter 7 of the Shellharbour Development Control Plan 2013. A Precinct Development Strategy for Precinct M was approved on 15 May 2012 and remains applicable, being the Uniting Care Precinct Development Strategy (PDS), Precinct M – Eastern Residential/Seniors Living. As per the conceptual approval, the proposed modification general remains consistent with the PDS.</p> <p>In relation to the PDS the following modification are proposed:</p> <ul style="list-style-type: none"> the refinement to the building footprint remains consistent with section 3.2.1, as the buildings within stage 1 remain consistent with approved stories and streetscape appeal; stage 1 parking reduction of 9 spaces to be absorbed by later stages within the development and approved cumulative number to remain as approved. To note, the approved total parking spaces of 456 is a departure from the PDS; 	Y

	<ul style="list-style-type: none"> • as per section 3.4 Building envelopes, the PDS does not outline FSR controls, as such the additional FSR to be included within stage 1 is outlined to be absorbed by the following stages and the overall conceptual FSR remains consistent with the total approved gross floor area of 45,800m² • setback amendments remain consistent with respective building typology requirements; <ul style="list-style-type: none"> - buildings R1 and R3 defined as Type A being oriented towards Wattle Road do not encroach within the 5m front setback, - building R2 and R4 defined as Type B does not encroach within the 3-5m setback. • increased building heights remain consistent with respective building typology requirements: <ul style="list-style-type: none"> - Building R1 and R3 Type A remains consistent with four storeys limit at Wattle Road and approved maximum building height of 20m which is inclusive of roof plant, - Building R2 and R4 Type B remains consistent with four storey limit and do not exceed the approved maximum building height of 20m which is inclusive of roof plant. • Road no.1 realignment to create a consistent 2.5m setback between road and western boundary. The road design reduces the number of on-street parking from 20 spaces to 8, however retains pedestrian footpath. Proposed realignment demonstrates a compliant design with regard to section 2.3.2. <p>A preliminary assessment of the PDS has been completed and is generally compliance. A full review of the strategy to be completed as part of the comprehensive assessment.</p>	
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4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to the following agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in **Table 5**.

Table 5: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act) – Not applicable			
Referral/Consultation Agencies			
Transport for NSW (TfNSW)	S2.122 of the <i>SEPP (Transport and Infrastructure) 2021</i> in that development is considered to be traffic generating development	No objection as the proposal does not result in any changes to traffic generation.	Y
Integrated Development (S 4.46 of the EP&A Act) – Not applicable			

4.2 Council Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

Table 6: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	Additional information required in relation to earthworks, retaining walls and access considerations	No
Traffic	Council's Traffic Engineering Officer has reviewed the proposal and noted the need for improved foot path and pedestrian connectivity along Wattle Road and Benson Avenue. Footpath improvements were identified within the Shellharbour Active Transport Strategy adopted by Council in 2024 and such development would further promote the need for such infrastructure. To be addressed as part DA0365/2024	Yes
Business and Investment	Outstanding	Pending
Community Life	No objections and no additional conditions recommended.	Yes
Contributions	No development contributions to be levied for a registered social housing provided, in accordance with provisions under the SEPP (Housing) 2021 and SEPP (Seniors Living) 2004.	Yes
Environment	The DA was referred to Council's Environment team. Comments are outstanding.	Pending
Flooding	No objections and additional conditions recommended in relation to the amendments to the proposed finished floor levels and access road through stage 1 to demonstrate	Yes

	compliance with levels above the PMF plus 500mm freeboard.	
Waste	The DA was referred to Council's waste team. Comments are outstanding	Pending

4.3 Community Consultation

The application was publicly notified in accordance with Council's Community Participation Plan. No submissions have been received by Council to date, noting that the exhibition period ends on 12 March 2025.

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

- preliminary assessment of the modified concept approval against all applicable legislation/design guidelines has been undertaken and noted as generally compliant and unlikely to impact the progression of the modification application; and
- minor matters to be further explored including engineering matters (bulk earthworks, retaining walls and access) and building separation.

6. RECOMMENDATION

Following a preliminary assessment of the modification application in relation to the development controls, Council officers and agencies, the Council considers that the assessment of this DA modification to be ongoing. A comprehensive assessment against the extensive legislation/documentation applicable to modified proposal is still required, as well as complete assessment of the concurrent development application for stage 1 (DA0365/2024) to ensure alignment between the conceptual development and detailed design stage of the future seniors living complex. It is not anticipated that there will be any significant issues arising from the assessment, however some matters may require further consideration.

7. ATTACHMENTS

The following attachments are provided:

- Attachment 1 – Concept Plans
- Attachment 2 – Proposed Modification Plans
- Attachment 3 – Concept Approval Notice of Determination
- Attachment 4 – Design Review Panel correspondence

