

## JOINT REGIONAL PLANNING PANEL (SYDNEY WEST)

<b>JRPP No</b>	<b>2015SYW112</b>
<b>DA Number</b>	<b>1241/2015/DA-SL</b>
<b>Local Government Area</b>	<b>Campbelltown City Council</b>
<b>Proposed Development</b>	<b>Construction of 15 x 2 bedroom and 10 x 1 bedroom seniors living units, demolition of existing structures and removal of trees</b>
<b>Capital Investment Value</b>	<b>\$5,740,406</b>
<b>JRPP Referral Criteria</b>	<b>Crown development with a capital investment value in excess of \$5 million</b>
<b>Street Address</b>	<b>5 - 17 Byron Avenue, Campbelltown</b>
<b>Applicant</b>	<b>Land and Housing Corporation</b>
<b>Number of Submissions</b>	<b>Three</b>
<b>Recommendation</b>	<b>Approval with Conditions</b>
<b>Report by</b>	<b>David Timmins – Development Assessment Planner Campbelltown City Council</b>

## Purpose

The purpose of this report is to assist the Sydney West Joint Regional Planning Panel in its determination of the subject development application pursuant to the Environmental Planning and Assessment Act 1979.

<b>Development Description</b>	Construction of 15 x 2 bedroom and 10 x 1 bedroom seniors living units, demolition of existing structures and removal of trees
<b>Property Description</b>	Lots 111 - 117 DP 213085  5 - 17 Byron Avenue, Campbelltown
<b>JRPP Application No.</b>	2015SYW112
<b>Council Application No.</b>	1241/2015/DA-SL
<b>Applicant</b>	Land and Housing Corporation
<b>Owner</b>	Department of Housing
<b>Statutory Provisions</b>	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004  State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004  Campbelltown (Urban Area) Local Environmental Plan 2002  Draft Campbelltown Local Environmental Plan 2014  Campbelltown (Sustainable City) Development Control Plan 2014  Campbelltown City Council Section 94A Development Contributions Plan 2011
<b>Date Received at Council</b>	19 May 2015

## Report

### 1. Introduction

Council has received a development application for the construction of 15 x 2 bedroom and 10 x 1 bedroom seniors living units, demolition of existing structures and removal of trees at 5 – 7 Byron Avenue, Campbelltown. The land is legally known as Lots 111 – 117 in DP 213085.

The proposal involves the demolition of seven existing dwellings, removal of thirteen trees, construction of fifteen ground floor units, ten first floor units, thirteen car parking spaces and provision of landscaping. The seven existing lots will be consolidated to form one title.

The proposal has a capital investment value over \$5 million and is lodged on behalf of the Crown by the NSW Land & Housing Corporation. The consent authority is the Joint Regional Planning Panel.

## 2. The Site and Surrounds

The subject site contains seven single storey residential dwellings and ancillary structures located on seven Torrens title allotments.

The site has a combined land area of 3,983.6 square metres with a frontage of approximately 125.1 metres to Byron Avenue.

The site has a slope of approximately 2.1 metres from the south-eastern corner of the site to the north-western corner.

The site contains thirteen trees comprising of exotic and native species.

The site is situated within an established residential neighbourhood mainly characterised by single storey detached dwellings. Other forms of development such as dual occupancies and multi-dwellings are present within the locality.

The site is located approximately 80 metres from bus stops located on Burns Road, 1.3 kilometres to Leumeah railway station and 1.5 kilometres to the Campbelltown central business district.



**Figure 1: Aerial Photograph of Subject Site Outlined in Red**

### 3. The proposal

The application seeks approval for the following works:

- Demolition of existing dwellings and ancillary structures,
- Removal of thirteen trees,
- Construction of fifteen x 2 bedroom and ten x 1 bedroom units,
- Construction of thirteen car parking spaces,
- Provision of landscape planting,
- Construction of a drainage easement and provision of four underground detention tanks, and
- Consolidation of allotments to form one title.

Eight two storey buildings, four shared foyers and one single storey building would front Byron Avenue.

The proposed development would replace the ageing fibro dwellings with architecturally designed, brick veneer buildings.

The Land and Housing Corporation would certify the building works as complying with the Building Code of Australia under Section 109R of the Environmental Planning and Assessment Act 1979.

### 4. Assessment

The development has been assessed in accordance with the matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration.

#### 4.1 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

Under the BASIX SEPP, a BASIX Certificate is required to be submitted for the proposed development. A BASIX Certificate has been submitted with the application, demonstrating the proposed development would achieve the relevant water, energy and thermal comfort targets. The BASIX commitments specified within the certificate have been shown on the plans.

#### 4.2 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

SEPP (Housing for Seniors or People with a Disability) 2004 applies to the proposed development. The proposed development is defined under this policy as *“in-fill self-care housing”*, being *“seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.”*

An assessment of the application against the clauses in the SEPP relevant to the proposal is presented below:

## **Clause 26      Location and access to facilities**

Clause 26 of the SEPP requires that a seniors living development must be located within 400 metres of shops, banks, retail services, community and recreation services and a general practitioner, or be located within 400 metres of public transport that will take residents to within 400 metres of these facilities. Suitable access pathways between the site and the public transport service, and between the public transport service and the facilities, with a gradient of no greater than 1:14, must be available.

### Comment

Two bus stops are located within 400 metres of the site, near the intersection of Burns Road and Byron Avenue, which forms part of regular services to the Leumeah and Campbelltown town centres.

The applicant has agreed to construct a 1.2m wide sealed footpath to provide access from the proposed development to the existing footpath on the corner of Burns Road. The applicant also agreed to construct a pedestrian refuge island within Burns Road, associated pram ramps, signposting and line marking so as to provide suitable access to the bus stop located on the northern side of Burns Road. These matters have been included as conditions of consent.

## **Clause 27      Bushfire prone land**

Clause 27 of the SEPP requires that a consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land identified on a bush fire prone land map certified under section 146 of the Act as “Bush fire prone land—vegetation category 1”, “Bush fire prone land—vegetation category 2” or “Bush fire prone land—vegetation buffer” unless the consent authority is satisfied that the development complies with the requirements of the document titled *Planning for Bush Fire Protection*.

### Comment

The site is not identified as being bushfire prone.

## **Clause 28      Water and sewer**

Clause 28 of the SEPP requires that a consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.

### Comment

The applicant has submitted survey plan which shows the presence of existing water and sewer infrastructure. It is considered the proposed development would be capable of being connected to existing infrastructure. A condition of consent has been included requiring a Section 73 Certificate to be obtained from Sydney Water.

**Clause 29      Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply (no site compatibility certificate needed)**

Under clause 29 of the SEPP, the consent authority is to consider whether the proposed development is compatible with the surrounding land uses having regard to (at least) the following criteria:

- (i) *the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,*
- (iii) *the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,*
- (v) *without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.*

**Comment**

The proposed development is considered to be compatible with the natural environment and the existing land uses in the vicinity of the site. The site is considered to be adequately serviced and the design is considered appropriate in its urban context.

**Clause 31      Design of in-fill self-care housing**

Pursuant to Clause 31 of the SEPP, in determining a development application made pursuant to this Chapter to carry out development for the purpose of in-fill self-care housing, a consent authority must take into consideration the provisions of the *Seniors Living Policy: Urban Design Guideline for Infill Development* published by the Department of Infrastructure, Planning and Natural Resources in March 2004.

The 'rules of thumb' are discussed below.

<b>Seniors Living Policy: Urban Design Guidelines for Infill Development</b>			
<b>Control</b>	<b>Rules of Thumb</b>	<b>Proposed</b>	<b>Compliance</b>
<b>Landscaping</b>	The proportion of the site given to landscaped area and deep soil should be increased in less urban areas, on large lots, and in areas already characterised by a high proportion of open space and planting.	The proportion of landscaped area for the site is considered appropriate.	Yes
		Planting within front setbacks minimises impacts of the development on the streetscape. Planting at the rear of the development reduces impacts of the development on neighbours.	Yes

		<p>Trees to be removed would be replaced with semi-mature trees.</p> <p>Landscaping enhances amenity by providing planting around driveways, pedestrian paths, boundary fences and dwelling entries.</p> <p>Deep soil zones facilitate absorption of run-off. Porous pavement minimises the impact of stormwater runoff.</p> <p>On-site detention enables the retention of stormwater on site for re-use.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<b>Character</b>	Respond to Council planning instruments that specify the character or desired character for the area.	<p>The proposal is consistent with the desired character of the area in terms of building mass, building separation and articulated building facades.</p> <p>Variations would be provided in materials, colours and openings (windows, balconies, doors).</p> <p>Roof design incorporates smaller gable elements to break down the visual bulk of the buildings. Roof pitch is sympathetic to existing dwellings within the street.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<b>Front Setback</b>	Where there is a consistent front building alignment, new development should not encroach on the front setback.	<p>The proposal would command the majority of the front setback line on the western frontage of Byron Avenue.</p> <p>The proposed front setbacks of 5.5m relate to adjoining buildings.</p> <p>The open space within the front setbacks is defined as private open</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

		<p>space through the use of planting, picket fencing and footpaths.</p> <p>The proposed street front dwellings are designed to address the street and pedestrian entries are accessible directly from the street.</p> <p>Bin storage areas have been setback from the street and screened with planting to minimise visual impact.</p>	<p>Yes</p> <p>Yes</p>
<b>Driveways</b>	Driveways or car park entries should not exceed 25% of the site frontage.	<p>Two proposed driveways. The width of both entries is less than 25% of the site frontage.</p> <p>Variations in driveway alignment provide relief and reduce visual dominance. Edges of driveways are softened through the use of planting. Vistas at the end of driveways are finished with planting. Car parking spaces are located to minimise visibility from the street.</p> <p>The proposal does not involve any garages or basement parking.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<b>Side Setback</b>	Where side setbacks are less than 1.2m, a maximum of 50% of the development should be built to this alignment.	<p>Side setbacks are greater than 1.2m.</p> <p>Side setbacks are sympathetic to the side setbacks of neighbouring dwellings.</p>	<p>Yes</p> <p>Yes</p>
<b>Wall Length</b>	The length of unrelieved walls along narrow side or rear setbacks should not exceed 8 metres.	<p>The length of unrelieved walls along side or rear setbacks is less than 8 metres.</p> <p>The dwellings are designed to reduce the impact of bulk and scale on adjoining buildings.</p>	<p>Yes</p> <p>Yes</p>
<b>Direct Sunlight</b>	Living rooms of	Living rooms of	Yes



	neighbouring dwellings should receive a minimum 3 hours direct sunlight between 9:00am – 3:00pm in mid-winter.	neighbouring dwellings receive a minimum of 3 hours direct sunlight between 9:00am – 3:00pm in mid-winter.  The extent of overshadowing to neighbouring dwellings is reduced through the use of appropriate building separation.	Yes
<b>Solar Access</b>	Solar access to the private open space of neighbouring dwellings should not be unreasonably reduced.	Neighbouring private open space receives adequate solar access.	Yes
<b>Privacy</b>	Separation of 1.2 metres should be achieved between habitable rooms and driveway or car parks of other dwellings. This may be reduced if adequate screening is provided.	Habitable rooms are appropriately separated or screened from internal driveways by footpaths, planting and raised window sill heights.  Upper storey levels have been designed to minimise overlooking of neighbouring properties.	Yes  Yes

### **Clause 33 Neighbourhood amenity and streetscape**

Pursuant to clause 33 of the SEPP, the proposed development should:

- (a) *recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and*

#### Comment

The proposed development is considered to contribute positively to the streetscape and residential character of the area.

- (b) *retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and*

#### Comment

There are no heritage items on the site or in the local vicinity.

(c) *maintain reasonable neighbourhood amenity and appropriate residential character by:*

(i) *providing building setbacks to reduce bulk and overshadowing, and*

Comment

The buildings are setback a minimum of 5.5 metres from the street to reduce visual bulk. The majority of overshadowing is confined within the development and street frontage. The neighbouring property to the south-west receives shadows at 9:00am which would pass as daytime progresses.

(ii) *using building form and siting that relates to the site's land form, and*

Comment

The buildings are designed to address the street frontage with car parking located to the rear and away from the road.

(iii) *adopting building heights at the street frontage that are compatible in scale with adjacent development, and*

Comment

The proposed development includes one and two storey buildings deemed to be compatible with existing and future development in the area.

(iv) *considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and*

Comment

Buildings are not located on the boundary.

(d) *be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and*

Comment

The front buildings of the development are setback a minimum of 5.5 metres from the street and screened with landscaping. These setbacks would be sympathetic to the setbacks of other residential dwellings within the street.

(e) *embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and*

Comment

The proposed landscaping is appropriate and suitable for the streetscape.

(f) *retain, wherever reasonable, major existing trees, and*

Comment

The arborist report submitted with the application identifies thirteen trees/shrubs that would require removal.

No vegetation would be retained as part of the development as it is located within the area of the proposed building works, earthworks and footpaths.

Two native trees would be removed, being River Peppermints with heights of 10 metres and 14 metres.

It is considered the proposed removal of vegetation is satisfactory as it will be offset by the planting of species listed in Campbelltown's Native Gardening Guide.

- (g) *be designed so that no building is constructed in a riparian zone.*

Comment

There are no riparian zones on the site.

**Clause 34 Visual and acoustic privacy**

Pursuant to clause 34 of the SEPP, the proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:

- (a) *appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and*

Comment

The development has been designed to minimise overlooking between units and there would be negligible overlooking opportunities to adjoining development.

Privacy screens would be erected on the rear balconies of unit 4 and unit 25 to reduce potential overlooking of the neighbouring swimming pool and private open space.

Windows and balconies are considered to be adequately distanced from the private open space of neighbouring dwellings. Mature landscaping would also assist in screening views to neighbouring properties.

The proposed development includes landscape planting adjacent to Byron Avenue to provide a visual screen to and from the development. The use of planting within the development would reinforce privacy between pathways and private courtyards.

- (b) *ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.*

Comment

Bedroom windows are suitably located to avoid impacts from the use of driveways, parking areas and paths.

It is noted the bedroom window of unit 3 adjoins the driveway. The west elevation shows the window would have sill height above the height of a typical motor vehicle which would assist in reducing the direct transmission of noise, while also providing passive surveillance opportunities to the car park area.

### **Clause 35     Solar access and design for climate**

Pursuant to clause 35 of the SEPP, the proposed development should:

- (a) *ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and*

#### Comment

The shadow diagrams show that neighbouring properties would receive adequate daylight to private open space. Other than units 20 and 21, all living areas within the development would obtain solar access. Other than units 10 and 23, all private open spaces within the development would obtain solar access.

- (b) *involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.*

#### Comment

The windows of living areas of the units are orientated in a northerly direction to maintain heat and light during the day.

### **Clause 36     Stormwater**

The proposed development should:

- (a) *control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and*

#### Comment

The development incorporates landscaped areas to facilitate infiltration and a stormwater system to capture and dispose of stormwater.

- (b) *include, where practical, on-site stormwater detention or re-use for second quality water uses.*

#### Comment

The development includes four underground detention tanks which enables the reuse of water.

### **Clause 37     Crime prevention**

The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:

- (a) *site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and*

#### Comment

Habitable room windows facing the street and visually penetrable fencing would assist observation of approaches to dwelling entries from within dwellings.

General observation of communal and public areas would be provided from porches, balconies and habitable room windows.

- (b) *where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and*

#### Comment

Shared entries serving the units are capable of being locked.

- (c) *providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.*

#### Comment

Small windows adjoining front doors and habitable room windows facing the street would enable residents to see who approaches their dwelling without the need to open the front door.

### **Clause 38     Accessibility**

The proposed development should:

- (a) *have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and*

#### Comment

The proposed development has a number of pedestrian pathways which provide access to the bus stops located near the intersection of Burns Road and Byron Avenue.

- (b) *provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.*

#### Comment

Car parking is provided to the rear of the site surrounded by landscaping. Pedestrian pathways located adjacent to car parks would offer convenient and safe access for residents and visitors.

### **Clause 39     Waste management**

*The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.*

#### Comment

Two communal waste storage facilities are proposed in accessible locations on the site.

A Waste Minimisation and Management Plan has been submitted to accompany the development application.

#### **Clause 40 Development standards – minimum sizes and building height**

Pursuant to clause 40 of the SEPP, a consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified:

<b>Control</b>	<b>Required</b>	<b>Proposed</b>	<b>Compliance</b>
<b>Site size</b>	Min. 1,000m <sup>2</sup>	3,983.6m <sup>2</sup>	Yes Although not applicable to Land & Housing Corp (cl 40(5)(a))
<b>Site frontage</b>	Min. 20 metres wide	Approx. 125.1m	Yes Although not applicable to Land & Housing Corp (cl 40(5)(a))
<b>Height</b>	Where RFBs not permitted, 8 metres  2 storeys for buildings adjacent to boundary  1 storey for buildings in rear 25% of site	RFBs not permitted in zone. All buildings <8m  2 storeys  1 storey	Yes  Yes  Yes Although not applicable to Land & Housing Corp (cl 40(5)(a))

#### **Clause 41 Standards for self-contained dwellings**

Pursuant to clause 41 of the SEPP, a consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purpose of a hostel or self-contained dwelling unless the proposed development complies with the standards specified in Schedule 3 for such development. Despite the provisions of clauses 2, 7, 8, 9, 10, 11, 12, 13 and 15 – 20 of Schedule 3, a self-contained dwelling, or part of such a dwelling, that is located above the ground floor in a multi-storey building does not have to comply with the requirements of those provisions if the development application is made by, or by a person jointly with, a social housing provider.

Compliance with the key clauses is outlined below:

##### **Wheelchair access**

*If the whole of the site has a gradient of less than 1:10, 100% of the dwellings must have wheelchair access by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road.*

##### Comment

100% of ground floor dwellings would be wheelchair accessible, including common areas.

## Private car accommodation

If car parking (not being car parking for employees) is provided:

*Car parking spaces must comply with the requirements for parking for persons with a disability set out in AS 2890, and 5% of the total number of car parking spaces (or at least one space if there are fewer than 20 spaces) must be designed to enable the width of the spaces to be increased to 3.8 metres.*

### Comment

Six accessible car parking spaces would be provided, capable of meeting the requirements of AS2890.

## Lifts in multi-storey buildings

*In a multi-storey building containing separate self-contained dwellings on different storeys, lift access must be provided to dwellings above the ground level of the building by way of a lift complying with clause E3.6 of the Building Code of Australia.*

### Comment

No lifts are proposed nor required by virtue of clause 41(2) of the SEPP as the application is made by a social housing provider.

## Garbage

*A garbage storage area must be provided in an accessible location.*

### Comment

Two communal waste storage facilities are proposed in accessible locations on the site.

## **Clause 50 Standards that cannot be used to refuse development consent for self-contained dwellings**

A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a self-contained dwelling (including in-fill self-care housing and serviced self-care housing) on any of the following grounds:

Control	Required	Proposed	Compliance
<b>Building height</b>	Max. 8 metres	All <8 metres	Yes
<b>Density and scale</b>	Max. FSR 0.5:1	0.5:1	Yes
<b>Landscaped area</b>	35m <sup>2</sup> landscaping per dwelling	>35m <sup>2</sup> landscaping per dwelling on the site.	Yes
	(25 x 35m <sup>2</sup> = 875m <sup>2</sup> )	>875m <sup>2</sup>	Yes
<b>Deep soil zones</b>	15% of site area	>15% of site area	Yes
	3m width	>3m wide	Yes
<b>Solar access</b>	70% of dwellings have	23 dwellings have 3	Yes

	3 hours of solar access to living rooms and POS on 21 June between 9am and 3pm	hours solar access to living areas. All POS areas receive 3 hours of solar access.	Yes
<b>Private open space</b>	Ground floor dwelling – 15m <sup>2</sup> POS incl. 3m X 3m area	All ground floor POS complies	Yes
	First floor dwelling – balcony with min. area of 10m <sup>2</sup> (6m <sup>2</sup> for 1 bedroom dwelling), min. width 2m and accessible from living area	All first floor balconies comply	Yes
<b>Parking</b>	1 car space per 5 dwellings for social housing provider	5 spaces needed; 13 spaces provided	Yes

## 5. Campbelltown (Urban Area) Local Environmental Plan 2002

The subject site is within the 2(b) - Residential B Zone of the Campbelltown Local Environmental Plan 2002 (CLEP).

The objectives of the 2(b) Residential B Zone are provided as follows:

- (a) *to make general provision for land to be used for housing and associated purposes, and*
- (b) *to permit the development of a range of housing types, and*
- (c) *to encourage a variety of forms of housing that are higher in density than traditional dwelling houses, including accommodation for older people and people with disabilities, in locations which are accessible to public transport, employment, retail, commercial and service facilities, and*
- (d) *to allow the carrying out of a reasonable range of activities from dwellings, where such activities are not likely to adversely affect the amenity of the locality, and*
- (e) *to allow development which:*
  - (i) *is compatible with residential use, and*
  - (ii) *is capable of visual integration with the surrounding buildings, and*
  - (iii) *serves the needs of the surrounding population without conflicting with the residential intent of the zone, and*
  - (iv) *does not place demands on services beyond the level reasonably required for residential use.*



*Except as otherwise provided by this plan, consent must not be granted for development on land within this zone unless the consent authority is of the opinion that carrying out the proposed development would be consistent with one or more of the objectives of this zone.*

*A further objective of this zone is to encourage a high quality standard of development which is aesthetically pleasing, functional and relates sympathetically to nearby and adjoining development.*

It is a requirement of CLEP that development must be consistent with at least one of the zone objectives in order to grant development consent. The proposed development is considered to encourage a variety of forms of housing that are higher in density than traditional dwelling houses, including accommodation for older people and people with disabilities, in locations which are accessible to public transport, while also being compatible with residential use and capable of integrating with surrounding buildings.

Therefore, it is considered that the development is consistent with the relevant zone objectives as required by CLEP.

Under CLEP, the proposed development would be defined as a “residential flat building” as it is “*a building containing two or more dwellings which achieve access from shared foyers, halls or stairways*”. Residential flat buildings are prohibited within the 2(b) - Residential B Zone therefore the proposal is reliant upon the Seniors SEPP for its permissibility.

This inconsistency between planning instruments is prevailed in favour of the SEPP by virtue of Clause 2(2) of the SEPP which sets aside local environmental planning instruments where they would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in the SEPP.

Accordingly, it has been demonstrated the proposed development is consistent with the relevant criteria and standards and consent could be granted.

## **6. Draft Campbelltown Local Environmental Plan 2014**

The Draft Campbelltown Local Environmental Plan 2014 has been considered in the assessment of the proposed development. The draft planning instrument was placed on public exhibition between 12 June 2014 and 8 August 2014 and has not been gazetted.

Under the draft planning instrument the site is zoned R2 Low Density Residential. “Seniors housing (residential care facilities)” is permitted with consent in the zone.

“Seniors housing” is defined as follows:

*...means a building or place that is:*

- (a) a residential care facility, or*
- (b) a hostel within the meaning of clause 12 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or*
- (c) a group of self-contained dwellings, or*
- (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c),*

*and that is, or is intended to be, used permanently for:*

- (e) seniors or people who have a disability, or*
- (f) people who live in the same household with seniors or people who have a disability, or*
- (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place, but does not include a hospital.*

The proposed development is consistent with the definition of seniors housing as the proposal involves a group of self-contained dwellings that are intended to be used permanently for seniors or people that have a disability.

“Residential care facility” is defined as follows:

*...means accommodation for seniors or people with a disability that includes:*

- (a) meals and cleaning services, and*
- (b) personal care or nursing care, or both, and*
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,*

The proposed development is not considered to meet the definition of residential care facility as the proposal does not involve meals, cleaning services, personal care, nursing care and staffing. Whilst the proposed development is consistent with the definition of seniors housing, it is considered the proposal does not meet the definition of seniors housing (residential care facility) as the proposal does not involve aspects of a residential care facility.

Notwithstanding, as outlined previously, the inconsistency in permissibility between planning instruments is prevailed in favour of the SEPP by virtue of Clause 2(2) of the SEPP and consent could be granted.

The development is complementary to several zone objectives, including:

- To provide for the housing needs of the community within a low density residential environment.*
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- To enable development for purposes other than residential only if that development is compatible with the character of the living area and is of a domestic scale.*
- To minimise overshadowing and ensure a desired level of solar access to all properties.*
- To facilitate diverse and sustainable means of access and movement.*

While not expressly permitted within the R2 Low Density Residential zone under the draft planning instrument, the proposal is not inconsistent with the objectives of the zone.

## **7. Campbelltown (Sustainable City) Development Control Plan 2014**

Campbelltown (Sustainable City) Development Control Plan (SCDCP) applies to the land and the proposed development. The SCDCP provides objectives and controls for development that has regard to natural and built environments.

The relevant chapters are discussed below.

### **7.1 Site Analysis**

Part 2.2 of SCDCP requires a site analysis plan to be lodged with the development application. A site analysis plan has been submitted and is considered adequate.

### **7.2 Views and Vistas**

Part 2.3 of SCDCP requires development to respond to important views to and from public places, protect district views and create new opportunities for vista corridors. It is considered the proposal would be at an appropriate height and scale and would have an acceptable impact on views in the locality.

### **7.3 Sustainable Building Design**

Part 2.4 of SCDCP encourages building design to reduce energy consumption and recycle water. The proposal incorporates underground rainwater tanks to collect and reuse water for landscape irrigation, appropriately placed windows to encourage cross flow ventilation and solar (electric boosted) hot water systems. A BASIX Certificate has been submitted which specifies how the proposal would achieve the required water, energy and thermal comfort commitments.

### **7.4 Erosion and Sediment Control**

Part 2.7 of SCDCP requires the potential loss of soil from a site into the stormwater system to be prevented by appropriate planning and interception. Erosion and Sediment Control Plans have been submitted and are considered suitable.

### **7.5 Cut, Fill and Floor Levels**

Part 2.8 of SCDCP seeks that earthworks associated with the development appropriately responds to the site and the amenity of adjoining properties. The proposed development requires a certain amount of earthworks in order to construct the development, particularly to establish level building pads, car parks, footpaths and to facilitate stormwater drainage from the land. The proposal is considered suitable in this instance.

### **7.6 Demolition**

Part 2.9 of the SCDCP requires that demolition works be undertaken in accordance with the relevant statutory requirements and guidelines. Appropriate conditions of consent have been included to ensure public safety and WorkCover requirements are met.

### **7.7 Retaining Walls**

Part 2.12 of SCDCP seeks to ensure that retaining walls visible from public places are compatible with the character of the streetscape. There are no retaining walls fronting Byron Avenue. The retaining walls used to support fill to the rear of the site do not raise any privacy, overshadowing or storm water concerns.

## **7.8 Waste Management**

Part 2.15 of SCDCP seeks to ensure that safe, healthy and convenient waste practices for the storage, handling and collection of waste materials. A Waste Minimisation and Management Plan has been submitted detailing the type, quantity and disposal locations of demolition and construction waste. Details of ongoing residential waste management have been provided. Waste management arrangements are considered suitable and appropriate conditions of consent have been included.

## **8. Campbelltown City Council Section 94A Development Contributions Plan 2011**

The Campbelltown City Council Section 94A Development Contributions Plan 2011 applies to the subject site. Pursuant to a Ministerial direction dated 10 November 2006 under Section 94E of the Environmental Planning and Assessment Act 1979; a consent authority must not impose a levy under Section 94A of the Act for the sole purpose of affordable housing. Therefore it is considered the payment of levy is not applicable.

## **9. The Likely Impacts of the Development**

Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979 requires the JRPP to assess the development's potential impacts on the natural and built environment, as well as potential social and economic impacts.

### **9.1 Impacts on the Natural and Built Environment**

The overall building design consists of articulated facades and is in keeping with the existing and desired future character of the area. It is considered the proposal is of an acceptable built form, in terms of scale, massing and articulation.

The design of the proposal has given satisfactory regard to existing adjoining residential dwellings, in terms of privacy, separation, views and overshadowing.

It is considered the proposal would enhance the appearance of the built environment as the existing aged dwellings will be demolished and replaced with architecturally designed dwellings.

All trees to be removed would be appropriately offset with new landscape planting which would present attractively to the street and complement surrounding buildings.

### **9.2 Social and Economic Impacts**

Socially, the proposal would contribute to the supply and choice of housing for seniors and people with a disability within Campbelltown. The location of the site would benefit from the services offered by the Campbelltown city centre through convenient access to public transport.

Economically, it is considered the proposal may employ local tradespeople for the construction of the development.

## 10. Site Suitability

Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979 requires the JRPP to assess the suitability of the site for the proposed development.

It is considered the proposed development is of a scale and design that is suitable for the site. The proposal responds well to site conditions terms of its size, shape, topography and relationships to adjoining dwellings.

No constraints or hazards have been identified which would deem the site unsuitable for the proposed development.

## 11. Submissions

Section 79C(1)(d) of the Environmental Planning and Assessment Act 1979 requires the JRPP to consider submissions made to the proposal.

### 11.1 Internal Referrals

Department	Comments
Engineering	Approval subject to conditions
Traffic	Approval subject to conditions
Environment	Approval subject to conditions
Waste	Approval no issues raised

### 11.2 Accessibility Committee

Concerns	Comments
One egress for three units on the upper level may put resident's lives at risk in the event of a fire.	The Crown would certify the building works as complying with the Building Code of Australia under Section 109R of the EPAA 1979.
Lack of car parking spaces.	Must not refuse consent if minimum car parking spaces are provided under Clause 50 (h) of the SEPP. It is noted that a minimum of 5 spaces is required however 13 spaces would be provided.
Installation of a mobility chair on stairs for residents and visitors.	Applicant does not want to install lifts. Social housing provider is not required to install lifts under Clause 41(2) of the SEPP.

### 11.3 Public Participation

The application was notified between 25 May 2015 and 8 June 2015 to nearby and adjoining properties. During the notification period, three submissions were received. A discussion of the matters raised is below.

**Issue 1:** Potential domestic disturbances caused by residents associated with the development.

**Comment:** Following occupation of the development, noise levels expected for a development of this type and nature are considered to be compatible with that of a residential locality.

It is considered that as the proposed development does not include any communal recreation facilities, the potential for antisocial behaviour would be reduced.

**Issue 2:** Potential increases in noise and traffic caused by the higher number of residents.

**Comment:** Whilst it is acknowledged the proposal would increase the number of dwellings and that common noise levels are likely to increase in the vicinity of the site, the SEPP permits higher density housing and it is considered that the proposal is acceptable in his regard.

The separation of the proposed development from adjoining properties would assist in reducing noise impacts upon neighbouring properties.

Construction noise is considered to be temporary and acceptable.

The proposal has provided sufficient on-site car parking which exceeds the minimum requirements under the SEPP.

The site also benefits from a wide frontage which would enable vehicles to park adjacent to the site under local traffic regulations.

It is considered that the traffic generated by the development would not have an unacceptable impact on the surrounding road network.

**Issue 3:** Potential dust and noise concerns caused by construction activity.

It is acknowledged the proposed construction works would generate dust and noise impacts. Appropriate conditions of consent have been included to mitigate impacts on nearby and adjoining residences.

**Issue 4:** Potential decrease in surrounding property prices due to the increase in housing provided in the community.

**Comment:** The proposed development would be used to provide housing for seniors and people with disabilities, of which it is recognised there is a need for this type of housing within the community.

**Issue 5:** Potential block of views caused by the two storey development.

**Comment:** Having regard to the slope of the surrounding land, it is considered the proposed development may obscure views of the horizon to a certain extent; however the views involved are not considered to be significant view corridors worthy of protection. The height of the proposed development is considered acceptable with its urban context.

## **12. The Public Interest**

Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979 requires the JRPP to consider the public interest in consenting to a development application.

The proposed development is considered to be generally in the public interest as would increase the supply of housing to meet the needs of seniors and people with a disability. The

proposal is considered to achieve the objectives of the planning controls whilst representing good building design.

### **13. Conclusion**

Development Application DA-1241/2015/DA-SL has been assessed under the provisions of the Environmental Planning and Assessment Act 1979.

The subject site is zoned 2(b) - Residential B Zone under the Campbelltown (Urban Area) Local Environmental Plan 2002. The proposal is defined as “residential flat building” which is not permissible within the zone.

The subject site is proposed to be zoned R2 Low Density Residential under the Draft Campbelltown Local Environmental Plan 2014. The proposal is defined as “seniors housing” which is not permissible within the zone.

While not expressly permitted within the zones, the proposal is not inconsistent with the objectives of the zones.

Despite the zoning provisions, pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 the proposed development is permissible.

Pursuant to Clause 2(2) of SEPP, the provisions of the local environmental planning instruments are set aside where they would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in the SEPP.

The proposed development has demonstrated that it is consistent with the relevant criteria and standards, therefore the provisions of the local environmental planning instruments can be set aside.

The proposed development has been assessed against the relevant development controls, impacts on the natural and built environment, suitability of the site for the development and issues raised within public submissions.

The proposed development is considered to be generally in the public interest.

The Crown has examined the draft conditions of consent pursuant to Section 89 of the Environmental Planning and Assessment Act.

The development application is recommended for approval subject to the draft conditions of consent.

### **14. Recommendation**

That development application number: 1241/2015/DA-SL (JRPP No: 2015SYW112) for the construction of 15 x 2 bedroom and 10 x 1 bedroom seniors living units, demolition of existing structures and removal of trees at Lots 111 - 117 DP 213085, 5 – 17 Byron Avenue be approved subject to the draft conditions in Attachment 1.

## **15. Attachments**

**Attachment 1:** Recommended Conditions of Consent

**Attachment 2:** Development Application Plans

**Attachment 3:** Arboricultural Assessment and Impact Report

**Attachment 4:** BASIX Certificate

**Attachment 5:** Waste Minimisation and Management Plan