

DATE OF DETERMINATION	20 May 2025
DATE OF PANEL DECISION	19 May 2025
DATE OF PANEL BRIEFING	14 May 2025
PANEL MEMBERS	Chris Wilson (Chair), Grant Christmas, Natasha Harras, Chris Homer
APOLOGIES	None
DECLARATIONS OF INTEREST	Juliet Grant (Employee of Gyde. Gyde prepared SEE)

Papers circulated electronically on 8 May 2025.

MATTER DETERMINED

PPSSTH-475 – Shellharbour – DAM0146/2024 at 171 Wattle Road and 191 Wattle Road – Modification to 7.2012.331.1 – (Seniors Living Development (Staged Concept Approval)) (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 meetings and briefings and the matters observed at the site inspection listed at item 8 in Schedule 1.

Application for modification of consent

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 reasons outlined in the Council Assessment Report. The Panel was satisfied that:


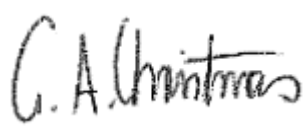


- The modification application had been considered in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*.
- The modification is substantially the same development as to that originally approved.
- A thorough assessment in terms of section 4.55 of the *Environmental Planning and Assessment Act 1979* had been undertaken.
- The proposal is unlikely to result in any unacceptable amenity or environmental impacts subject to the impositions of the conditions of consent.
- To the contrary, the Panel was satisfied that the modifications would result in improved amenity, environmental and housing outcomes.

CONDITIONS

The Modification Application was approved subject to minor amendments to the conditions recommended by Council. This followed comments on several conditions submitted by the Applicant via the Planning Portal on 16 May 2025. None of the amendments changed the intent of the recommended conditions. The final set of conditions endorsed by the Panel is contained in Schedule 2.

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	
 Chris Wilson (Chair)	 Grant Christmas
 Natasha Harras	 Chris Homer

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-475 – SHELLHARBOUR - DAM0146/2024
2	PROPOSED DEVELOPMENT	Modification to 7.2012.331.1 – (Seniors Living Development (Staged Concept Approval)) – Modifications including 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
3	STREET ADDRESS	<p><u>Application Site</u> 171 Wattle Road, Shellharbour City Centre Lot 2 DP 1043053</p> <p><u>Associated Site</u> 191 Wattle Road, Shellharbour City Centre Lot 2001 DP 1250959</p>
4	APPLICANT/OWNER	<p>171 Wattle Road (Lot 2 DP 1043053) owned by The Uniting Church in Australia Property Trust (NSW)</p> <p>191 Wattle Road (Lot 2001 DP 1250959) owned by Council. The proposed stormwater design is reliant upon drainage to a detention basin located within Council owned land to the west of the subject site 191 Wattle Road (Lot 2001 DP1250959).</p>
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy No. 55 Remediation of Land State Environmental planning Policy (Housing for Seniors or People with a Disability) 2004 State Environmental Planning Policy (Housing) 2021 Shellharbour Local Environmental Plan 2000 Shellharbour Local Environmental Plan 2013 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Shellharbour Development Control Plan 2013 Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> Coastal zone management plan: 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: 7 May 2025 Attachment A – Conditions of Consent 171 Wattle Road, Shellharbour City Centre: 16 May 2025 Written submissions during public exhibition: 0 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"> • Briefing: 12 March 2025 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Grant Christmas, Natasha Harras, Chris Homer ○ <u>Council assessment staff</u>: Cleo Dwyer, Stacey Houlison, Andrew McIntosh ○ <u>Applicant representatives</u>: John Phillpott (Uniting Church), Dan Szwaj (Turner), Claire Mallin (Turner), Mel Krzus (Gyde), Hannah Collins (Gyde), Daiana Plassan (Midson Group) Camilla Firman (Gyde) ○ <u>DPHI</u>: Amanda Moylan, • Site inspection: 16 April 2025 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Grant Christmas, Natasha Harras ○ <u>Council assessment staff</u>: Cleo Dyer, Stacey Houlison, Andrew McIntosh • Final briefing to discuss council's recommendation: 14 May 2025 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Grant Christmas, Natasha Harras, Chris Homer ○ <u>Council assessment staff</u>: Mathew Rawson, Stacey Houlison, Cleo Dyer ○ <u>Applicant representatives</u>: Adrian Ciano (Head of Property Development, Uniting Church), Dan Szwaj (Turner), Claire Mallin (Turner), Mel Krzus (Gyde), Hannah Collins (Gyde), Camilla Firman (Gyde), Daiana Plassan (Midson Group), Phil Hutchison, Jakub Svaton (Turner), Jessica Nagle (Turner) ○ <u>DPHI</u>: Amanda Moylan, Nikita Lange
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report

SCHEDULE 2 – CONDITIONS OF CONSENT

1. Concept Approval Modified under DA0331/2012 (Part 2) DAM0146/2024

Except where modified by conditions of this consent, the concept approval for the development comprises of:

- a. Building envelopes, inclusive of roof plants and articulation zones, for 11 separate buildings
- b. 456 on site car parking spaces ^{NOTE A}
- c. Maximum gross floor area of 45,800m² made up of
 - i. Up to 352 self-contained dwellings for seniors housing ^{NOTE B}
 - ii. Wellness Centre and Pool (626m²)
 - iii. Daycare Centre (respite care) (109m²)
 - iv. Consulting Rooms (48m²)
 - v. Therapist and Beauty Treatment Rooms (105m²)
 - vi. Cafe/retail (211.5m²)
 - vii. Church (1,211m²)
 - viii. Activity/Function Hall (305m²)
 - ix. Village Office and Other Administration Areas (632m²)
 - x. Men's Shed (104m²)
 - xi. Library (113m²)
 - xii. Staff and Resident Amenities (346m²)
 - xiii. Maintenance (82m²).
 - xiv. Club room (316m²) ^{NOTE C}
 - xv. Roof level amenities (30m²) ^{NOTE C}

Note A: The stated number of on-site car parking spaces does not include the ambulance, 'drop off' or bus parking zones.

The stated number assumes that the community hall component of the church building is not for use by the wider community independent of church services and related activities. The proposed number of basement car parking spaces (37 spaces) meets the requirement for the church component only.

Reduction in car on-site car parking spaces within stage 1 to be absorbed within later stages and cumulative total to remain.

Note B: Housing pursuant to *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. Increase in independent living units within stage 1 to be absorbed within later stages and cumulative total to remain.

Note C: Increased GFA within Stage 1 to be absorbed within later stage and cumulative GFA total to remain.

2. Approved Plans & Documentation
Modified under DA0331/2012 (Part 2) DAM0146/2024

The development shall generally be in accordance with the following plans except as otherwise modified by conditions of this consent.

Name of Plan	Prepared By	Drawing No./Revision	Drawing Date
Building Envelope Diagram Note: Stage 1 Residential Component modified under <i>DA0331/2012 (Part 2) DAM0146/2024</i>	PTW Architects	-	18.02.2013
Floor (Indicative) Level 1 - Level 7 & Roof Plant Plans	PTW Architects	212.030 Revision A A-DA-01; A-DA-02; A-DA-03; A-DA-04; A-DA-05; A-DA-06 & A-DA-07	14.09.2012
Note: Stage 1 Residential Component modified under <i>DA0331/2012 (Part 2) DAM0146/2024</i>			
Building Height Plans Note: Stage 1 Residential Component modified under <i>DA0331/2012 (Part 2) DAM0146/2024</i>	PTW Architects	212.030 Revision A A-DA-09 212.030 -DA-26 & A-DA-27	14.09.2012 21.01.2013
Section 1-6 Plans	PTW Architects	212.030 Revision A A-DA-20; A-DA-21; A-DA-22; A-DA-23; A-DA-24 & A-DA-25	14.09.2012
Concept Drainage Modified under DA0331/2012 (Part 2) DAM0146/2024	Northrop	DA20.01, DA20.02 Rev c	25.04.2025
Concept Bulk Earthworks Plan Modified under DA0331/2012 (Part 2) DAM0146/2024	Northrop	DA23.01, DA23.02, DA23.03 Rev A	22.04.2025
Concept Site Works Plan Deleted under DA0331/2012 (Part 2) DAM0146/2024	Northrop	DA4.01 & DA4.02	09.09.2012

Statement of Environmental Effects	JBA Planning	12531, Volume 1 of 1	September 2012
Letter from Roads & Maritime Services	B Lefoe	Ref:STH12/00222	07.12.2012
Modified Stage 1 Residential Component (Building R1, R2, R3 and R4) and Road No.1			
Supplementary Drawings Envelope Diagrams	Turner	MP-820-010, Rev A	01.11.2024
Added under DA0331/2012 (Part 2) DAM0146/2024			
Siteworks Site Plan Added under DA0331/2012 (Part 2) DAM0146/2024	Turner	MP-010-001, Rev G	17.04.2025
GA Plans Level 1 – Level 7 Added under DA0331/2012 (Part 2) DAM0146/2024	Turner	MP-110-010 Rev G, MP-110-020 Rev H, MP-110-030 Rev H, MP-110-040 Rev G, MP-110-050 Rev G, MP-110-60 Rev G, MP-110-070 Rev G	17.04.2025
GA Plans Roof Plant Plan Added under DA0331/2012 (Part 2) DAM0146/2024	Turner	MP-110-080, Rev F	06.11.2024
GA Roof Plan Added under DA0331/2012 (Part 2) DAM0146/2024	Turner	MP-110-090, Rev D	06.11.2024
GA Sections Section 1 DA0331/2012 (Part 2) DAM0146/2024	Turner	MP-210-010, Rev E	06.11.2024
GA Section Section 2 DA0331/2012 (Part 2) DAM0146/2024	Turner	MP-210-110, Rev E	06.11.2024

GA Sections Section 6 North South Accessible Pedestrian Route <i>Added under DA0331/2012 (Part 2) DAM0146/2024</i>	Turner	MP-210-150, Rev D	06.11.2024
GA Elevations Block Elevation Diagram <i>Added under DA0331/2012 (Part 2) DAM0146/2024</i>	Turner	MP-310-010, Rev F	06.11.2024
GA Elevations Elevations Sheet 1 <i>Added under DA0331/2012 (Part 2) DAM0146/2024</i>	Turner	MP-310-110, Rev F	06.11.2024
Traffic Statement, Signage and Linemarking <i>Added under DA0331/2012 (Part 2) DAM0146/2024</i>	Traffix Traffic and Transport Planners	Reference. 23.457r04v03	22.04.2025

3. Modifications to the Approved Plans

Modified under DA0331/2012 (Part 2) DAM0146/2024

- a. Deleted under DA0331/2012 (Part) DAM0146/2024
- b. No approval is given or implied under this consent for:
 - i. the pathways, steps and ramps located on adjoining land/s.
 - ii. the indented car parking bays on Wattle Road.
 - iii. structure/s forward of the approved building lines.
- c. Wattle Road front building line for the 4th and 5th levels of buildings R5, R7 and R9 must be increased by at least 2 metres with any encroachments limited to nonroofed terraces, unless otherwise demonstrated that the building has appropriate articulation and break up of building mass and satisfies *State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development* and the accompanying *Residential Flat Design Code 2002* (or subsequent amendment).

4. Limits on the Consent

This consent does not authorise construction of any buildings or works of the Concept Approval to be carried out without further approvals or consents being obtained.

5. Future Development Requirements

Modified under DA0331/2012 (Part 2) DAM0146/2024

- a. Where future development is to be staged, an indicative staging plan identifying the likely timing and sequence for each stage must be submitted with the first building stage and approved by Council. Each stage must provide the required on-site facilities to enable proper functioning of the development for that stage. The relocation and construction of the right of carriageway must be included with any Stage 1 application. The right of carriageway referred to is the easement firstly referred to in DP 1043053.
- b. Best practice Crime Prevention Through Environmental Design principles shall be incorporated into development design. This requirement includes the proposed relocation of the existing pedestrian public pathway to the pedestrian underpass.
- c. Visitor car parking shall be separate from the residential, employee and commercial parking needs of the development, and be easily identifiable and accessible. Visitor parking shall be located at various locations throughout the development.
- d. The Construction Management Plan for the applicable stage shall detail how:
 - i. pedestrians/cyclists will be able to continue to access the pedestrian underpass and/or detail alternate arrangements that continue to allow similar pedestrian/cyclist movement.
 - ii. vehicular access to the adjoining NSW Housing development will continue.
- e. The development shall demonstrate that clause 26 of *State Environmental Planning Policy (Housing for older People or People with a Disability) 2004* can be satisfied without relying on access pathways on adjoining land/s.
- f. The maximum depth of cut or fill on any portion of the allotment must be detailed in all subsequent development applications involving construction works and should be in accordance with the Concept Bulk Earthworks Plan drawing no. DA23.01, DA23.02, DA23.03 Rev A
- g. Detailed drainage designs of all subsequent development applications involving construction works approval must:
 - i. be generally in accordance with Concept Stormwater Drainage Plan drawing no. DA20.01, DA20.02 Rev C prepared by Northrop dated 25.10.24
 - ii. drain to the detention basin west of the site
 - iii. indicate the method of disposal of all stormwater and must include rainwater tanks, existing ground levels, finished surface levels on all paved areas, estimated flow rates, invert levels and sizes of all pipelines
 - iv. be designed to cater for a 1 in 20 year Average Recurrence Interval storm event
 - v. provide overflow drainage paths which are designed to cater for 1 in 100 year Average Reoccurrence Interval storm event
 - vi. provide sufficient detail to confirm new connections to existing stormwater infrastructure in the Council detention basin does not adversely impact on the operation of the basin or cause surcharge upstream outside of the basin extents.
- h. A Shared Use Path, minimum 2.4m in width, on Wattle Road extending from the south to the north of the lot, is to be included with the subsequent development application/s involving construction works. Such works will need to be undertaken by the developer and at no cost to Shellharbour City Council.
- i. All traffic and access to the site must be in accordance with the Concept Site Works Plan drawing no. DA20.01, DA20.02 rev C prepared by Northrop dated 25.10.2024 and the RFI Response letter

reference. 23.457r04v03 prepared by Traffix on 22 April 2025.

All subsequent development application/s involving construction works must address the requirements detailed in the RMS correspondence ref: STH12/00222 dated 07.12.2012, as relevant to the modified development. In addition, all road, pavement and carparking design must be in accordance with Council's Subdivision Design Code and Austroads Publications.

Details of all regulatory signage and line marking and LATM treatments must be submitted with subsequent development application/s. This shall include additional signage on Wattle Road to prohibit large vehicles (e.g. greater than 6m in length) from accessing the southern access point, in accordance with TfNSW approved signage formats, together with a mountable raised median on the internal driveway, to the satisfaction of Council.

- j. The flood planning controls applicable to this site are:
- The Flood Planning Level (FPL) (PMF + 500mm Freeboard) for this site is RL 31.3m AHD
 - The Probable Maximum Flood (PMF) Level for this site is RL 30.8m AHD
- The development shall comply with the following restrictions:
- a. All habitable floor levels shall be equal to or greater than the nominated FPL associated with the location within subject site (or as otherwise determined as part of future detailed Development Applications,
 - b. All structures to have flood compatible components up to and including the FPL in accordance with Appendix 9 of Shellharbour City Council's Development Control Plan,
 - c. An IEAust NER Structural Engineer's certificate certifying that structures are designed to withstand forces of floodwaters, debris and buoyancy up to and including the FPL is to be submitted with the Construction Certificate Application, and
 - d. There shall be NO external storage of materials below the design floor level which may cause pollution or be potentially hazardous during the PMF flood.
- k. Future development should incorporate ecologically sustainable development principles in its design, construction and ongoing operation phases, including water sensitive urban design measures, water re-use/recycling, energy efficiency, recycling and waste disposal.
- l. The community hall cannot be used simultaneously with the use of the church component of the building unless it can be demonstrated to Council's satisfaction that adequate parking can be provided on-site.
- m. The following additional matters are to be detailed in any Stage 1 DA:
- i. Full detail for the new pedestrian access within the subject site and the connection between Wattle Road and the approved pedestrian access points within the immediately adjoining site Precinct L to be demonstrated. Pedestrian access from Wattle Road via Precinct M to connect to Precinct L to be shown.
 - ii. Full details for the new pedestrian and vehicle access and egress arrangements.
 - iii. Full details of the proposed staging of the development, most particularly proposed access arrangements provided to LAHC's residents during construction.
 - iv. Confirmation of street and bollard pathway lighting and its directional attributes, and how that might affect tenants in LAHC properties.
 - v. Confirmation that Uniting Care Ageing's development will not adversely affect electricity, gas and water services to LAHC's properties.

REASONS FOR THE IMPOSITION OF CONDITIONS

1. To minimise any possible adverse environmental impacts of the proposed development.
2. To ensure that the amenity and character of the surrounding area is protected.
3. To ensure that the design and siting of the development complies with the provisions of Environmental Planning Instruments and Council's Codes and Policies.
4. To ensure that the development does not conflict with the public interest.

Advisory Notes – General

AN1 Failure to Comply with Consent

Failure to comply with any of the conditions of consent may result in a Penalty Infringement Notice being issued against the owner/applicant/builder. Substantially greater penalties may be imposed by the Court for non-compliance

AN2 Lapsing of Development Consent

In accordance with section 95 of the *Environmental Planning & Assessment Act 1979*, the development approval lapses five years after the approval date unless building, engineering or construction work relating to the building has physically commenced.

AN3 Right to Appeal

If you are dissatisfied with this decision, section 97 of the *Environmental Planning & Assessment Act 1979* gives you the right to appeal to the Land & Environment Court within six months after the date on which you receive this notice.

AN4 Review of Determination

If you are dissatisfied with this decision, section 82A of the *Environmental Planning & Assessment Act 1979* provides that you may request Council to review its determination. The request cannot be made after the time limit for making of an appeal under section 97 expires.

AN5 To Vary Development Consent

The plans and/or conditions of this consent are binding and may only be varied upon **application** to Council under section 96 of the *Environmental Planning & Assessment Act 1979*. The appropriate fee shall accompany the application and no action shall be taken on the requested variation **unless and until** the **written** authorisation of Council is received by way of an amended consent.