

**SOUTHERN REGIONAL PLANNING PANEL**

SRPP No	<b>2018STH015</b>
DA Number	<b>DA-2018/557</b>
Local Government Area	Wollongong City
Proposed Development	Demolition of existing 45 bed residential aged care facility and construction of new 111 bed residential aged care facility and conversion of existing 44 hostel bed facility to 22 serviced self-care dwellings with community /ancillary spaces, reconfiguration of and additional car parking and associated landscaping and infrastructure works plus tree removals
Street Address	4 Lindsay Evans Place, Dapto Lot 1 DP 1082602
Applicant/Owner	Anglican Community Services c/o Minto Planning Services
Number of Submissions	Two (2) submissions received
Regional Development Criteria (Clause 4.5(b) of the Act and SEPP (State and Regional Development) 2011)	The proposal has been referred to the Regional Planning Panel as the consent authority under Clause 4.5(b) of the Environmental Planning & Assessment Act 1979, as the proposal is general development with a capital investment value over \$30 million and is therefore defined as Regionally Significant Development under the SEPP (State and Regional Development) 2011, Schedule 7, Clause 2.  The applicant's CIV estimate for the project is \$30,598,778.
List of All Relevant s4.15(1)(a) Matters	List of relevant Acts of Legislation <ul style="list-style-type: none"> <li>▪ NSW Biodiversity Conservation (BC) Act 2016</li> <li>▪ Commonwealth Environmental Protection and Biodiversity Act (EPBC) 1999</li> </ul> List all of the relevant environmental planning instruments: s4.15(1)(a)(1) – <u>State Environmental Planning Policies (SEPPs):</u> <ul style="list-style-type: none"> <li>▪ SEPP No. 55 – Remediation of Land;</li> <li>▪ SEPP (Housing for Seniors or People with a Disability) 2004;</li> <li>▪ SEPP 65 - Design Quality of Residential Apartment Development;</li> <li>▪ SEPP (Infrastructure) 2007;</li> <li>▪ SEPP (State and Regional Development) 2011; and</li> <li>▪ SEPP (Building Sustainability Index: BASIX) 2004.</li> </ul> <u>Local Environmental Planning Policies:</u> <ul style="list-style-type: none"> <li>▪ Wollongong Local Environmental Plan (WLEP) 2009</li> </ul> <u>Other policies</u> <ul style="list-style-type: none"> <li>• Wollongong City-Wide Development Contributions Plan 2018</li> </ul> List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s4.15(1)(a)(ii)

	<ul style="list-style-type: none"> <li>▪ Nil</li> </ul> <p>List any relevant development control plan: s4.15(1)(a)(iii)</p> <ul style="list-style-type: none"> <li>▪ Wollongong Development Control Plan (WDGP) 2009</li> </ul> <ul style="list-style-type: none"> <li>• List any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4: s4.15(1)(a)(iiia) <ul style="list-style-type: none"> <li>– Nil</li> </ul> </li> <li>• List any relevant regulations: s4.15(1)(a)(iv) eg. Regs 92, 93, 94, 94A, <ul style="list-style-type: none"> <li>– Clause 92 AS 2601 in respect of any demolition</li> <li>– Clause 94 requiring buildings to be upgraded with the development involving the rebuilding, alteration, enlargement or extension of an existing building Clause 168 in respect of</li> <li>– Clause 168 in respect to a fire safety schedule</li> </ul> </li> </ul>
List all documents submitted with this report for the panel's consideration	<p>Attachment 1 – Plans – Architectural, Landscape</p> <p>Attachment 2 – Aerial photograph, WLEP 2009 zoning map and extract of deposited plan</p> <p>Attachment 3 – Design Review Panel meeting minutes and recommendations</p> <p>Attachment 4 – Applicant's response to Design Review Panel</p> <p>Attachment 5 – Biodiversity Assessment Report (BDAR)</p> <p>Attachment 6 – Vegetation Management Plan (VMP)</p> <p>Attachment 7 – Arborist Report</p> <p>Attachment 8 – SEPP 65 Assessment</p> <p>Attachment 9 – Clause 4.6 Exception Request – Building height</p> <p>Attachment 10 – Draft conditions</p>
Recommendation	DA-2018/557 be approved subject to the conditions contained within <b>Attachment 10.</b>
Report by	Vivian Lee, Senior Development Project Officer

### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not**

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions* **Applicable**

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**Conditions**

Have draft conditions been provided to the applicant for comment? **Yes**

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

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## Assessment Report and Recommendation Cover Sheet

### Executive Summary

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#### Reason for consideration by Regional Planning Panel

The proposal has been referred to the Regional Planning Panel as the consent authority pursuant to Section 4.5(b) of the Environmental Planning and Assessment Act (EP&A) 1979, as it involves general development with a capital investment value of more than \$30 million which is defined as Regionally Significant Development under State Environmental Planning Policy (State and Regional Development) 2011, Schedule 7, Clause 2.

#### Proposal

The proposal comprises of the demolition of existing 45 bed residential care facility (RCF) and construction of new 111 bed residential care facility and conversion of existing 44 hostel bed facility to 22 serviced self-care dwellings with community /ancillary spaces, reconfiguration of and additional car parking and associated landscaping and infrastructure works plus tree removals.

#### Permissibility

The site is zoned R2 Low Density Residential pursuant to Wollongong Local Environmental Plan (WLEP) 2009. The proposal is categorised as seniors housing and permissible in the R2 zone. However, the application has nominated and relies upon SEPP (Housing for Seniors and People with a Disability) 2004 for the purpose of permissibility, where the proposal is permissible with development consent.

#### Consultation

The proposal was notified in accordance with Council's Wollongong Development Control Plan (WDCP) 2009 Appendix 1: Public Notification and Advertising. The application was notified twice during the assessment and a total of two (2) submissions were received in relation to demolition and construction works, traffic and access and the impacts of development on the local road network.

#### Main Issues

The main issues arising from the assessment are:-

- Building Height
- Design of proposal in the context of the landscape setting of the site
- Impacts on Endangered Ecological Communities (EECs) – Illawarra Lowland Grassy Woodlands (ILGW)

#### Conclusion

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979. The proposed development is permissible with consent and is reflective of the objectives of the R2 Low Density Residential zone.

The proposal seeks an exception to a development standard relating to building height. It is considered that the clause 4.6 exception request provided addressing this matter is satisfactory, and as such the exception is capable of support.

The development is generally consistent with the applicable provisions of the relevant planning instruments including SEPP (Housing for Seniors or People with a Disability) 2004, SEPP 65, SEPP (Infrastructure), SEPP 55, SEPP (Building Sustainability Index: BASIX) 2004 and Wollongong Local Environment Plan 2009.

The proposal seeks an exception to Wollongong Local Environmental Plan 2009 development standard relating to building height. It is considered that the clause 4.6 exception request provided addressing this matter is satisfactory, and as such the exception is capable of support. The design of the development is appropriate with regard to the controls outlined in the Wollongong DCP 2009.

It is considered that the proposed development is unlikely to result in adverse impacts on the character or amenity of the surrounding area, environment and adjoining development.

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## RECOMMENDATION

DA-2018/557 be approved subject to the conditions provided in **Attachment 10**.

## 1. APPLICATION OVERVIEW

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### 1.1 PLANNING CONTROLS

The following planning controls apply to the development:

#### Relevant Acts of Legislation:

- NSW Biodiversity Conservation Act (BC) 2016
- Commonwealth Environmental Protection and Biodiversity Act (EPBC)1999

#### State Environmental Planning Policies:

- SEPP No. 55 – Remediation of Land
- SEPP (Housing for Seniors or People with a Disability) 2004
- SEPP 65 - Design Quality of Residential Apartment Development
- SEPP (Infrastructure) 2007
- SEPP (State and Regional Development ) 2011
- SEPP (Building Sustainability Index: BASIX) 2004

#### Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

#### Development Control Plans:

- Wollongong Development Control Plan (WDCP) 2009

#### Other policies

- Wollongong City-Wide Development Contributions Plan 2018

### 1.2 PROPOSAL

The proposal seeks consent for the demolition of existing 45 bed residential care facility and construction of new 111 bed residential care facility with the conversion of existing 44 hostel bed facility to 22 serviced self-care dwellings with community /ancillary spaces, reconfiguration of and additional car parking and associated landscaping and infrastructure works plus tree removals. Site layout and Architectural details are provided at **Attachment 1**.

The proposed development is sought to occur in two (2) phases comprising of:

#### Phase 1

- Transfer the remaining residential aged care residents to the existing hostel building
- Demolition of the existing residential aged care building and tree removals, remediation and validation works
- Construction of the new residential care facility building including proposed new and reconfigured car parking and internal vehicular access
- Transfer of the existing hostel residents to the new residential aged care building

#### Phase 2

- Alteration and additions to the existing hostel building to convert the 44 hostel bed facility to 22 serviced self-care dwellings and reconfiguration of associated community and ancillary facilities including associated at-grade car parking

Whilst not detailed in the applicant submission, it is considered the proposed infrastructure provisions such as stormwater, WSUD treatment measures, site remediation and vegetation management works including the retirement of ecosystem credits will require to occur in Phase 1 of the development. In addition, all driveway and car parking spaces are to be completed in

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Phase 1 as this is associated with the drainage works for the proposal. Proposed landscaping associated with each building can occur in the associated phase.

A description is provided of each component of the proposed development:

#### Proposed Residential Care Facility

The proposed residential care facility is a 2-3 storey building and subfloor area to be partly occupied as an undercroft parking and services area. The building will have an overall height of 12.12m and a 3 storey appearance along the north west and western façade.

The proposed building footprint is larger than the existing residential care facility however is to occupy a similar location on the site. The layout of the proposed building comprises of a central core are connected to four wing areas. The applicant has provided that the ground floor beds within the RCF will be for the purposes of dementia care however, has also noted that all rooms have been designed and are capable to be provided for dementia or as a general care room. It is noted in the assessment of the application under the SEPP (Housing for Seniors or People with a Disability) 2004, all rooms within the RCF are considered for the purpose of general care.

#### *Ground floor*

The northern wing of the ground floor will contain House 1, the NE wing with 18 beds and House 2, the NW wing with 19 beds. Each house has access to its own communal lounge/dining area and secured landscape courtyard area. The southern half of the building will contain the back of house and support services such as kitchen and laundry areas. The entrance to the building is located on the south eastern corner with vehicular access via the porte cochere.

#### *First floor*

The first floor comprises of four (4) houses with 74 beds. House 3 and 4 contain 18 beds each located in the NE and SE wing respectively, while House 5 and 6 contain 19 beds each located in the NW and SW wing. Each house has their own communal lounge/dining area with a respective balcony. The central core contains the lift and services area.

#### *Undercroft area*

The undercroft area is located towards the western side of the building, primarily located above natural ground level and contains the staff car parking area, on-site stormwater detention tank and services. 24 car parking spaces including one accessible space is provided. Vehicular access to this area is via the ramp in the SW corner of the building.

#### Proposed Serviced Self-Care Housing (Independent Living Units –ILUs)

This involves converting the existing 44 hostel bed facility to a 22 serviced self-care dwellings by combining two hostel rooms to create one dwelling. Minimal works are involved with the external façade of the building with the changes primarily related to the internal configuration of the building. The proposed dwellings will each comprise of a kitchenette, lounge/dining and a bedroom with an ensuite. The living areas will be connected to the outdoor terrace area forming their private open space. No changes are sought to the existing building footprint.

#### Communal/ancillary facilities (community centre)

These facilities are located as part of the existing building north east of the proposed serviced self-care housing dwellings in the north east corner. The proposed works involve the replacement and reconfiguration of the shared facilities including dining facilities and activities area that includes a café and hairdressing salon.

#### Access and Parking

The proposal involves the reconfiguration of the existing internal driveway access to cater for the residential care facility building and additional car parking. The main existing driveway from Lindsay Evans Place is to remain making changes to the allow access to the entrance of the RCF building from the porte cochere and the driveway to continue to the undercroft parking area. 14 spaces at grade spaces are provided adjacent to the RCF building.

Additional on grade parking spaces are proposed along the driveway north of the proposed ILUs including an undercroft car park in the RCF building accessed from the south west corner. The undercroft car park has been nominated as parking for staff and provides 24 car spaces including one (1) accessible space and 21 at grade spaces associated alongside the ILUs

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building. The proposal will involve a total of 59 parking spaces that includes three (3) accessible spaces.

#### Vegetation Management & Landscaping

The proposal involves vegetation management works within the existing central vegetated area of the site measuring approximately 3.83 hectares. The vegetation management plan was recommended by the Biodiversity Assessment Report to provide for the restoration and rehabilitation for this vegetated area.

Tree removal is proposed within the site primarily associated with the proposed RCF building. This includes native and non-native vegetation. A total of 0.31 hectares of native vegetation comprising of Illawarra Lowland Grassy Woodlands (ILGW) will be removed for the proposal. Landscaping works are associated with the two proposed buildings.

#### Bushfire Management

A proposed fire trail is located to the rear of the RCF building along the western boundary of the site and continue around the northern side of the building to connect to the internal access road to create a perimeter road. There are existing Asset Protection Zones that is 40m from the existing buildings under a previous development consent granted in DA-2008/1470 is to remain and be maintained for this proposal.

#### Stormwater/Water Sensitive Urban Design (WSUD)

The proposal will involve a new stormwater management system for the RCF building to connect the existing system. The proposed drainage system includes a combined on-site detention and retention tank system located within the undercroft area. There are WSUD measures with a bio-retention basin associated within the new car parking area and driveways.

#### Integrated Development

The proposal is considered to be development for the purposes of a Special Fire Protection Purpose (SFPP) and as such is Integrated Development and requires authorisation from the NSW Rural Fire Service pursuant to section 100B of the Rural Fires Act 1997.

#### Concurrence Authorities

The proposal requires concurrence from Sydney Trains under Clause 86 of the SEPP (Infrastructure) 2007 as the development involves the penetration of ground to a depth of at least 2m below ground level (existing) on land within 25m of a rail corridor.

### **1.3 BACKGROUND**

#### *Development History*

Council's records indicate that consent was granted for an aged persons village in 1966 comprising of the existing independent living units (ILUs) located east of the entrance to the site at Lindsay Evan Place. Subsequent development consents have been granted in 1972 for the ILUs located towards to the eastern boundary adjacent to Princes Highway and a 45 bed residential care facility and the hostel bed facility in 1978.

In 2004 consent was granted under DA-2003/1144 for the 26 ILUs located at the southern portion of the site, adjacent to Huntley Road with a number of subsequent modifications sought to this consent.

#### DA-2008/1470

In 2008 development consent was sought for a proposed bushfire asset protection zones under DA-2008/1470. This application was approved on 15 January 2009 with a 40m asset protection zone from the existing buildings on site located within the central portion of the allotment. This application was accompanied by a detailed Flora and Fauna Assessment as the proposal involved clearing land containing Endangered Ecological Communities under the Threatened Species Conservation (TSC) Act 1995 being Illawarra Lowlands Grassy Woodlands (ILGW). A 7 part test was carried in accordance with Part 5A of the EP&A Act 1979 and it was concluded that the proposal was unlikely to have a significant impacts on the ILGW EEC under the TSC Act 1995. In addition, the Flora and Fauna Assessment concluded the proposal was unlikely to have significant impacts on any matters of national environmental significance under the EPBC Act 1999. In addition, a vegetation management plan (VMP) was submitted with this application that provided the management of the asset protection zones (APZ) that contain ILGW EECs. Conditions of consent included the implementation of the VMP on site.

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It is noted that this consent issued did not include conditions requiring the creation of restriction on title or positive covenant relating to the approved asset protection zone or VMP. However, a title search has revealed that an 88b restriction for a 40m APZ for the ILUs located on the southern portion on the site but appears to be no specific restriction relating to an APZ associated with the existing development located on the northern portion of the site.

There was a subsequent modification to DA-2008/1470 seeking the removal for the requirement of a licence under section 91 of the TSC Act 19995 prior to the removal of vegetation. This modification request was granted on 22 May 2009 after receiving correspondence from the Department of Environment and Climate Change that a licence under s91 is not required.

A number of other development consents granted for the site associated with the senior housing development including minor alterations and additions, outbuildings, ancillary structures and NBN infrastructure.

#### *Pre-lodgement meetings*

PL-2018/16 was held in relation to the subject development on 21 February 2018.

There was a previous PL-2017/29 held on 10 April 2017 for a similar development however, with a different concept and design siting a new residential care facility building in an undeveloped area of the site.

#### *Design Review Panel (DRP) meeting*

The application was subject to a voluntary Design Review Panel process. The proposal was formally reviewed by the Panel on 1 November 2018. A number of design amendments were recommended by the DRP at the time which has been addressed in amended plans later submitted by the applicant. The application was not re-referred back to DRP for comment on the amended plans however; it is considered the proposal has reasonably addressed the matters and is satisfactory. The DRP meeting minutes and recommendations are presented at **Attachment 3** and the applicant's response to the comments is presented at **Attachment 4**.

#### *Customer service actions*

There are no outstanding customer service requests of relevance to the development.

## **1.4 SITE DESCRIPTION**

The site is located at 4 Lindsay Evans Place, Dapto and the title reference is Lot 1 DP 1082602.

The site is an irregular shaped allotment with frontage to the Princes Highway to the east, Huntley Road to the south, the South Coast railway line corridor to the west and frontage to Lindsay Evans Place to north and adjoining residential properties.

The site has a total area of 91,484sqm. The land slopes east to west with a fall of approximately 16m towards the railway corridor from Princes Highway and also generally north to south.

Situated on the site is St Luke's Retirement Village, a seniors housing development. The site comprises of three (3) distinct parts:

The north portion of the site comprising of a mix one to two storey buildings including a residential care facility, hostel accommodation with administration and support facilities, independent living units associated at grade parking and associated outbuildings.

The central portion of the site is undeveloped vegetated area containing the existing 40m asset protection zones from the existing buildings and a sealed access driveway that connects the north and south portions of the site.

The south portion of the site contains a number of single storey buildings of self-contained dwellings (ILUs) that also have access to the support services located within the north.

Development in the vicinity of the site to the north and west beyond the railway corridor comprises of low density development generally detached one to two storey dwelling houses and some multi dwelling developments. To the east on the other side of the Princes Highway is Mount Brown Public School and St Aidan's Anglican Church. To south across Huntley Road is farm land and vacant vegetated land owned by the Department of Education.

An aerial photograph of the site and locality, WLEP 2009 zoning map and an extract of the deposited plan are provided at **Attachment 2**.



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### Property constraints

- Bushfire Prone Land
- Ecological Sensitive Land – Natural Resource Sensitivity
- The site is identified to have native vegetation of NSW plant community type PCT 838 – Forest Red Gum – Thin Leaved Stringybark grassy woodland on coastal lowlands, southern Sydney Basin Bioregion. This plant community type on site is listed as:
  - a threatened ecological community (TEC) under the NSW Biodiversity Conservation Act (BC Act) as Illawarra Lowlands Grassy Woodland in the Sydney Basin Bioregion and;
  - as part of a Critically Endangered Ecological Community (CEEC) under the Commonwealth Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act) as Illawarra and South Coast Lowland Forest and Woodland.
- Obstacle Limitation Surface – 52m AHD and 52m – 127m AHD

There restrictions on the title relating to:

- Drainage easement – there is a common stormwater line and associated drainage easement within the site that benefits Council that runs east west across the site, as upstream flows drain from Princes Highway towards the railway corridor due to the slope of the land. This easement is situated between the proposed RCF building and ILU/community centre, encompassing the area the at-grade car parking spaces are proposed. The development proposes to discharge stormwater through the existing easement and utilise the existing stormwater connections to the easement. The application has been reviewed by Council's Stormwater Officer with satisfactory referral advice provided stating that there are no existing restrictions that will inhibit the development and subject to draft conditions to ensure that construction relating to the parking and driveway works over the easement will have no impact on the structural integrity of the existing stormwater line within the easement.
- Asset protection zone – This APZ identified on title are located 40m from the existing ILUs located at the southern portion of the site, north and east of these buildings. The proposed VMP has included the APZ 40m north of the ILUs and identified the management of this area as an APZ. The proposal is considered to be consistent with the terms of this restriction.
- On site detention – This area identified containing this restriction relating to OSD is located north of existing ILUs located towards the southern portion of the site and adjacent to the western boundary. The proposal does not involve works and will not impact this OSD. The proposed OSD for this application is located within the under croft of the RCF building.
- Easement for padmount substation 2.75m wide – This padmount substation is located adjacent to the southern boundary fronting Huntley Road.
- Easement for underground cables 1m wide – this easement connects to the padmount substation located adjacent to the southern boundary.
- Restrictions relating to the provisions of no metal fencing, the erection of any building less with a less than a 120/120/120 fire rating without the written permission of Integral Energy Australia and no erection of swimming pools are located as a buffer measuring approximately 4m around the padmount substation.

The proposal will not impact the easement and restrictions relating to the padmount substation located adjacent the southern boundary of the site.

## **1.5 CONSULTATION**

Details of the proposal were referred to Council's Stormwater, Traffic, Environment, Landscape, Community Services, SCAT, Geotechnical and Contributions Officers for assessment. Satisfactory referral advice, comments and/or recommended conditions were provided in each instance.

### **NSW Rural Fire Service**

The proposal is Integrated Development as it requires a Bush Fire Safety Authority pursuant to Section 100B of the Rural Fires Act 1997 (development of bush fire prone land for a special fire protection purpose). Details of the proposal were referred to the NSW RFS and a Bush Fire Safety Authority has been issued, subject to conditions. The recommendations received dated 22 June 2018 are included in draft conditions at **Attachment 10**. The application was re-referred to the NSW RFS to comment on the revised proposal and their correspondence dated 29 March 2019 raised no objection subject to compliance with the previous terms of approval dated 22 June 2018.

### **Sydney Trains**

The proposal requires concurrence from Sydney Trains under Clause 86 of the SEPP (Infrastructure) 2007 as the development involves the penetration of ground to a depth of at least 2m below ground level (existing) on land within 25m of a rail corridor associated with the construction of the proposed RCF building. Correspondence from Sydney Trains dated 16 August 2018 initially raised concerns that required to the applicant to provide further information relating to the proposed excavation and construction, geotechnical and structural matters. Further information was submitted by the applicant to address the matters raised and forwarded to Sydney Trains for comment. Sydney Trains provided concurrence for the development application including conditions in their correspondence dated 20 December 2018 included in the draft conditions at **Attachment 10**. The application was re-referred to Sydney Trains to comment on the revised proposal and their further correspondence dated 5 February 2019 confirmed that their previous concurrence letter remains unchanged and applicable.

### **Design Review Panel (DRP)**

The application was subject to a voluntary Design Review Panel process. The proposal was formally reviewed by the Panel on 1 November 2018. A number of design amendments were recommended by the DRP and addressed in amended plans later submitted by the applicant. The application was not re-referred back to DRP for comment on the amended plans however; it is considered the proposal has reasonably addressed the matters and is satisfactory. The DRP meeting minutes and recommendations are presented at **Attachment 3** and the applicant's response to the comments is presented at **Attachment 4**.

### **Sydney Water**

Details of the application submission were referred to Sydney Water for comment. Advice received dated 5 June 2018 indicates that the drinking water main and waste water systems have adequate capacity to service the development. Formal requirements will be determined as part of the Section 73 application. Conditions of consent have been recommended for imposition and these are included in the draft conditions at **Attachment 10**.

## **2. OTHER ACTS OF LEGISLATION**

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### **2.1 NSW BIODIVERSITY CONSERVATION ACT 2016**

Section 1.7 of the Environmental Planning and Assessment Act 1979 (EP&A Act) provides that Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 (BC Act).

Part 7 of the BC Act relates to Biodiversity assessment and approvals under the EP&A Act where it contains additional requirements with respect to assessments, consents and approvals under this Act.

The site is identified to have native vegetation of NSW plant community type PCT 838 – Forest Red Gum – Thin Leaved Stringybark grassy woodland on coastal lowlands, southern Sydney Basin Bioregion. This plant community type on the site is listed as a threatened ecological community (TEC) under the BC Act as Illawarra Lowlands Grassy Woodland in the Sydney Basin Bioregion (ILGW).

Clause 7.2 of the Biodiversity Conservation Regulation 2017 provides the minimum lot size and area threshold criteria for when the clearing of native vegetation triggers entry of a proposed development into the NSW Biodiversity offsets scheme. For the subject site, entry into the offset scheme has been triggered by clearing greater than 0.25 hectares based upon the minimum lot size of the WLEP 2009 R2 zoned land (i.e. less than 1 hectare minimum lot size).

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A total area of 0.31 hectares of native vegetation is proposed to be cleared for the development. The minimum subdivision lot size for the land under WLEP 2009 is 449sqm. Therefore the proposal triggers the requirement for a biodiversity offset scheme.

Part 6 of the BC Act outlines the details of the NSW Biodiversity offset scheme and details the requirements of the biodiversity development assessment report (BDAR).

A BDAR prepared by Ecoplanning was submitted with the application is presented at **Attachment 5**. The proposed development is considered to have been designed and sited to avoid impacts, as far as possible, to native vegetation such there will minimum adverse environmental impacts. It is noted that there are existing Asset Protection Zones (APZs) within the site and no additional impacts are considered for the management of these APZ in the BDAR, as they were approved in a previous development application for the site DA-2008/1470, as discussed in section 1.3 of the report where the assessment of environmental matters has been considered.

The proposal as recommended in BDAR will incorporate several measures to mitigate impacts on biodiversity values such as a Construction Environmental Management Plan, pre-clearance protocols and tree protection measures. One of the measures will also include a Vegetation Management Plan to be implemented for the retained vegetation in the central portion of the site to encompass an area of approximately 3.85 hectares, where 2 management zones have been identified to restore the vegetation within the site including the APZ area, presented at **Attachment 6**.

In addition, the impacts associated with the proposal under the Biodiversity Assessment Methodology (BAM) provides that a total of five (5) ecosystem credits are required to offset the proposed clearing of the 0.31 hectares of the ILGW EEC. The ecosystem credit retirement obligation can be satisfied by either a payment to the Biodiversity Conservation Fund with evidence from the NSW Biodiversity Conservation Trust that the payment has been made, purchasing credits available on the market or pursuing other offset sites. Nevertheless, evidence of the ecosystem credit retirement is required to be provided to Council prior to the issue of any Construction Certificate.

Council's Environment Officer has reviewed the application and considered the proposal satisfactory with regards the requirements of the BC Act subject to imposition of conditions relating to the above matters, included at **Attachment 10**.

## **2.2 COMMONWEALTH ENVIRONMENTAL PROTECTION AND BIODIVERSITY ACT 1999**

The site is identified to contain native vegetation listed as a Critically Endangered Ecological Community (CEEC) under the Commonwealth Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act) known as Illawarra and South Coast Lowland Forest and Woodland (ISCLGW).

The BDAR submitted with the application included an assessment of significance for the CEEC and the report considered that the extent of ISCLGW to be removed is small, highly fragmented and modified (disturbed/shrubby; under scrubbed and derived native shrub land) and will not cause a substantial reduction in the quality or integrity of the local occurrence of this community. The application was reviewed by Council's Environment Officer and it is considered the proposal will not have a significant impact on the CEEC to require a referral to the Commonwealth, approval from the Australian Government Minister for the Environment and Energy (the Minister).

## **3. ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 SECTION 4.15 ASSESSMENT**

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### **3.1 SECTION 4.15 1(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT**

#### **7 Contamination and remediation to be considered in determining development application**

*(1) A consent authority must not consent to the carrying out of any development on land unless:*

*(a) it has considered whether the land is contaminated, and*

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- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*
- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*
- (3) *The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*
- (4) *The land concerned is:*
- (a) *land that is within an investigation area,*
- (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
- (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*
- (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
- (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

A Detailed Site Investigation (DSI) Report has been provided as part of the application and includes a due diligence assessment and intrusive soil investigation. The report identifies areas of potential contamination are largely contained to the fill material of waste construction material that has evidence of anthropogenic material including asbestos, particularly in an area identified as TRH F2 (Pit 221) and the concern for potential asbestos contamination under the existing RCF building. The report recommends additional site investigation after the demolition of the buildings.

The Report has recommended a Detailed Asbestos Investigation should be undertaken on filling material to explore the extent of asbestos contamination and additional investigation, including possible sampling, should be undertaken around the TRH F2 (Pit 221) exceedance to explore the extent and potential source and a remediation action plan (RAP).

In accordance with Clause 7(2) of SEPP 55, Council's Environmental Officer has reviewed the history of the site in conjunction with the submitted documents that are considered acceptable subject to conditions requiring the further Stage 2 DSI and Stage 3 RAP to be completed prior to the issue of the Construction Certificate. Then subject to the site validation of the site, it is considered that the site will be suitable for the proposed use as a seniors housing development. It is considered the proposal will be satisfactory with regard to SEPP 55 matters subject to draft conditions at **Attachment 10**.

#### Nomination and application of Environmental Planning Instrument

As part of the assessment the application submission requires to nominate the environmental planning instrument (EPI) sought to be relied upon for the purposes of permissibility. Seniors housing is permissible in the R2 zoning for the site under the two (2) following EPIs:

- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004; or
- Wollongong Local Environmental Plan (WLEP) 2009

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SEPP (Housing of Seniors or People with a Disability) 2004 has been nominated as the EPI the application seeks to rely upon for the purpose of permissibility for the proposal.

Wollongong Local Environmental Plan (WLEP) 2009 still applies to the application and development requires to be assessed under the provisions of this EPI, only where there is an inconsistency this SEPP will prevail.

Seniors housing is permissible within the R2 Low Density Residential Zone under the WLEP 2009.

The proposal complies with the controls relating to visual and acoustic privacy, solar access and design for climate, stormwater, crime prevention, accessibility and waste management.

## **Chapter 1 - Preliminary**

### **Clause 4 Land to which policy applies**

The SEPP applies to land that is zoned primarily for urban purposes, where certain development (including attached dwellings, residential flat building or dwelling houses) are permitted. The site is zoned R2 Low Density Residential where attached dwellings, residential flat buildings and dwelling houses are permissible with consent.

### **Clause 5 Relationship with environmental planning instruments**

This clause confirms that if the SEPP is inconsistent with any other EPI (for example WLEP 2009), the SEPP will prevail to the extent of the inconsistency.

### **Clause 7 Suspension of agreements and covenants**

Where development is permitted by the SEPP, the provisions of any covenant or agreement which would prevent that development are to be set aside.

## **Chapter 2 - Key Concepts**

### **Clause 10 Seniors housing**

'Seniors' housing' and those people who may reside in seniors housing are defined:

*In this Policy, "seniors housing" is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of:*

- (a) a residential care facility, or*
- (b) a hostel, or*
- (c) a group of self-contained dwellings, or*
- (d) a combination of these,*

*but does not include a hospital.*

**Note:** *The concept of seniors housing is intended to be a shorthand phrase encompassing both housing for seniors and for people with a disability. This Policy deals with both kinds of housing.*

*Accommodation provided by seniors housing does not have to be limited to seniors or people with a disability. Clause 18 provides that seniors housing may be used for the accommodation of the following:*

- (a) seniors or people who have a disability,*
- (b) people who live within the same household with seniors or people who have a disability,*
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.*

*Relevant classifications in the Building Code of Australia for the different types of residential accommodation are as follows:*

- (a) Class 3, 9a or 9c in relation to residential care facilities,*
- (b) Class 1b or 3 in relation to hostels,*
- (c) Class 1a or 2 in relation to self-contained dwellings.*

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The proposed development is a combination of a residential care facility and a group of self-contained dwellings that meets the definition of seniors housing in accordance with the SEPP.

### **Clause 11 Residential care facilities**

*In this Policy, a residential care facility is residential 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,*
- not being a dwelling, hostel, hospital or psychiatric facility.*

*Note. The Aged Care Act 1997 of the Commonwealth requires residential care facilities to which that Act applies to meet certain requirements.*

The proposal adequately fits the above definitions for residential care facilities in accordance with the SEPP.

### **12 Hostels**

In this Policy, a **hostel** is residential accommodation for seniors or people with a disability where:

- (a) meals, laundering, cleaning and other facilities are provided on a shared basis, and*
- (b) at least one staff member is available on site 24 hours a day to provide management services.*

**Note.**

*A facility may be a hostel (as defined by this Policy) even if it does not provide personal care or nursing care to its residents. A facility that provides such care may be a residential care facility (as defined by this Policy), regardless of how the facility may describe itself.*

The site currently contains a hostel with the community centre however, the hostel component is sought to be refurbished and converted into self-contained dwellings as part of the proposal.

### **13 Self-contained dwellings**

*In this Policy, a **self-contained dwelling** is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.*

*In this Policy, **serviced self-care housing** is seniors housing that consists of self-contained dwellings where the following services are available on the site: meals, cleaning services, personal care, nursing care.*

The proposal includes the provision of 22 independent living units (ILU's) by converting the existing 44 bed hostel facility. The ILU component is located in the building with the community facilities of the development, where these self-contained will have access to all the services that are provided on site as part of the development meeting the definition of serviced self-care housing.

## **Chapter 3 Development for Seniors Housing**

### **Part 1 General**

#### **Clause 14 Objective**

The objective of this Chapter:

*“to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age.”*

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The proposal involves a 111 bed residential care facility and 22 ILUs that will increase the overall number of beds for this existing seniors housing development by 44.

**Clause 15 What Chapter does**

This Chapter allows for the development for the purposes of Seniors Housing on land that is zoned primarily for urban purposes, despite the provisions of any other environmental planning instrument if the development is carried out in accordance with this Policy.

The site is zoned R2 Low Density Residential under WLEP 2009 where seniors housing is permissible with consent.

**Clause 16 Development consent required**

Consent is being sought for the proposal in this development application from the relevant consent authority.

**Clause 17 Development on land adjoining land zoned primarily for urban purposes**

Not applicable - The site is located on land zoned R2 Low Density Residential.

**Clause 18 Restrictions on occupation of seniors housing allowed under this Chapter**

This clause specifies that development subject to Chapter 3 must be occupied only by the following:

- (a) seniors or people who have a disability,*
- (b) people who live within the same household with seniors or people who have a disability,*
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.*

Council is required to impose a condition of consent limiting accommodation to those people. Council is also required to be satisfied that a Restriction as to User pursuant to section 88E of the Conveyancing Act 1919 will attach to the certificate of title, limiting occupation by those people specified in this clause. It appears from the title search provided that an existing restriction of this nature does not apply to the land therefore conditions of development consent to this effect will be imposed.

**Clause 19 Use of seniors housing in commercial zones**

Not applicable - The site is not zoned in a commercial zone.

**Clause 21 Subdivision**

The proposal does not seek any subdivision.

**Clause 22 Fire sprinkler systems in residential care facilities for seniors**

The proposed new residential care facility will include the installation of a fire sprinkler system as required under NCC – BCA requirements.

**Clause 23 Development on land used for the purposes of an existing registered club**

Not applicable - The site does not contain an existing registered club.

**Part 1A Site compatibility certificates**

**24 Site compatibility certificates required for certain development applications**

Not applicable - The site is zoned for urban purposes, does not contain an existing registered club or involve a building with floor space ratio that would require consent to be granted under clause 45.

**25 Application for site compatibility certificate**

Not applicable.

## **Part 2 Site-related Requirements**

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

Council is required to be satisfied that the residents of the proposed development will have suitable access to support services, including transport, medical care and recreation facilities, and prior to granting development consent.

*(1)(a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and*

*(b) community services and recreation facilities, and*

*(c) the practice of a general medical practitioner.*

The site is located within 400m of bus stops located close to the intersection of Princes Highway and Mount Brown Road, approximately 70-100m walking distance from the north east corner of the site. Regular bus services by Premier Illawarra run from this bus stop from Dapto to Wollongong and Port Kembla. The closest services are located at Dapto Mall approximately 2km north where all basic services including community services and medical practitioners are available.

The facility operators currently provide a mini bus service available to residents who are not able to walk or drive to Dapto or nearby area with services and facilities. This mini bus provides regular access to the local shopping precinct for residents and is also available for organise excursions/day trips. It is noted that a number of other on-site services are provided include access to a hairdresser, visiting doctor and podiatrist on site.

*(2) Access complies with this clause if:*

*c) in the case of a proposed development on land in a local government area that is not within the Greater Sydney (Greater Capital City Statistical Area)—there is a transport service available to the residents who will occupy the proposed development:*

The Wollongong local government area is not located within the Greater Sydney (Greater Capital City Statistical Area) and as discussed above there is an existing transport service in the form of a mini bus available to the residents.

*(i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and*

In addition to the mini bus service to be provided, there are also bus stops available within 400m of the site situated on Princes Highway. There is formal pathway which leads to the bus stop from the NE area of the site whilst this does involve stair access, it is considered that any mobility impaired persons who wish to use the bus and are unable to walk to the stop will be able to use the mini bus for transport.

*(ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and*

The mini bus service will travel to Dapto Mall and other nearby centres where the facilities and services referred in subclause (1) are available. The bus services that run from Princes Highway will take residents to other nearby centres where a variety of service facilities are available. The bus stops for these services are located in the town centres.

*(iii) that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive),*

There is more than one service to and from the proposal development (bus stop) from Monday to Friday inclusive and draft conditions have been included that requires the proposed mini bus to run at last once daily from Monday to Friday.

*and the gradient along the pathway from the site to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).*



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(3) For the purposes of subclause (2) (b) and (c), the overall average gradient along a pathway from the site of the proposed development to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) is to be no more than 1:14, although the following gradients along the pathway are also acceptable:

- (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,
- (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,
- (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time.

The pathway from the designated access to the site and the closest bus stop has a varied gradient (including stairs). It is considered that despite the proposal does not fully meet the requirements, mobility impaired persons will be able to be transported to the bus stop by the mini bus, or use the mini bus service to access nearby centres.

(4) For the purposes of subclause (2):

(a) a **suitable access pathway** is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and

(b) distances that are specified for the purposes of that subclause are to be measured by reference to the length of any such pathway.

It is considered that the access to the bus stop is a suitable access pathway and give the proposal is an existing approved seniors housing development.

Overall it is considered that the proposal reasonably complies with the requirements of this Clause.

#### **Clause 28 Bush fire prone land**

Council has considered the site access, size of the existing population in the area, age group of the expected and existing population, number of other facilities in the area and the number of schools within the locality. It is considered that the surrounding road network is capable of absorbing the increase in traffic expected in a bushfire emergency and the site internal and external access is also considered to be suitable to accommodate emergency service vehicles.

Whilst the existing development for the site was approved prior to *SEPP No. 5 – Housing for Older People or People with a Disability*. The most recent development located in the southern portion of the site comprising of independent living units under DA-2003/1144 were approved under this policy, SEPP No. 5.

The proposal is Integrated Development as it requires a Bush Fire Safety Authority pursuant to Section 100B of the Rural Fires Act 1997 (development of bush fire prone land for a special fire protection purpose). The application submission was referred to the NSW RFS and a Bush Fire Safety Authority has been issued, subject to the imposition of conditions which are included in the draft conditions. The proposal is considered to comply with the requirements for Planning for Bushfire Protection 2006.

#### **Clause 28 Water and Sewer**

Council is required to be satisfied by written evidence that the proposed development will be connected to reticulated water and have adequate capacity for sewage disposal. The existing services on the site are able to be extended to accommodate the development. The proposal was referred to Sydney Water for comment. A response was received and the recommendations requiring evidence of servicing arrangements with the requirement of obtaining a Section 73 Certificate with Sydney Water have been incorporated within the draft conditions

#### **Clause 29 Site compatibility criteria**

For applications where a Site Compatibility Certificate is not required by Clause 24 Council is required to consider site compatibility criteria set out in clause 25 (5) (b) (i), (iii) and (v). These criteria are:

- (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,*

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The proposal is considered generally compatible with the natural environment. The siting of the proposed footprint for the new residential care facility is located in an existing developed part of the site that would avoid and minimise direct/indirect impacts on native vegetation within the site and such that the existing APZ can remain unaltered. The proposal will not result in biodiversity impacts as demonstrated in the BDAR for the application and combined with other measures including a vegetation management plan that is required to be implemented to mitigate impacts from the proposal. It is noted that the most recent development on the site has already been approved under DA-2003/1144.

*(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,*

The site has existing access to services and existing utilities which are considered to be adequate to service the proposal.

*(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,*

The proposed development is considered to be compatible with the natural environment, the services and infrastructure that will be available to meet the demands from the development and the bulk, scale, built form and character of the existing, approved and future uses of land in the vicinity of the development. This is discussed in further detail below in Part 3 Design Requirements under this SEPP.

### **Part 3 Design Requirements**

#### *Division 1 General*

#### **Clause 30 Site analysis**

Council is required to be satisfied that the applicant has taken into account a site analysis prepared by the applicant in accordance with this clause. The site analysis must be in the form of plans and a written statement.

A detailed site analysis plan and architectural design statement has been provided with the application and are considered satisfactory and have addressed the relevant parts of this clause. The proposal is considered to have regard to the site and the surrounding development and is also considered to have met the design principles as discussed in Division 2 below.

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

Not applicable - The application does not propose in-fill self-care housing.

#### **Clause 32 Design of residential development**

A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2 i.e. clauses 33-39, as discussed below. It is considered the development has generally demonstrated adequate regard to the principles set out in Division 2.

### **Division 2 Design principles**

#### **Clause 33 Neighbourhood Amenity and Streetscape**

Whilst the building height for the proposed residential care facility building at its highest point (12.12m) is greater than the surrounding area with a height limit of 9m, the site in itself has limited visibility from the Lindsay Evans Place street frontage being located at the end of a cul-de-sac.

The location and siting of the proposed RCF building will be of limited visibility from the public domain with exception to the adjoining railway corridor to the west, where the proposal will have a 3 storey appearance. The ILUs and community centre building is not visible from the street.

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In regards to the closest residential development to the north of the site where the rear boundaries of these properties on Timbri Avenue adjoin the site, due to the setback of the built form of the RCF building over 30m, the slope of the land and the existing maintenance building to remain, the proposed building when visible will have a 2 storey appearance. The proposed development will not appear at a scale or bulk that adversely with the streetscape or character of the area.

The proposed new RCF building and conversion of the hostel to ILUs will result in an overall floor space ratio for the development of 0.18:1 which is well below the 1:1 allowed under the SEPP and the maximum 0.5:1 allowed for surrounding development under WLEP 2009.

At current, the proposed development appears at a scale greater than the surrounding development due the majority of the adjoining development to be single storey in nature, rather than the permitted 2 storey with a height limit of up to 9m. It is envisaged the scale of development within the immediate locality will undergo transition over time to be of a greater scale than existing within the context of the low density residential zoning. The proposed development is generally compatible with the existing residential and aged care related development in the area.

Due to the siting of the proposed RCF building and orientation of the site the proposal will not result in adverse impacts on the amount of sunlight received for the adjoining residential properties or the existing development within the site (i.e. ILUs and community centre).

Overall, it is considered proposal will be compatible with the character of the area and will allow a reasonable level of neighbourhood amenity to be maintained.

The proposal will require the removal of a number of trees as shown in the landscape plans at **Attachment 1** to accommodate the building footprint of the RCF building that is greater than the existing facility. However, amended plans were provided to address the DRP comments that reduced the building footprint with the removal of at grade parking spaces that enable the retention of existing mature trees. In addition, a review of the RCF building design and fire trail has enabled additional mature trees to be retained for the development. The landscape plans identify the trees proposed to be retained and removed within the vicinity of the development. An arborist report has been provided and recommended tree protection measures for those trees within close vicinity of the development. The landscape plans also show proposed planting for the proposal and including within the podium areas of the RCF building. It is considered proposal is satisfactory subject to draft conditions at **Attachment 10** that include compensatory planting for the site.

#### **Clause 34 Visual and acoustic privacy**

There is a significant distance building separation between adjoining residential uses to the north and properties to the west are separated by the railway corridor such that the proposal will allow a reasonable level of visual and acoustic privacy maintained for the neighbours.

The proposed RCF building will be located along paths and internal driveways associated with parking areas within the development. The ILUs on site are located a distance and oriented away from the RCF. The majority of the RCF rooms are oriented away from the identified areas associated with noise although rooms for the first floor east and south will face towards the driveway entry for the car park. However, as the car park is generally utilised for staff and visitors it is considered there will be minimal noise level to the residents' rooms.

An acoustic report has been submitted with the application that has considered the likely noise impact of the development relating to traffic, construction and impacts of rail noise on the proposal. This report provides a number of recommendations for the proposal including acoustic glazing for the bedrooms associated with the development and mitigation measures from mechanical plants. It is considered that based on the recommendations of the report that has been reviewed by Council's Environment Officer where satisfactory referral advice has been provided, it is considered the proposal will not result in any unreasonable acoustic impacts for future/existing residents within and adjoining the site subject to draft conditions.

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

Shadow diagrams submitted with the application demonstrate that the proposal has very limited to nil impact on neighbouring properties in regards to solar access, as the shadows cast from the development are generally within the site itself. The proposal will allow all surrounding properties to maintain adequate levels of solar access.

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It is considered that the orientation and design of the RCF building will enable residents of the development with a reasonable opportunity to receive adequate solar access. Information has also been provided to demonstrate that the living rooms and private open spaces for the proposed ILUs meet the required solar access requirements during mid-winter.

### **Clause 36 Stormwater**

The development proposes to discharge stormwater through the existing easement on the site and an existing discharge point located within the railway corridor. Internal modifications to the stormwater system are proposed with a new stormwater management system for the RCF building with a proposed drainage system that includes a combined on-site detention and retention tank system located within the undercroft area. The application has been reviewed by Council's Stormwater Officer and considers satisfactory arrangements have been made to ensure stormwater impacts have been minimised subject to recommendations that have been included in the draft conditions. The application was also referred to Sydney Trains and no objections were raised to the proposed method of stormwater disposal subject to their conditions that are included in the draft conditions.

### **Clause 37 Crime prevention**

Due the nature use as a RCF building and the ILUs forming part of an existing retirement, the design and siting of the proposal has incorporated passive and active security measures including the limited and controlled entries to the building, proposed and existing fencing, clear path of travel and location of parking areas. It is considered that the proposal has been designed to minimise hiding spaces or places of entrapment and provides for a satisfactory level of security for residents and visitors to the development that encourages crime prevention.

### **Clause 38 Accessibility**

The proposal will provide a new at grade parking spaces primarily for visitors, residents and staff. The proposal provides for sufficient car parking spaces for the development in compliance with this SEPP. There are clear pedestrian links from the within the site to the bus stop or from the primary entrance on Lindsay Evans Place where there is a public footpath to Princes Highway. The facility provides a mini bus service to local facilities that will cater for the residents that are generally less mobile and require assistance. The site provides safe pedestrian links and access and parking for residents and their guests on the site.

A report has been submitted with the application, Statement of Compliance – Access for People with a Disability that states general arrangement drawings indicate that the proposal can comply with the BCA requirements for wheelchair access, disabled car parking and general controls such as access to common areas, accessible paths of travel, signage and adaptable housing.

The application has also been reviewed by Council's Community Services Officer who has provided conditionally satisfactory referral advice.

### **Clause 39 Waste Management**

Adequate waste management arrangements have been considered for the development. The garbage storage area for the RCF is located on the ground level on the southern portion of the building adjacent to the loading bay area and internal driveway. The ILUs have a two (2) garbage enclosure areas located north of wing C & D close to the at grade car parking spaces adjacent to the driveway.

A Site Waste Minimisation and Management Plan has been provided with the application submission. The existing servicing arrangements for waste collection are by a private contractor and waste collection vehicles can be adequately accommodated for within the site. The application has been reviewed by Council's Traffic Officer and the proposed waste collection arrangements are considered satisfactory.

## **Part 4 Development Standards**

### *Division 1 General*

### **Clause 40 Minimum sizes and building height**

Council must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.

<b>Clause 40 – Minimum sizes and building height</b>				
<b>Clause</b>	<b>Matter</b>	<b>Required</b>	<b>Proposed</b>	<b>Complies</b>
40(2)	<b>Allotment size</b>	Minimum 1000m <sup>2</sup>	91,484m <sup>2</sup>	Yes
40(3)	<b>Frontage</b>	Minimum 20 metres at building line	>20m at building line for RCF building	Yes
40(4)(a)	<b>Building height</b> "height" in relation to a building, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point. "ground level means the level of the site before development is carried out pursuant to this Policy"	In zones where residential flat buildings are not permitted, maximum height 8 metres	Not applicable - as residential flat buildings are permissible within the R2 zoning for the site.	Not applicable
40(4)(b)		In zones where residential flat buildings are not permitted, maximum 2 storeys where adjacent to the allotment boundary		
40(4)(c)		In zones where residential flat buildings are not permitted, maximum 1 storey in rear 25% of site		
40(5)	<b>Development applications to which clause does not apply</b>	Subclause (2), (3) and (4)(c) for not apply if the application is made by any other social housing provided	The application has been made by Anglican Community Services which is considered a social housing provider.	Therefore the allotment size and frontage development standards do not apply to the proposed development.

### **Division 2 Residential care facilities—standards concerning accessibility and useability**

A report has been submitted with the application, Statement of Compliance – Access for People with a Disability that states general arrangement drawings indicate that the proposal can comply with the BCA requirements for wheelchair access, disabled car parking and general controls such as access to common areas, accessible paths of travel, signage and adaptable housing. The application has also been reviewed by Council's Community Services Officer who has provided conditionally satisfactory referral advice.

A draft condition is included requiring access to the facility to be in accordance with the BCA and the Commonwealth Aged Care Accreditation Standards.

### **Division 3 Hostels and self-contained dwellings—standards concerning accessibility and useability**

#### **41 Standards for hostels and self-contained dwellings**

The application has been made by Anglican Community Services which is a social housing provider. Therefore the standards within Schedule 3 relating to standards concerning accessibility and useability for hostels and self-contained dwellings do not apply.

#### **Part 6 Development for vertical villages**

##### **45 Vertical villages**

The proposal is not relying on this clause. The FSR for the site is below the maximum permitted for the zone.

#### **Part 7 Development standards that cannot be used as grounds to refuse consent**

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*Division 1 General*

**46 Inter-relationship of Part with design principles in Part 3**

Refer to comments above relating to Division 2 of Part 3 (clause 33-39).

**47 Part does not apply to certain development applications relating to heritage affected land**

Not applicable - The site does not contain any heritage items.

**Part 7 Development Standards That Cannot be Used as Grounds for Refusal of Consent**

**Division 2 Residential care facilities**

**Clause 48 Standards that cannot be used to refuse development consent for residential care facilities**

<b>Development Standards that cannot be used as grounds for refusal of consent</b>			
<b>cl</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Complies</b>
48(a)	Buildings are no less than 8 metres in height	12.12m at the highest point	No – An exception to Clause 4.4 has been sought and Clause 4.6 justification provided, refer to discussion in section 3.1.7 of report
48(b)	Floor space ratio is less than 1:1	The applicant proposes a floor space ratio of 0.18:1	Yes
48(c)	Landscape area at 25m <sup>2</sup> per residential bed.	111 beds x 25sqm = 2,775sqm required.  The amount of landscaped area within the site exceeds this requirement. Approximately 2776sqm	Yes
48d)	Parking for residents and visitors  1 space for each 10 beds ( or 1 space for each 15 beds dementia)  1 space for each 2 persons employed and on duty at any one time  1 parking space for an ambulance	111 beds  (The application provides the beds could be used for dementia however unclear therefore calculation is based on all rooms for general use)  111 beds/10 = 11 spaces  26 staff/2 = 13 spaces  Total required = 24 spaces  1 ambulance space  <u>Parking provided:</u>  24 spaces under croft (staff)  14 at grade spaces  Total = 38 spaces  1 ambulance space	Yes

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**Note.** The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant development consent.

**Building height** –Whilst the proposal exceeds 8m in height, it is noted that the SEPP does not specify a building height requirement with regards to zones where residential flat buildings are permissible. As in this case, the site is in R2 Low Density Residential Zone and residential flat buildings are permissible in WLEP 2009. For discussion relating to assessment of the building height of the proposal refer to Clause 4.4 and 4.6 of WLEP 2009.

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

<b>Development Standards that cannot be used as grounds for refusal of consent</b>			
<b>cl</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Complies</b>
50(a)	Buildings are no less than 8 metres in height	Less than 5m	Yes
50(b)	Floor space ratio is less than 0.5:1	The applicant proposes a floor space ratio of 0.18:1	Yes
50(c)	Landscape area at 35m <sup>2</sup> per residential bed – for application made by social housing provider	22 x 35sqm = 770sqm The amount of landscaped area within the site exceeds this requirement.	Yes
50(d)	Deep soil zone 15% of the area of the site Preferred 2/3 located to the rear and minimum dimension of 3m	ILUs site area = 5,950sqm RCF site area = 7,830sqm Combined site area = 13,780sqm 13,780 x 0.15 = 2067sqm The amount of deep soil zone within the site exceeds this requirement.	Yes
50(e)	Solar access Living rooms and private open space for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm mid-winter	22 dwellings 22 x 0.7 = 15.4 dwellings, 16 dwellings Living rooms of 16 dwellings receive required sunlight POS for 21 of the dwellings receive required sunlight	Yes
50(f)	Private open space for in-fill self-care housing	ILUs are serviced self-care housing are not in-fill self-care housing. Therefore POS requirements do not apply. However, it is noted that each ILUs proposed 15sqm provided measuring 3m x 3m	N/A
50(h)	Parking 1 car spaces for 5 dwellings where the development application is made by, or is made by a person jointly with, a social housing provider	22 ILUs/5 = 4.4 therefore 5 spaces required 21 spaces provided	Yes

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## **Chapter 4 Miscellaneous**

### **55 Residential care facilities for seniors required to have fire sprinkler systems**

The proposal will include a fire sprinkler system for the RCF building. The submitted BCA Assessment Report confirms this will be installed.

SEPP 65 does not apply to the development as the proposal is for seniors housing development comprising of a residential care facility building and does not contain dwellings and in regards to the independent living units, whilst considered dwellings (being self-contained) comprises of a single storey building.

However, it was considered based on the scale and nature of the proposed development the application would benefit from a voluntary Design Review Panel process. The proposal was formally reviewed by the Panel on 1 November 2018. The DRP provided comments based on the categories within the design quality principles of SEPP 65 that were considered appropriate in addressing design merit and the meeting minutes and recommendations are presented at **Attachment 3** .

A number of design amendments were recommended by the DRP which was included in amended plans later submitted by the applicant. These recommendations related primarily to the context of the site defined by a mature tree canopy and minimising surface parking and hardstand with the relocation of the at grade parking under the building. The application was not re-referred back to the DRP for comment on the amended plans however; it is considered the proposal has reasonably addressed the matters with the removal and a reduction of the at-grade parking towards the south west corner of the RCF building, with the provision of 24 parking spaces within the undercroft of the building including the retention of a few mature trees to the north of the proposed RCF building. The applicant has provided a response to the DRP comments of 1 November 2018 presented at **Attachment 4**.

Schedule 1 of SEPP 65 sets out the design quality principles for residential apartment development and a merit assessment of the proposal against these principles are discussed at **Attachment 8**. It is considered as SEPP 65 does not apply to the proposed development there has not been a merit assessment against the Apartment Design Guidelines.

## Division 15 Railways

### Clause 85 Development immediately adjacent to rail corridors

The subject site is adjacent to a rail corridor and involves the placing of a metal finish on the proposed building, the potential for the use a crane in air space above the rail corridor and work located within 5 metres of an exposed overhead electricity power line used of the purpose of railways or rail infrastructure facilities. The application was referred to Sydney Trains and their concurrence provided specific conditions relating to these matters dated 20 December 2018, which have been incorporated into the draft conditions at **Attachment 10**.

### Clause 86 Excavation in, above or adjacent to rail corridors

The proposal involves the penetration of ground to a depth of at least 2m below ground level (existing) on land within 25 m of the rail corridor with regards to the construction of the residential care facility building and requires the concurrence of the chief executive officer of the rail authority pursuant to clause 86 of SEPP (Infrastructure) 2007. The application was referred to Sydney Trains under Clause 86(1) of ISEPP 2007, the concurrence and conditions issued dated 20 December 2018 which have been incorporated into the draft conditions at **Attachment 10**.

### Clause 87 Impact of rail noise or vibration on non-rail development

The site adjoins the rail corridor and the proposed development, seniors housing is a form of residential accommodation that could be adversely affected by rail noise or vibration such that clause 87 of the SEPP (Infrastructure) 2007 is applicable.

The applicant has submitted an acoustic report address the requirements of this clause. Council's Environment Officer has reviewed the report and considers the development will be designed to



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ensure the appropriate LAeq levels are not exceeded subject to the implementation of the recommendations of the report. Conditions are recommended in this regard, as provided at **Attachment 10**. Therefore it is considered the proposal will meet the requirements of the Clause such that the development will not be adversely affected from rail noise and vibration.

#### Division 17 Roads and traffic

##### Clause 101 Development with frontage to classified road

The subject site has frontage to Princes Highway along the eastern boundary of the site that is a classified road. There is no vehicular access from the site along the Princes Highway frontage. Existing vehicular access gained from Lindsay Evans Place located along the northern boundary and situated approximately a distance of over 500m from Princes Highway.

A Traffic Impact Assessment Report formed part of the application submission. The proposal has been reviewed by Councils Traffic Engineer and it is considered the development will not compromise the operation and function of the classified road.

##### Clause 102 Impact of road noise or vibration on non-road development

The proposed development is located towards the western end of the site with the component of residential accommodation, the ILUs located approximately a distance of 85m away from Princes Highway and the RCF over 100m.

An Acoustic Report was provided with the applicant submission that considered the noise and vibration impacts from the classified road. The report included an assessment of the existing background and ambient noise levels in the area and recommends structural attenuation materials for windows glazing.

The report has been reviewed by Council's Environment Officer who has advised no objections to the proposed development subject to the imposition of the recommendations of the Acoustic Report. Conditions are recommended in this regard, as provided at **Attachment 10**. It is considered the proposal will meet the requirements of the clause such that the development will not be adversely affected from road noise or vibration.

##### Clause 104 Traffic generating development

The development access point on Lindsay Evans Place is greater than 90m from a classified road, being the Princes Highway. The size or capacity of the development with this proposal is not considered to result in more than 200 car parking spaces or 300 dwellings therefore does meet the requirements under Schedule 3 of the SEPP to be required to be referred to the Roads and Maritime Services.

The development application lodgement was accompanied by a quantity surveyors report which confirms that development has a capital investment value of more than \$30 million. Therefore, the application is required to be determined by the Southern Regional Planning Panel pursuant to Clause 4.5(b) of the Environmental Planning & Assessment Act, 1979.

The proposal is BASIX affected development to which this policy applies in regards to the proposed independent living units. In accordance with Schedule 1, Part 1, 2A of the Environmental Planning and Assessment Regulation 2000, a BASIX Certificate has been submitted in support of the application demonstrating that the proposed scheme achieves the BASIX targets. Draft conditions are recommended in this regard, as outlined at **Attachment 10** to this report.

## Part 1 Preliminary

### Clause 1.4 Definitions

**seniors housing 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.

**Note.** Seniors housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

**residential care facility** 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,

but does not include a dwelling, hostel, hospital or psychiatric facility.

**Note.**

Residential care facilities are a type of **seniors housing**—see the definition of that term in this Dictionary.

\* It is noted that the standard instrument WLEP 2009 does not contain a definition of “a group of self-contained dwellings”. However, as the application relies for SEPP (Housing for Seniors and People with a Disability), self-contained dwellings are defined in the SEPP.

## Part 2 Permitted or prohibited development

### Clause 2.2 – zoning of land to which Plan applies

The land use zoning map identifies the land as being zoned R2 Low Density Residential, as demonstrated at **Attachment 2**.

### Clause 2.3 – Zone objectives and land use table

The objectives of the R2 Low Density Residential zone are as follows:

- 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.

The proposal is satisfactory with regard to the above objectives.

The land use table permits the following uses in the zone.

*Attached dwellings; Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Environmental*

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*facilities; Exhibition homes; Exhibition villages; Group homes; Health consulting rooms; Home-based child care; Hospitals; Hostels; Information and education facilities; Jetties; Multi dwelling housing; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; **Seniors housing**; Shop top housing; Signage; Veterinary hospitals*

The proposal is categorised as “seniors housing” as described below and is permissible in the zone with development consent.

#### **Part 4 Principal development standards**

##### Clause 4.1 Minimum Subdivision Lot Size

No subdivision is proposed with this application.

##### Clause 4.3 Height of buildings

This clause prescribes a maximum height of 9 metres for the land, as shown on the Height of Buildings Map. The proposal has maximum overall height of the residential care facility building is 12.12m, exceeding the height limit by 3.12m (34.7%). Refer to Clause 4.6 exception below.

The buildings that contain the ILUs and community centre are less than 9m in height, measuring approximately 5m high and compliant with the clause.

##### Clause 4.4 Floor space ratio

Maximum FSR permitted for the site:	0.5:1
FSR proposed:	16,683m <sup>2</sup> /91484m <sup>2</sup> = 0.18:1

The proposed floor space ratio does not exceed the maximum permissible for the site.

##### Clause 4.6 Exceptions to development standards

The subject development seeks an exception to four development standards, as per the below:

- Clause 4.3 Height of buildings of WLEP 2009

The applicant has submitted Clause 4.6 Statement addressing the requested exception which are included as **Attachment 9** to this report.

The tables below outline Council’s assessment of each exception:

**Table 1: Clause 4.3 Height of buildings of WLEP 2009**

<b>Development Departure</b>	<b>Clause 4.3 Height of buildings WLEP 2009</b>
Is the planning control in question a development standard?	Yes
<b>4.6(3) Written request submitted by an applicant contains a justification:</b>	
(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	Yes The applicant has provided a written request justifying the exception to the building height development standard, as provided at <b>Attachment 9</b> to this report. The justification provided demonstrates that the request meets the relevant tests, as summarised below: <ul style="list-style-type: none"><li>• The proposed non-compliance is attributable to the sloping nature of the site and the need to provide for an accessible building entry, single level floor plates and compliant ceiling heights,</li><li>• The subject building is located approximately 3m at its closets point form the boundary of the nearest residential neighbour.</li><li>• The proposal will not result in amenity impacts on</li></ul>

	<p>adjoining properties including unreasonable overshadowing.</p> <ul style="list-style-type: none"> <li>The proposal will not result in any unreasonable impacts on adjoining properties or the streetscape as a result of the non-compliance.</li> </ul>
<p>(b) That there are sufficient environmental planning grounds to justify contravening the development standard.</p>	<p>Yes.</p> <p>The applicant has noted environmental planning grounds that justify the departure also include:</p> <ul style="list-style-type: none"> <li>The proposed non-compliance is attributable to the sloping nature of the site and the need to provide for an accessible building entry, single level floor plates and compliant ceiling heights,</li> <li>The proposed non-compliant portion of the building will not be discernible from adjoining properties or the public domain and will not result in any unreasonable impacts.</li> </ul>
<p><b>4.6 (4)(a) Consent authority is satisfied that:</b></p>	
<p>(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</p>	<p>The applicants written request is considered to have adequately addressed the matters required to be demonstrated by (3), as outlined above.</p>
<p>(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</p>	<p>The objectives of clause 4.3 are as per the following:</p> <p>(a) <i>to establish the maximum height limit in which buildings can be designed and floor space can be achieved,</i></p> <p>(b) <i>to permit building heights that encourage high quality urban form,</i></p> <p>(c) <i>to ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.</i></p> <p>The proposal would be considered to be consistent with these objectives, as the proposal remains well under the permitted floor space for the site, provides a high quality urban form as evidenced by the DRP comments and would not impact on any significant view corridor or solar access.</p> <p>The objectives of the R2 zone are as per the following:</p> <ul style="list-style-type: none"> <li><i>To provide for the housing needs of the community within a low density residential environment.</i></li> <li><i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i></li> </ul> <p>The development is not considered inconsistent with the above objectives, as outlined below:</p> <ul style="list-style-type: none"> <li>The proposal will provide for housing needs for the community with 111 aged care facility beds.</li> </ul> <p>The built form is considered generally satisfactory, as evidenced by the comments by the Design Review Panel. The design is considered satisfactory and attempts to mitigate any unreasonable impacts on surrounding properties, whilst ensuring that the development is compatible in the context of the future anticipated character of the area.</p> <p>The development is therefore considered to be in the public interest because it is consistent with the objectives of the development standard and the objectives for development in the</p>

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Pursuant to part 4(b) of this clause, the concurrence of the Secretary has been provided via delegation to Council.

It is considered the exception to a development standard request is capable of support.

## **Part 7 Local provisions – general**

### Clause 7.1 Public utility infrastructure

This clause seeks to ensure that sufficient infrastructure is available to service development and requires that consent not be granted for development unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.

The site is already serviced by electricity, water and sewerage services. It is expected that the existing utility services can be augmented to support the proposed development.

Advice received from Sydney Water indicates the proposal is considered conditionally satisfactory.

### Clause 7.2 Natural resource sensitivity – biodiversity

Council records indicate that the site is affected by natural resource sensitivity –biodiversity. The site contains native vegetation, Illawarra Lowlands Grassy Woodland in the Sydney Basin Bioregion (ILGW). The proposal will result in the removal of 0.31 hectares of ILGW from the site. The application was accompanied by a Biodiversity Assessment Report (BDAR) that has concluded there will be significant impact on the ILGW EEC community occurring on the site. The BDAR recommends several measures to mitigate impacts on biodiversity values including the implementation of a Vegetation Management Plan for the central part of the site. Whilst the proposal will involve the removal of some of the ILGW, impacts are expected to be minimised and the implementation of the VMP would improve the ecological value of the subject site.

In addition, the impacts associated with the proposal under the Biodiversity Assessment Methodology provides that a total of 5 ecosystem credits are required to offset the proposed clearing of the 0.31 hectares of the ILGW EEC.

Overall, it is considered the proposed development has been designed, sited so as to have minimum adverse environmental impact, and will mitigate any residual adverse environmental impact through the restoration of existing disturbed and modified areas on the site.

Council's Environment Officer has reviewed the application and considers to proposal to be satisfactory subject to conditions including the evidence of the retirement of credits or payment to the Biodiversity Conservation Fund as provided at **Attachment 10**.

### Clause 7.6 Earthworks

The proposal involves excavation to facilitate the construction of the residential care facility building. The earthworks have been considered in relation to the matters for consideration outlined in Clause 7.6 and will not have a detrimental impact on environmental functions and processes, neighbouring uses and features of the surrounding land.

The application was reviewed by Council's Stormwater, Geotechnical and Environment Officers for comment and satisfactory referral advice was provided.

### Clause 7.9 Airspace operations

The site is identified to have an obstacle limitation surface of 52m – 127m AHD for the northern portion of the site where the proposed development will be located within and 52m AHD located in the southern portion of the site.

The highest point of the land where the proposal as indicated on the submitted survey plans is approximately 31m – 32m AHD. Based on the submitted elevation/cross section plans submitted, the development at the highest point will be 38.72m AHD for the RCF building. There is no change to the existing building height of the ILUs/community centre buildings and as being single storey the maximum will be below that of the proposed RCF building. The proposal will be well below 52m AHD such that it will not penetrate the Limitation or Operations Surface and therefore considered not to comprise the operation of the Illawarra Regional Airport.

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## 2.1 SECTION 4.15(A)(II) ANY PROPOSED INSTRUMENT

None applicable to the site or proposed development.

## 3.2 SECTION 4.15 1(A)(III) ANY DEVELOPMENT CONTROL PLAN

### 3.2.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

#### CHAPTER B1 – RESIDENTIAL DEVELOPMENT

This chapter of the DCP applies to all residential zoned land within the City of Wollongong Local Government Area. The proposal includes 22 Independent Living Units (ILU) within the facility and the units can also be considered to be multi dwelling housing. Therefore a merit assessment against the relevant clauses of part 4 & 5 of this chapter is outlined below.

It should be noted that as the chapter does not strictly apply to the entire development, compliance with all controls within the following table is considered not to be unreasonable. In addition, it is noted that the conversion of the hostel bed facility to the ILUs involves minimal external changes, works primarily involve the reconfiguration of the internal layout and fit out. Further explanation is given at the relevant clauses below.

#### 4.0 General Residential controls

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
<u>4.12 Site Facilities</u>	The proposal has adequate area for the provision of the site facilities for the development.	Yes
<u>4.13 Fire Brigade Servicing</u>	Existing hydrants are located with the site and draft conditions requiring the proposal to comply with the current standard AS2419.1 – 2005.	Yes
<u>4.14 Services</u>	The site is already serviced.	Yes
<u>4.15 Development near the coastline</u>	The site is not located near the coastline.	N/A
<u>4.16 View sharing</u>	It is considered the proposal will not adversely impact significant views from public places and/or adjoining/nearby properties.	Yes
<u>4.17. Retaining walls</u>	The proposal does not involve retaining walls besides those associated with the podium planting areas RCF building situated along the north west and western portion of the dwelling. Where the height of these retaining walls exceed 1m in height. The retaining walls have been design to be structurally sound and will not affect proposed drainage for the development. Extensive planting is proposed along these areas to screen the retaining walls and considered to	No – however, considered can be supported due to no adverse impacts.

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<p><u>4.18 Swimming pools and spas</u></p>	<p>improve the aesthetics of the proposal by softening the built form such there will not be no adverse visual impact from the development.</p>	<p>N/A</p>
<p><u>4.19 Development near railway corridors and major roads</u></p>	<p>No swimming pool/spa is proposed.</p> <p>The site is located near a railway corridor adjoining the site to the west and a major road, Princes Highway along the eastern frontage. The proposal has considered against the relevant clauses in the SEPP (Infrastructure) 2007 in section 4.1.3 of this report and is satisfactory subject to draft conditions at <b>Attachment 10</b>.</p>	<p>Yes</p>

**5.0 Attached dwellings and multi -dwelling housing**

	<i>Comment</i>	<i>Compliance</i>
<p><u>5.1 Minimum Site Width Requirement</u></p>	<p>The site has a site that exceeds the minimum 18m width requirement.</p>	<p>Yes</p>
<p><u>5.2 Number of Storeys</u></p>	<p>The site is located in a R2 zone and allows a maximum of 2 storeys. The ILUs and community centre building is one storey.</p>	<p>Yes</p>
<p><u>5.3 Front Setbacks</u></p>	<p>The proposed ILUs are setback from the northern boundary (with frontage to Lindsay Evans Place) greater than the 6m requirement.</p>	<p>Yes</p>
<p><u>5.4 Side and Rear Setbacks</u></p>	<p>The ILUs are setback a significant distance from the southern rear and eastern side boundary. The ILUs are setback from the western side boundary over 30m in distance.</p>	<p>Yes</p>

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<u>5.5 Building Character and Form</u>	The proposed ILUs are not visible from the street. As the proposal will convert the existing building minimal changes are sought to the external configuration.	Yes
<u>5.6 Access / Driveway Requirements</u>	The proposal has an existing crossover for access from Lindsay Evans Place. There is adequate manoeuvring area within the site for the vehicles to enter and exit the site in a forward direction	Yes
<u>5.7 Car Parking Requirements</u>	Under the requirements of the SEPP (Housing for Seniors or People with a Disability) 2004 the ILUs need to provide 5 car parking spaces however, 21 spaces have been provided for the ILUs component.	Yes
<u>5.8 Landscaping Requirements</u>	The proposal provides a minimum of 30% of the site area as landscaped area. The side and rear boundaries have a minimum 1.5m wide landscaping bed.	Yes
<u>5.9 Deep Soil Planting</u>	The proposal provides a minimum of 15% of site area as deep soil planting with a minimum dimension of 6m. No structures are proposed in this area and this area will be densely planted with trees and shrubs.	Yes
<u>5.10 Communal Open Space</u>	Communal open space is required for developments with more than 10 dwellings. The proposal is for 22 dwellings where 5sqm is to be provided per dwelling resulting in a total of 110sqm required. COS is provided for the ILUs between the building wings with a total area that exceeds the requirement. 50% of the COS areas are considered to receive a minimum of 3 hours of solar access during mid-winter.	Yes
<u>5.11 Private Open Space</u>	Private open space is provided in the form of a level paved terrace for each dwelling directly connected to the living areas and measuring 3m x 3m which is less than the 4m x 5m however compliant with the requirements of the relevant SEPP. It is considered the terrace areas are adjacent to grassed level that could accommodate 20sqm POS for each ILUs. The POS areas are located away from the boundaries of the site. Draft conditions have been included relating to the provision of privacy screens to the POS areas to ensure a reasonable level of amenity for future residents.  21 of the 22 ILUs will receive the minimum 3 hours of direct sunlight between 9am to 3pm on June 21.	Yes



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<u>5.12 Solar Access Requirements</u>	Greater than 70% of the living rooms and POS of the ILUs will receive 3 hours of sunlight during mid-winter. The proposal will not adversely impact adjoining properties in regards to their solar access for living areas or POS during mid-winter.	Yes
<u>5.13 Additional Control for Multi Dwelling Housing - Dwelling Mix and Layout</u>	The 22 ILUs are all proposed as one bedroom dwellings and are adaptable. Whilst the ILUs on their own do not provide a mix in layout/size it is noted that site contains other various forms of seniors housing accommodation that contribute to dwelling mix and layout.	Yes
<u>5.14 Additional Control for Multi Dwelling Housing - Adaptable Housing</u>	The ILUs are adaptable dwellings.	Yes
<u>5.15 Additional Control for Multi Dwelling Housing – Crime Prevention through Environmental Design</u>	Refer to discussion of CPTED in Chapter E2.	Yes

## CHAPTER D1 – CHARACTER STATEMENTS

It is recognised that the residential areas in Dapto contain medium density housing and the desired future character of the area includes senior living self-care and residential care facilities albeit encouraged closer to the Dapto Town Centre, the proposal involves the redevelopment of part of an existing established retirement village.

Whilst the proposed development currently appears at a scale greater than the surrounding development due the majority of the adjoining development to be single storey in nature, rather than 2 storey with a height limit of up to 9m. It is envisaged the scale of development will undergo transition over time to be of a greater scale than existing however, within the context of the residential zoning. The proposed development is generally compatible with the existing residential and aged care related development in the area as identified through the development standards and controls applicable to the land.

## CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY

The application included a submission of a Statement of Compliance- Access for People with a Disability prepared by an access consultant was provided. The proposed new RCF building and the existing building with the ILUs and community centre has been considered and is able to achieve compliance with the access provisions of the BCA for the affected part of the building subject to conditions.

## CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

Details of the application submission were referred to Council's SCAT Officer who has reviewed the application and given satisfactory referral advice.

The following compliance table relates to the controls within this Chapter:

<i>Control/objective</i>	<i>Comment</i>	<i>Compliance</i>
<u>3.1 Lighting</u>	Draft conditions require the car parking areas of the site and the entrance points to buildings to be adequately lit.	Yes – to be conditioned for

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<i>Control/objective</i>	<i>Comment</i>	<i>Compliance</i>
<u>3.2 Natural surveillance and sightlines</u>	The building design and layout with the building frontage addressing the internal driveway and adjacent at grade parking spaces maximises the potential for natural surveillance of open areas and the entry to the buildings.	Yes
<u>3.3 Signage</u>	There is no signage proposed within this application. It is noted there is existing directional signage within the site to find and locate existing development. It is considered the existing signage will be updated to reflect the proposed changes.	Yes – to be conditioned for
<u>3.4 Building design</u>	The design of the building is considered to be satisfactory and responsive to the constraints onsite. The entrance to the buildings is clearly defined. The car parking spaces are accessible from the building. It is noted that the undercroft spaces are to be provided for staff.	Yes
<u>3.5 Landscaping</u>	The Landscape Concept Plan submitted with the application is considered to be appropriate for the site and does not propose landscaping which has the potential to screen entrances to the building. No gravel paths are proposed and all surfaces and designed in a way that will allow access for disabled and mobility impaired people.	Yes
<u>3.6 Public open space and parks</u>	The proposal does not adjoin public open space or parks. However, the proposal does incorporate areas of communal open space which is designed to be accessible for the mobile residents.	Yes
<u>3.7 Community facilities</u>	The proposal seeks to new additions and refurbish accommodation within the existing retirement village. In addition, to being a number of open areas the proposal is seeking to refurbishment the existing community facilities for the development where all residents within the site can access and use.	Yes
<u>3.8 Bus stops and taxi ranks</u>	The proposal does not involve a bus stop/taxi rank. The site is located with 400m of a bus stop however, it is noted residents that require assistance with regards to mobility have access to a mini bus provided by the facility to access the relevant services/shops.	N/A

### **CHAPTER E3: CAR PARKING, ACCESS, SERVICING/LOADING FACILITIES AND TRAFFIC MANAGEMENT**

The applicant has provided a traffic impact assessment which was reviewed by Council's Traffic Officer. Conditionally satisfactory referral advice was provided. It was considered that the proposed access and parking arrangements for the development are acceptable. A comparison of the existing and proposed traffic generation is considered to result in a minor increase that will unlikely to be

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significant or any traffic implication such that Lindsay Evans Place has the capacity to accommodate the proposal and there will no adverse impacts on the existing local road network.

The car parking requirements under this chapter are parking rates based on those indicated in SEPP (Housing for Seniors or People with a Disability) 2004. A total of 59 spaces are proposed for residents, visitors and staff in this proposal. As discussed in the section 3.1.2 of this report, the proposal complies and provides car parking spaces in excess of the parking requirements under this SEPP.

#### **CHAPTER E6: LANDSCAPING**

The proposal will require the removal of a number of trees as shown in the landscape plans at **Attachment 1**, to accommodate the proposed building footprint of the RCF building that is greater than the existing facility. However, amended plans were provided to address the DRP comments that reduced the building footprint with the removal of at grade parking spaces that enable the retention of existing mature trees. In addition, a review of the RCF building design and fire trail has enabled additional mature tree to be retained for the development. The landscape plans identify the trees proposed to be retained and removed within the vicinity of the development. An arborist report has been provided and recommended tree protection measures for those trees within close vicinity of the development. The landscape plans also show proposed additional planting for the proposal and including within the podium areas of the RCF building that is considered been designed to enhance and complement the existing vegetation. It is considered proposal is satisfactory subject to draft conditions at **Attachment 10** that include compensatory planting for the site.

#### **CHAPTER E7: WASTE MANAGEMENT**

A Site Waste Minimisation and Management Plan has been provided with the application submission. The plan details that waste collection vehicles will enter the site and bins will be collected from the loading area within the site by a private contractor. This arrangement has been reviewed by Council's Traffic Engineer and satisfactory referral advice provided.

#### **CHAPTER E12 GEOTECHNICAL ASSESSMENT**

A geotechnical report was submitted with the application that has been reviewed by Council's Geotechnical Officer and conditionally satisfactory advice has been provided. It is considered the land stability constraints have been adequately addressed and proposal is suitability of the site for the development subject to conditions.

#### **CHAPTER E14 STORMWATER MANAGEMENT**

A stormwater concept plan was submitted with the application and the development proposes to discharge stormwater through the existing easement on the site and an existing discharge located within the railway corridor. Internal modifications to the stormwater system are proposed with a new stormwater management system for the RCF building with a proposed drainage system this includes a combined on-site detention and retention tank system located within the undercroft area. The discharge of stormwater volumes will increase from the proposal however, the discharge locations will remain the same and flows will be limited to the pre-developed flow rates.

The application has been reviewed by Council's Stormwater Officer and considers satisfactory arrangements have been made to ensure stormwater impacts have been minimised subject to recommendations that have been included in the draft conditions.

The application was also referred to Sydney Trains and no objections were raised to the proposed method of stormwater disposal subject to their conditions issued granting their concurrence are included in the draft conditions.

#### **CHAPTER E15 WATER SENSITIVE URBAN DESIGN**

A water cycle management study was submitted with the application with proposed WSUD measures incorporating a bio-retention basin associated within the new car parking area and driveways. The application has been reviewed by Council's Environment Officer in regard to the water quality aspects of the proposal and satisfactory referral advice has been provided that include conditions stormwater quality treatment devices are installed and maintained accordingly to ensure specified targeted improvements in water quality will be achieved.

## CHAPTER E16 BUSHFIRE MANAGEMENT

Council's records identify the site to be bushfire prone land, the bushfire risk from the central vegetated portion of the site consider Category 1 Vegetation. The proposal requires to be assessed under Planning for Bushfire Protection 2006. The application submission included a bushfire assessment report.

The proposal is Integrated Development as it requires a Bush Fire Safety Authority pursuant to Section 100B of the Rural Fires Act 1997 (development of bush fire prone land for a special fire protection purpose). The application submission was referred to the NSW RFS and a Bush Fire Safety Authority has been issued, subject to the imposition of conditions which are included in the draft conditions.

The RFS conditions are included in the draft conditions at **Attachment 10** and has provided that the existing 40m asset protection zone is to be maintained as an Inner Protection Area. This APZ referenced is located is 40m from the existing buildings on site, noting buildings are located on the southern and northern end of the property. As discussed in section 1.3 of this report, development consent has been granted for the 40m APZs in DA-2008/1470 and environmental impacts assessment considered. However, it is noted that this did not result in the creation of a restriction on title for this purpose. Therefore the draft conditions include the requirement for the creation of a restriction on title for the purpose of APZ to be maintained as in IPA 40m from the existing buildings on site as per the previous consent granted. It is noted that the proposed VMP to be implemented for the site includes the management of the APZs however, has been tailored to in accordance requirements under PFBP 2006.

A proposed fire trail is located to the rear of the RCF building along the western boundary of the site and continue around the northern side of the building to connect to the internal access road to create a perimeter road to comply with the bushfire access requirements. Construction levels are required for the new RCF building and the ILUs/community centre buildings require to be updated to improve ember protection.

The proposal is considered to comply with the requirements for Planning for Bushfire Protection 2006 subject to draft conditions in **Attachment 10**.

## CHAPTER E17 PRESERVATION AND MANAGEMENT OF TREES AND VEGETATION

The proposed development will result in the removal of ILGW EECs, native vegetation and trees. However, it is considered the proposed development has been designed and sited so as to have minimum adverse environmental impact, will incorporate effective measures to mitigate any residual adverse environmental impact through the restoration of existing disturbed and modified areas in the central portion of the site. This includes vegetation management and landscaping works that includes compensatory planting.

## CHAPTER E18 THREATENED SPECIES

Council records indicate that the site is affected by natural resource sensitivity –biodiversity. The site contains native vegetation, Illawarra Lowlands Grassy Woodland in the Sydney Basin Bioregion (ILGW). The proposal will result in the removal of 0.31 hectares of ILGW form the site. The application was accompanied by a Biodiversity Assessment Report (BDAR) that has concluded there will be significant impact on the ILGW EEC community occurring on the site. The BDAR recommends several measures to mitigate impacts on biodiversity values including the implementation of a Vegetation Management Plan for the central part of the site. Whilst the proposal will involve the removal of some of the ILGW impacts are expected to be minimised and the implementation of the VMP would improve the ecological value of the subject site.

In addition, the impacts associated with the proposal under the Biodiversity Assessment Methodology provides that a total of 5 ecosystem credits are required to offset the proposed clearing of the 0.31 hectares of the ILGW EEC.

Overall, it is considered the proposed development has been designed, sited so as to have minimum adverse environmental impact, and will mitigate any residual adverse environmental impact through the restoration of existing disturbed and modified areas on the site.

Council's Environment Officer has reviewed the application and considers to proposal to be satisfactory subject to conditions including the evidence of the retirement of credits or payment to the Biodiversity Conservation Fund provided at **Attachment 10**.

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## **CHAPTER E19 EARTHWORKS (LAND RESHAPING WORKS)**

The proposal will involve earthworks to prepare the site for the construction for the RCF building and associated infrastructure and excavation works proposed. It is considered that the works would be reasonable and environmental management measures to ensure there are minimal adverse impacts are conditioned for.

## **CHAPTER E20: CONTAMINATED LAND MANAGEMENT**

A Detailed Site Investigation (DSI) Report has been provided as part of the application and includes a due diligence assessment and intrusive soil investigation. The report identifies areas of potential contamination are largely contained to the fill material of waste construction material that has evidence of anthropogenic material including asbestos, particularly in an area identified as TRH F2 (Pit 221) and the concern for potential asbestos contamination under the existing RCF building. The report recommends additional site investigation after the demolition of the buildings.

The Report has recommended a Detailed Asbestos Investigation should be undertaken on filling material to explore the extent of asbestos contamination and additional investigation, including possible sampling, should be undertaken around the TRH F2 (Pit 221) exceedance to explore the extent and potential source and a remediation action plan.

In accordance with Clause 7(2) of SEPP 55, Council's Environmental Officer has reviewed the history of the site in conjunction with these documents that are considered acceptable subject to conditions requiring the further Stage 2 DSI and Stage 3 RAP to be completed prior to the issue of the Construction Certificate. Then subject to the site validation of the site, it is considered that the site will be suitable for the proposed use as a seniors housing development. It is considered the proposal will be satisfactory with regard to SEPP 55 matters.

## **CHAPTER E21 DEMOLITION AND ASBESTOS MANAGEMENT**

The proposal will involve the demolition of a number of existing buildings and structures on site including the existing RCF building and the detached cottage. A demolition plan and hazardous building materials survey report has been provided with the application.

## **CHAPTER E22 SOIL EROSION AND SEDIMENT CONTROL**

A concept sediment and erosion control plan has been submitted with the application and reviewed by Council's Environment Officer and satisfactory referral advice has been provided that include conditions to ensure soil erosion and sediment control is appropriately managed on the site during demolition and construction.

The estimated cost of works is \$ 30,598,778 however under section 7.17 Direction of the Environmental Planning and Assessment Act 1979, a contribution cannot be imposed for the purposes of any form of seniors housing as defined in the SEPP (Housing for Seniors and People with a Disability) 2004 where the development consent is granted to a social housing provider as defined in the SEPP. The application is made by Anglican Community Services whom is a social housing provider. Details of the application were referred to Councils' Contributions Officer for assessment and confirmed that no contributions are to be levied on the development as per the section 7.17 Direction.

### **3.3 SECTION 4.15 1(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 7.4, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 7.4**

There are no planning agreements entered into or any draft agreement offered to enter into under S7.4 which affect the development.

### **3.4 SECTION 4.15 1(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)**

Clause 92 What additional matters must a consent authority take into consideration in determining a development application

The proposal involves demolition works, and the site is not located within the coastal zone.

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### 93 Fire safety and other considerations

Not applicable – The application does not seek approval for change in building classification. This clause applies to development where there is a change of building use and where there is no rebuilding, alteration, enlargement or extension of an existing building. This proposal includes building works therefore clause 94 of the EP&A Regulation applies instead.

### 94 Consent authority may require buildings to be upgraded

The development proposes building work and comprises of rebuilding and alteration of the existing building therefore this clause is applicable. The proposal was referred to Council's BCA Officer to review the application where satisfactory referral advice was provided. A BCA report was provided for the proposal. The proposed new residential care facility will require to comply with the NCC – BCA requirements. The existing buildings comprising of the ILUs and community centre will require fire safety upgrades.

## **3.5 SECTION 4.15 1(A)(V) ANY COASTAL ZONE MANAGEMENT PLAN (WITHIN THE MEANING OF THE COASTAL PROTECTION ACT**

REPEALED

## **3.6 SECTION 4.15 1(B) THE LIKELY IMPACTS OF DEVELOPMENT**

### Context and Setting:

In regard to the matter of context, the planning principle in Project Venture Developments v Pittwater Council [2005] NSWLEC 191 is relevant in that it provides guidance in the assessment of compatibility. The two major aspects of compatibility are physical impact and visual impact. In assessing each of these the following questions should be asked:

- Are the proposals physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.
- Is the proposals appearance in harmony with the buildings around it and the character of the street?

In response to the first question, matters such as overshadowing, privacy concerns, bulk scale and setbacks are relevant. The proposed development involves the construction of a 2-3 storey RCF building and conversion of existing building as ILUs. The siting of the proposed development satisfies the objectives of the SEPP (Housing for Seniors and People with a Disability) 2004 and Council's boundary setback requirements so as to have minimal impact on the adjoining properties in terms of privacy and overshadowing and to allow reasonable solar access.

In regard to the visual impact, the site in itself has limited visibility from the Lindsay Evans Place street frontage being located at the end of a cul-de-sac.

The location and siting of the proposed RCF building, it will be of limited visibility from the public domain with exception to the adjoining railway corridor to the west, where the proposal will have a 3 storey appearance. Whilst the ILUs and community centre building is not visible from the street. The proposal is considered generally consistent with the future desired character of Dapto area.

The bulk and scale of the development is generally consistent with the applicable planning controls for the area inclusive of floor space ratio, building setbacks and other built form controls. The development is not considered to be out of context with regard to the desired future character of the area, despite the exception to building height.

In summary, the proposal has been assessed with regard to the amenity impacts from the development, the zoning and existing and future character of the area, and is considered to be compatible with the local area when the future desired character of the area is taken into consideration.

### Vehicular Access, Transport and Traffic:

The proposal is satisfactory with regard to car parking, vehicular access, manoeuvring and servicing. Provision has been made for appropriate arrangements for on-site servicing and deliveries.

Traffic generation will not result in an adverse impact on the capacity of the existing local road network. Advice received from Council's Traffic Officer indicates the proposal is considered conditionally satisfactory.

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Public Domain:

The proposal is not expected to impact the public domain.

Utilities:

The proposal is not expected to place an unreasonable demand on utilities supply. Existing utilities are likely to be capable of augmentation to service the proposal. Draft conditions are recommended in this regard.

Heritage:

No nearby heritage items are expected to be affected by the proposed development.

Other land resources:

The proposal is not expected to impact upon any valuable land resources.

Water:

Supply & infrastructure - The site is presently serviced by Sydney Water's reticulated water and sewerage services. It is expected that these services can be extended/ augmented to meet the requirements of the proposed development. Sydney Water provided conditionally satisfactory referral advice in relation to the development, as discussed at section 1.6 above.

Consumption - The proposal is not envisaged to involve excessive water consumption having regard to the uses proposed within the building. Rainwater harvesting is proposed.

Water quality – the application was accompanied by a Water Sensitive Urban Design Strategy which demonstrates that the compliance with the water quality objectives outlined in Chapter E15 of WDCP 2009 – Water Sensitive Urban Design can be achieved.

Soils:

It is expected that, with the use of appropriate erosion and sedimentation controls during construction, soil impacts will not be unreasonably adverse.

The soil profile is considered to be acceptable for the construction of the proposed development. Council's Geotechnical, Stormwater and Environment Officers have assessed the application submission and considered it satisfactory subject to consent conditions.

Air and Microclimate:

The proposal is not expected to have negative impact on air or microclimate.

Flora and Fauna:

The proposed development will result in the removal of ILGW EECs, native vegetation and trees. However it is considered the proposed development has been designed and sited so as to have minimum adverse environmental impact, will incorporate effective measures to mitigate any residual adverse environmental impact through the restoration of existing disturbed and modified areas in the central portion of the site. This includes the requirement for the retirement of ecosystem credits, vegetation management and landscaping works that includes compensatory planting.

Waste:

Waste management during construction can be managed through proper arrangements. A condition should be imposed if consent is granted requiring the use of an appropriate receptacle for any waste generated during the construction and compliance with the Site Waste Management and Minimisation Plan provided with the application.

On-going waste management arrangements are satisfactory for the proposal and comply with the relevant provisions of Wollongong DCP 2009 as detailed within this report. Advice received from Council's Traffic Officer indicates the proposal is considered conditionally satisfactory.

Energy:

The proposal is not envisaged to have unreasonable energy consumption. The application includes an Energy Efficiency report.

Noise and vibration:

Noise and vibration impacts during demolition, excavation and construction are unavoidable. If the

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development is approved, a suite of conditions are recommended for imposition (see **Attachment 10**) to minimise nuisance during demolition and construction.

Natural hazards:

Council records list the site as bushfire affected. The application has been assessed by the NSW RFS having regard to the provisions of Planning for Bushfire Protection (PBP) 2006. The NSW RFS considered the application acceptable in this circumstance subject to draft consent conditions as at **Attachment 10**. For details of the NSW RFS response please see section 1.5.2 External Consultation of this report.

Technological hazards:

There are no technological hazards affecting the site that would prevent the proposal. See SEPP 55 comments at Section 3.1.1.

Safety, Security and Crime Prevention:

Refer to discussion in section 3.2.1 of this report in considering Chapter E2 in WDCP 2009. The proposal is not expected to provide increased opportunities for criminal or antisocial behaviour and is considered to be reasonably well designed with regard to CPTED principles subject to some matters including lighting and landscaping being dealt with via draft conditions; see **Attachment 10**.

Social Impact:

No significant adverse social impacts are expected to arise from approval of the proposed development.

Economic impact:

There are not expected to be adverse economic impacts arising from approval of the proposed development.

Site Design and Internal Design:

The proposal requests an exception from WLEP 2009 with regard to building height. The request has been considered and is capable of support in this instance as discussed at section 3.1.7 above.

Private open space, amenity, vehicular manoeuvring and pedestrian access have been accounted for in the design and site layout.

Construction:

Construction impacts have the potential to impact on the amenity of the neighbourhood. If approved, it would be appropriate to impose a suite of conditions to reduce the impact of construction works including those relating to hours of work, erosion and sedimentation controls, dust mitigation, works in the road reserve, excavation, demolition management, waste management, and use of any crane, hoist, plant or scaffolding, amongst others. These are included in the draft conditions at Attachment 10.

A condition is also included in the draft conditions at **Attachment 10** that all works are to be in compliance with the Building Code of Australia.

Cumulative impacts:

Approval of the proposal is not expected to give rise to adverse cumulative impacts.

### **3.7 SECTION 4.15 1(C) THE SUITABILITY OF THE SITE FOR DEVELOPMENT**

Does the proposal fit in the locality?

The proposal is considered appropriate with regard to the zoning of the site and is not expected to have negative impacts on the amenity of the locality or adjoining developments.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.



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### **3.8 SECTION 4.15 1(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS**

Details of the application were publicly exhibited in accordance with Appendix 1 of the Wollongong Development Control Plan (WDCP) 2009. The initial notification period exhibited the application as lodged at from 18 May 2018 to 8 June 2018. During this period 3 responses were received however, it is these were considered two (2) submissions were received, as 2 of the responses were from the same submitter.

The application was re-notified from 24 April 2019 to 9 May 2019. During this second notification period for the application no submissions were received.

The matters raised in submissions are discussed below.

Concern	Comment
<p>1. Demolition cottage</p> <p>It has been understood that the cottage/meeting hall was previously set aside for demolition in the last development of the site however was required by Council to be relocated and if the cottage could be moved.</p>	<p>The proposal seeks the demolition of the existing cottage building located north of the existing RCF building. The demolition has been provided to occur after the reconfiguration of the community centre building. Council is unaware of previous development applications that related to the relocation of the building and can only consider what the proposal is sought for in this current development application.</p>
<p>2. Traffic/Access/Impacts on local road network form proposed development</p> <p>Concerns have been raised with current traffic movements and safety around the existing local road network from Lindsay Evans Place &amp; Timperi Avenue thoroughfare to Princes Highway.</p> <p>In addition, the increase in traffic movements from the proposed development and during construction that will impact on the existing situation of this local road network.</p> <p>Proposed suggestions to change the local road network and arrangements within the subject site.</p>	<p>The proposal is considered not be traffic generating development under Clause 104 of SEPP (Infrastructure) 2007 as discussed in section 3.1.4 of this report. It is noted that the application can only assess the impacts of the proposal and cannot resolve potential existing issues experienced with the current local road network. The application was accompanied by a traffic assessment report and reviewed by Council's Traffic Officer. It was considered that the proposed access and parking arrangements for the development are acceptable, with adequate manoeuvring for waste, emergency and fire fighting vehicles. A comparison of the existing and proposed traffic generation is considered to result in a minor increase that will unlikely to be significant or any traffic implication such that Lindsay Evans Place has the capacity to accommodate the proposal and the proposal will not result in adverse impacts on the existing local road network.</p>
<p>3. Construction Impacts</p> <p>Impacts of the construction of the proposed development on the road</p>	<p>The construction of the development can have the potential for damage to the road that may be caused by the construction of the development is required to be suitably restored prior to the final works and draft conditions at Attachment 10 have been included to address this matter if it arises.</p>

### **3.9 SECTION 4.15 1(E) THE PUBLIC INTEREST**

The proposed development is considered appropriate with consideration to the zoning and the future desired character of the area. The proposed development is considered to be in the public interest.

## **4. CONCLUSION**

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979. The proposed development is permissible with consent and is reflective of the objectives of the R2 Low Density Residential zone.

The development is generally consistent with the applicable provisions of the relevant planning instruments including SEPP (Housing for Seniors or People with a Disability) 2004, SEPP 65, SEPP

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(Infrastructure), SEPP 55, SEPP (Building Sustainability Index: BASIX) 2004 and Wollongong LEP 2009.

The proposal seeks an exception to Wollongong Local Environmental Plan 2009 development standard relating to building height. It is considered that the clause 4.6 exception request provided addressing this matter is satisfactory, and as such the exception is capable of support. The design of the development is appropriate with regard to the controls outlined in the Wollongong DCP 2009.

It is considered that the proposed development is unlikely to result in adverse impacts on the character or amenity of the surrounding area, environment and adjoining development.

## **5. RECOMMENDATION**

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DA-2018/557 be approved pursuant to Section 4.16(1) of the Environmental Planning & Assessment Act 1979 subject to the conditions provided at **Attachment 10**.

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## **6. ATTACHMENTS**

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- 1 Plans – Architectural, Landscape
- 2 Aerial photograph, WLEP 2009 zoning map and extract of deposited plan
- 3 Design Review Panel meeting minutes and recommendations
- 4 Applicant's response to Design Review Panel
- 5 Biodiversity Assessment Report (BDAR)
- 6 Vegetation Management Plan (VMP)
- 7 Arborist Report
- 8 SEPP 65 Assessment
- 9 Clause 4.6 Exception Request – Building height
- 10 Draft conditions