

SOUTHERN REGIONAL PLANNING PANEL

Panel Reference	PPSSTH-277
DA Number	DA-2023/615
Local Government Area	Wollongong City Council
Proposed Development	Seniors Housing – demolition of existing buildings and ancillary structures, removal of trees, construction of two (2) residential three (3) and four (4) storey buildings comprising 51 apartments with basement carparking and multi dwelling housing comprising nine (9) single storey dwellings, associated infrastructure, signage and landscaping
Street Address	4 Lindsay Evans Place, Dapto; Lot 1 DP 1082602
Applicant/Owner	Anglican Community Services
Number of Submissions	10 August 2023
Regional Development Criteria (Section 4.5(b) of the Act and SEPP (Planning Systems) 2021)	Two (2) submissions
Recommendation	Approval
Regional Development Criteria (Section 4.5(b) of the Act and SEPP (Planning Systems) 2021)	The application has been referred to the Southern Regional Planning Panel as the consent authority under section 4.5(b) of the Environmental Planning & Assessment Act 197, as the proposal is general development with a capital investment value (CIV) for more than \$30 million and is therefore defined as regionally significant development under SEPP (Planning Systems) 2021, Schedule 6 Section 2. The applicant's CIV estimate for the project is \$31,859,683.
List of all relevant s4.15(1)(a) matters	<p>s4.15 (1)(a)(i) Any environmental planning instruments:</p> <p><u>State Environmental Planning Policies (SEPPs):</u></p> <ul style="list-style-type: none"> • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Housing) 2021 • State Environmental Planning Policy No 65-Design Quality of Residential Apartment Development • State Environmental Planning Policy (Transport and Infrastructure) 2021 • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy (Planning Systems) 2021 <p><u>Local Environmental Planning Policies:</u></p> <ul style="list-style-type: none"> • Wollongong Local Environmental Plan (WLEP) 2009 <p><u>Other Policies:</u></p> <ul style="list-style-type: none"> • Wollongong City-Wide Development Contributions Plan 2024 • NSW Apartment Design Guide

	<ul style="list-style-type: none"> Planning for Bushfire Protection 2019 Wollongong Community Participation Plan 2019 <p>s4.15(1)(a)(ii) (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority:</p> <p>N/A</p> <p>s4.15 (1)(a)(iii) Any development control plan:</p> <p>Wollongong Development Control Plan 2009</p> <p>s4.15 (1)(a)(iia) 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</p> <p>N/A</p> <p>s4.15 (1)(a)(iv) the regulations</p> <p>Clause 61 Demolition</p>
List all documents submitted with this report for the Panel's consideration	<p>Attachments</p> <ol style="list-style-type: none"> Plans – Architectural, Landscape and Stormwater Design Review Panel (DRP) commentary - 10 November 2023 Applicant's response to DRP commentary Applicant's Clause 4.6 Variation Request – Height of Buildings Apartment Design Guide (ADG) assessment Wollongong Development Control Plan (WDCP) 2009 assessment Draft conditions
Clause 4.6 requests	<p>The application includes a Clause 4.6 Exceptions to development standards request to the following:</p> <ul style="list-style-type: none"> Section 108(2)(a) of SEPP (Housing) 2021 – Building height
Summary of key submissions	<ul style="list-style-type: none"> Construction impacts on surrounding roads and residents
Report prepared by	Vivian Lee – Senior Development Project Officer
Report date	2 October 2024

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 Sections requiring consent authority satisfaction

Have relevant Sections 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

Section 4.6 Exceptions to development standards

Yes

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

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? N/A

Conditions

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

EXECUTIVE SUMMARY

Reason for consideration by Southern 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 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 (Planning Systems) 2021 Schedule 6 Section 2.

Proposal

The proposal seeks consent for a seniors housing development with the demolition of existing buildings and ancillary structures, removal of trees, construction of two (2) residential three (3) and four (4) storey buildings comprising 51 apartments with basement carparking and multi dwelling housing comprising nine (9) single storey dwellings, associated infrastructure, signage and landscaping.

Permissibility

The site is zoned R2 Low Density Development pursuant to Wollongong Local Environmental Plan 2009. Seniors housing is permissible with consent. This proposal nominates SEPP (Housing) 2021 as the relevant environmental planning instrument and seeks to rely on permissibility under the SEPP. Demolition is ancillary to the proposed works.

Consultation

The proposal was exhibited from 24 August 2023 to 7 September 2023 in accordance with Council's Community Participation Plan. There were two (2) submissions were received.

Key assessment and impact issues

- Clause 4.6 Exception to development standard – Maximum building height pursuant to Clause 108 of SEPP (Housing) 2021
- ADG non-compliance: apartment size and layout
- Construction impacts on surrounding roads and residents

Conclusion and Reasons

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 has regard to the objectives of the zone. Substantial compliance is achieved with the applicable controls. Where variations to the planning controls are proposed, these have been reasonably justified. The variations have been assessed as acceptable and achieve the relevant objectives of the control and the aims of Wollongong LEP 2009 including a Clause 4.6 Variation request in respect of building height under SEPP (Housing) 2021.

The recommendations of the DRP have been considered and reasonable changes made in the revised plans and whilst not all the DRP recommendations have not been addressed as suggested the proposal complies with the requirements of SEPP 65 and the ADG. The impacts that arise from a built form outcome are minimal and refusal, or redesign of the development is not warranted on this basis. The character and form of the development is consistent with the zoning and reasonably responds to the surrounding context.

Matters raised in the submission are considered to have been reasonably addressed and can be appropriately managed by conditions. Council's internal referral groups have provided satisfactory referral advice. External referrals from Sydney Water, TfNSW, Sydney Trains and RFS have provided comments and conditions.

The proposed development has been designed appropriately given the constraints and characteristics of the site and will not result in significant adverse impacts on the amenity of the surrounding area. The development as proposed would not set an undesirable precedent and approval is in the public interest.

RECOMMENDATION

DA-2023/615 be approved subject to the conditions provided at **Attachment 7**.

1 APPLICATION OVERVIEW

1.1 DETAILED DESCRIPTION OF PROPOSAL

Approval is sought for seniors housing with the demolition of existing buildings and ancillary structures, removal of trees, construction of two (2) residential three (3) and four (4) storey buildings comprising 51 apartments with basement carparking and multi dwelling housing comprising nine (9) single storey dwellings, associated infrastructure, signage and landscaping. The proposal comprises the following:

Site preparation

- Demolition of some existing buildings and ancillary structures
- Tree removal
- Earthworks for excavation for the construction of basement car parking
- Further sampling and testing after demolition of buildings and hardstand areas

Works / Construction / building details

The proposed seniors housing includes two (2) residential apartment buildings over a common basement and nine dwellings.

- Building A: 3- 4 storey residential flat building adjacent to the Princes Highway
- 22 apartments comprising of 12 x 2 bedrooms and 10 x 3 bedrooms
- Building B: 3-4 storey residential flat building
- 29 apartments comprising of 19 x 2 bedrooms and 10 x 3 bedrooms
- 9 dwellings

Traffic, parking, and servicing

- 51 basement car parking spaces comprising of one parking space for each apartment that includes 11 accessible parking spaces
- Eight (8) visitor parking spaces provided at grade external to the buildings
- A single garage for each of the nine (9) dwellings and visitor parking in the form of a stacked space in front of the garage
- Vehicle access is via Lindsay Evans Place south of the site and through the existing internal road. The internal road will be extended to create a driveway running N-S between the single storey villas
- Servicing e.g. waste will be carried out within the site at the ground level waste collection area across the driveway north of basement access ramp entry.

1.2 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 Evans Place. Subsequent development consents have been granted in 1972 for the ILUs located towards 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 impact 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.

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.

The site has been undergoing re-development and this is the last stage. The most recent approvals for the site area:

- **Stage 1: DA-2018/557** approved the demolition of an existing 45 bed residential care facility (RCF) and the construction of a 111-bed residential care facility and conversion of an existing 44 hostel bed facility to 22 serviced self-care dwellings with community/ancillary spaces with associated tree removal, landscaping, additional car parking and infrastructure works.

Consent was granted on 23 August 2019 by Southern Regional Planning Panel as the CIV of the development. The maximum building height for the land under clause 4.3 of WLEP 2009 is 9m. This consent granted a Clause 4.6 Exception to the development standard with the approved RCF building at 12.12m. This development is located in the northern portion of the site adjacent to the railway corridor along the western boundary.

- **Stage 2: DA-2019/1107** approved the demolition of the existing building, remediation works, earthworks, vegetation removal and construction of two (2) residential flat buildings containing 60 x 1 bedroom self-contained seniors housing apartments with basement parking for 21 spaces and a community building, with at-grade external car parking for 15 vehicles, together with associated stormwater management and landscaping works.

On 14 September 2020 Consent Orders granted development consent by NSW Land and Environment Court.

This consent also modified DA-2018/557 whether deleted the conversion of an existing 44 hostel bed facility to 22 serviced self-care dwellings with community/ancillary spaces as this was to be replaced by the 2 RFBs and community building.

This application was considered by DRP, noting that SEPP 65/ADG technically applied to only to one of the RFBs that was 3 storey and not the 2 storey RFB. The application was to be determined by Wollongong Local Planning Panel due to the exception sought to the building height however, the applicant lodged a deemed refusal. It is noted that DRP was not part of the appeal proceedings for this application. The approval granted an exception to the development standard for building of 9.85m.

DA-2023/615 Timeline

- DA-2023/615 was lodged on 10 August 2023 and publicly exhibited between 24 August and 7 September 2023.
- The Design Review Panel (DRP) was held on 17 November 2023 and the DRP commentary issued to the applicant on 6 December 2023.
- Council issued a letter requesting information on 6 December 2023, with a further letter outlining stormwater issues on 27 February 2024.
- A revised package of information was uploaded to the Planning Portal on 8 August 2024.
- It is noted due to the nature of the changes in the design to be generally minor the revised package was not re-notified and not considered to require re-referral to the DRP.

1.3 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 92094sqm. 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 of ILUs, a 111-bed residential care facility that is completed and operational (approved in DA-2018/557) and construction of the RFB ILUs and community building is nearing completion (approved in DA-2019/1107).

The central portion of the site existing managed vegetated area and a sealed access driveway that connects the north and south portions of the site. This portion of the site is managed area by a vegetation management plan as assessed in the BDAR under 2 previous consent DA-2018/557 and DA-2019/1107.

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.

Access to the site is via Lindsay Evans Place and Huntley Road for emergency access vehicles only.

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 farmland and vacant vegetated land owned by the Department of Education.

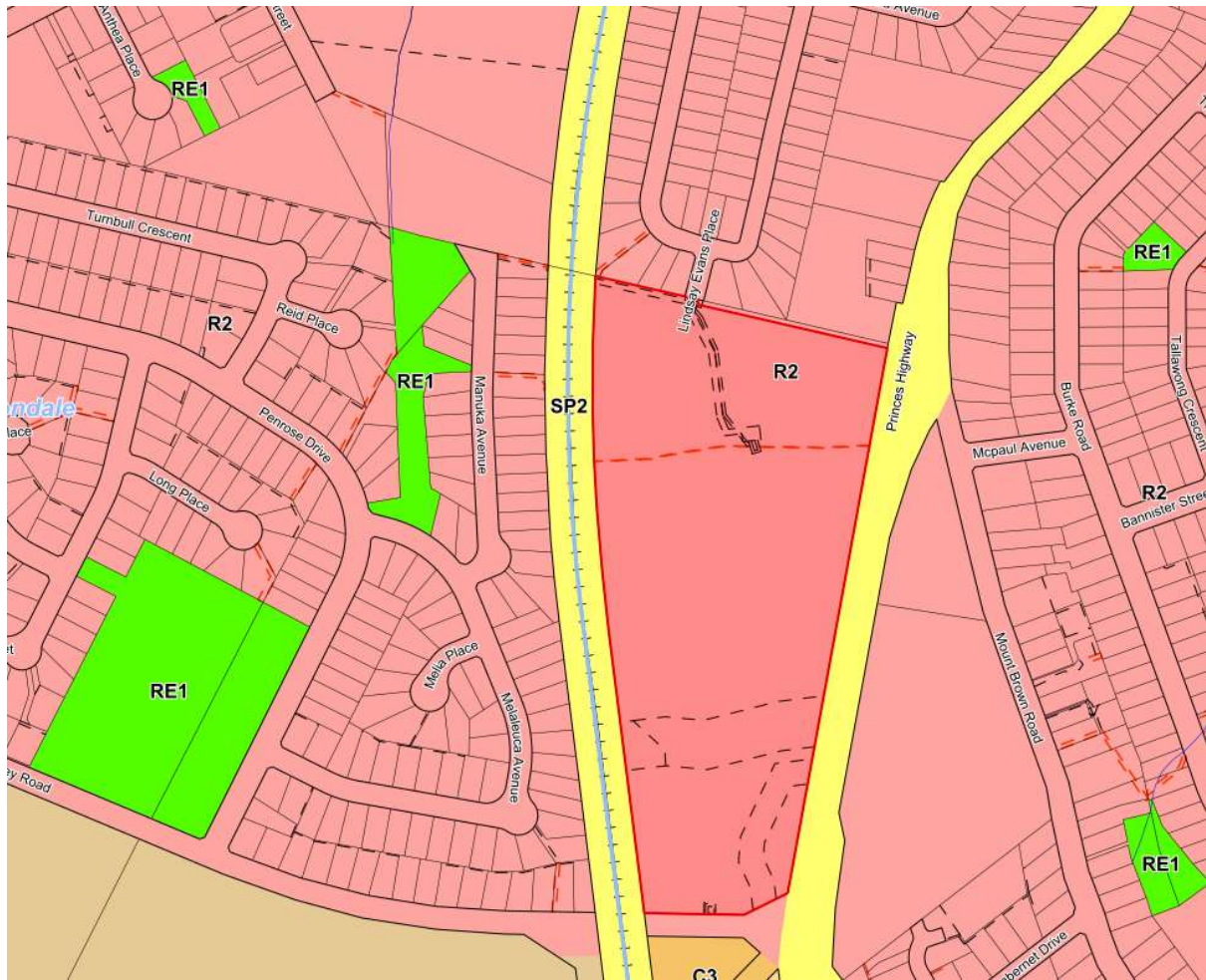


Figure 1: WLEP 2009 zoning map



Figure 2: Aerial photo

Property constraints

Council records identify the land as being impacted by the following 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

There are 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 existing RCF building and ILU/community centre, situated primarily along the area associated with the at-grade car parking spaces and internal road.

The development proposes to discharge stormwater through the existing easement and utilise the existing stormwater connections to the easement. The proposal will require to augment part of this easement. The application has been reviewed by Council's Stormwater Officer with conditionally satisfactory 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 the almost completed ILUs towards the southern portion of the site and adjacent to the western boundary. The proposal will connect to the existing OSD.
- 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.

1.4 SUBMISSIONS

The application was notified from 24 August 2023 to 7 September 2023 in accordance with Council's Community Participation Plan 2019. Two (2) submissions were received. Additional information was submitted in July 2024 however, it was considered the amendments were minor changes to the buildings, mainly internal, and considered to have minimal impact on the surrounding properties.

The issues raised in the submissions are discussed below.

Table 1: Submissions

Concern	Comment
1. Construction Traffic Impacts	Works for the construction of development that will result in any proposed interruption to pedestrian and/or vehicular traffic with the road reserve requires approval under s138 of the Roads Act to be obtained with Council prior to any works commencing.
- Lack of traffic management plan for construction vehicles	
- Impacts on residents on Timberi Avenue	A condition is included within the draft consent at Attachment 7 related to this matter.
- Number of truck movements and large machinery to site	

Concern	Comment
<ul style="list-style-type: none"> - Construction vehicles entering Timberi Ave exceeding 50km speed limit - Concern for safety of pedestrians and resident vehicles 	
<p>2. Parking for construction workers</p> <ul style="list-style-type: none"> - Construction works park on Timberi Avenue - Needs to be another area for then to park and not in the adjoining streets 	<p>A preliminary construction plan dated 11 July 2023 was submitted with the application notification that includes traffic management and parking details. It is noted that construction staff parking cannot be accommodated on the site and will be dispersed through the surrounding public streets (and not on the section of Lindsay Evans Place within 50m of the site). This includes for example of using only the western side of Timberi Avenue for any required off-site parking (away from the main thoroughfare of vehicles leaving and arriving the site towards the Princes Highway). The preliminary construction management plan is to form a draft condition at Attachment 7.</p> <p>With any construction there will be temporary amenity and environmental impacts associated with the excavation and construction of the development. It is considered these impacts can be reasonably dealt with through the imposition of suitable conditions of consent at Attachment 7.</p>
<p>3. Environment impacts</p> <ul style="list-style-type: none"> - On endangered species/native fauna - Golden bell tree frogs in the area and were sighted when stage 1 was being built 	<p>An ecological assessment report was submitted with the application. This report considered the likely presence of threatened species at the site and concluded no threatened flora or fauna species are likely to be significantly impacted by the proposed works. The assessment identified two threatened microchiropteran bats <i>Miniopterus orianae oceanensis</i> (Large Bent-winged Bat) and <i>Micronomus norfolkensis</i> (Eastern Coastal Free-tailed Bat) as previously recorded in the surrounding area and as having a high likelihood of occurrence within the proposed works area and confirmed suitable habitat was present. The report recommended mitigation measures including a pre-clearance survey and clearing supervision works that have been incorporated into a condition of development consent.</p> <p>Whilst clearing of some native vegetation is proposed from within a highly managed urban context and includes the clearing of planted native vegetation from within managed garden beds, the proposed development is unlikely to have any significant impact on biodiversity. The application was referred to Council's Environment Officer to review and conditionally satisfactory referral advice was provided.</p>

1.5 CONSULTATION

1.5.1 INTERNAL CONSULTATION

Geotechnical Engineer

Council's Geotechnical Officer has reviewed the application. The designs of excavations will require supporting geotechnical advice and supervision. Satisfactory referral advice has been provided and conditions were recommended and are included at Attachment 7.

Stormwater Engineer

Council's Stormwater Officer has reviewed the application. Satisfactory referral advice has been provided, noting the design will alter the existing drainage easement that benefits Council. Conditions are recommended and are included at Attachment 7.

Traffic Engineer

Council's Traffic Officer has reviewed the application in relation to traffic, parking, vehicle manoeuvrability and waste collection and satisfactory referral advice provided. Conditions are recommended and are included at **Attachment 7**.

Environment Officer

Council's Environment Officer has reviewed the application in relation to site contamination, biodiversity and native vegetation, acoustic matters, water sensitive urban design, waste management and construction management. Satisfactory referral advice was received, and matters are considered capable of being dealt with through appropriate conditions including:

- A Supplementary Detailed Site Investigation (DSI) and Remedial Action Plan to address the further investigation after demolition of buildings and hardstand areas as recommended in the submitted DSI; including site validation and long term environmental management plan whereby any on site containment cell is to be located within the site.
- Stormwater quality management
- Acoustic attenuation
- Construction Site Management Plan

Conditions relating to the above environmental matters are included at **Attachment 7**.

Landscape Architect

Council's Landscape Officer has reviewed the application and provided a satisfactory referral advice subject to conditions, including tree protection measures and additional planting. Conditions are included at **Attachment 7**.

Development Contributions Officer

Council's Development Contributions Officer has reviewed the application and provided a satisfactory referral advice. The development meets the exemption requirements outlined in the Ministerial Direction dated 14 September 2007 as the developer is a social housing provider and the development is a form of seniors housing. Development contributions are not required to be levied for this development.

Building Officer

Council's Building Officer has reviewed the application and provided satisfactory referral advice. Conditions were recommended and are included at **Attachment 7**.

Community Safety

Council's Community Safety Officer has reviewed the application and given provided a satisfactory referral advice. No conditions were recommended.

Architecture

Council's Architectural Officer reviewed the application and initially provided unsatisfactory referral advice. Matters raised were forwarded to the applicant and it is considered the revised proposal has

adequately addressed the issues and overall, the application complies with SEPP 65 and ADG as discussed in this report in section 2.1.4 and at Attachments 3 and 5.

1.5.2 EXTERNAL CONSULTATION

NSW Rural Fire Service

The proposal is Integrated Development and requires a Bush Fire Safety Authority pursuant to Section 100B of the Rural Fires Act 1997 as 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 with conditions dated 21 September 2023.

The application was re-referred to the NSW RFS to correct an error and revised GTAs were issued dated 23 February 2024. The applicant subsequently provided additional bushfire information regarding the proposed APZ conditions and the RFS re-issued their GTAs dated 13 March 2024. Following a further revised package submission from the applicant, the application was re-referred to the RFS and correspondence was provided dated 9 August 2024 that no objections are raised to the submitted amendments subject to compliance with their previous terms of approval dated 13 March 2024. The GTAs are included in recommended conditions at **Attachment 7**.

TfNSW

The application was referred to Transport for NSW (TfNSW) under section 2.122 of SEPP (Transport and Infrastructure) 2021 as traffic generating development as the Princes Highway is classified as a regional road under TfNSW. Correspondence by TfNSW dated 29 August 2023 indicated no objections and no conditions were recommended.

TfNSW - Sydney Trains

The proposal required concurrence from Sydney Trains under section 2.99 of the SEPP (Transport and Infrastructure) 2021 as the development potentially will have work that involves 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 stormwater drainage works.

Correspondence from Sydney Trains dated 23 August 2024 granted concurrence with conditions. The concurrence letter is included in the recommended conditions at Attachment 7.

Sydney Water

Details of the application submission were referred to Sydney Water for comment under section 78 of the Sydney Water Act 1994. Advice received dated 13 September 2023 indicates the proposal is conditionally satisfactory. Formal requirements will be determined as part of the Section 73 application. The correspondence forms part of the recommended conditions at **Attachment 7**.

Endeavour Energy

The application was referred to Endeavour Energy under section 2.48 of SEPP (Transport and Infrastructure) 2021 as development to be carried out within or immediately adjacent to an easement for electricity purposes. Advice provided dated 24 August 2023 indicates the proposal is conditionally satisfactory. The application was re-referred and advice received 23 July 2024 provides that the previous submission remains applicable. The correspondence forms part of the recommended conditions at **Attachment 7**.

Design Review Panel

The application was reviewed by the Design Review Panel with regard to the requirements of SEPP 65. One DRP meeting was held prior to lodgement of the current application. A DRP meeting was held following lodgement on 10 November 2023 which forms **Attachment 2**. The Panel made the following recommendations.

The site planning responds to its immediate context in a reasonable manner to provide a positive addition to the existing village. However, further consideration / development of the following is recommended:

- *Further development of Building B to reduced scale and define common circulation through the building.*

- *Further development to improve the spatial quality of the pinch point created between vehicle entry into the basement carpark, pedestrian entry and the adjacent villa.*
- *Further development of villas to improve amenity.*
- *Provide southern street elevation.*
- *Provide an elevation of the northern retaining structure.*
- *Provide an elevation of the terraces and screening fronting the village entry road.*
- *An increase to, and improvement of, the communal open spaces.*
- *Further clarification of materials / finishes.*

A number of design amendments were recommended by the DRP and addressed in amended plans later submitted by the applicant. The applicant's response to the DRP comments is presented at **Attachment 3**. The revised design was not reviewed by the DRP however, consideration has been given to both the DRP commentary and the applicant's response.

However, it is considered the proposal has reasonably addressed the matters and is satisfactory.

The additional information submitted provided clarification of a number of matters with further detail/sections on landscape and architectural plans. The design changes to the proposal were generally minor with some of the main changes being:

- The east façade of Building B, by recessing the glazing to the left lobby on all levels creating an alcove
- Redesigning the northern villas, Villa 01 and 05 by relocating the living space to the north
- Provided 3.8m garage for Villa 01 and 07
- Reconfigured villas for 1500mm circulation clearance and complaint access
- Internal layouts of apartments in Buildings A and B and revised balconies
- Revised basement ramp and pedestrian path adjacent to the ramp

The ADG requirements have are addressed in **Attachment 5**.

2. ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

1.7 Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994

This Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 and Part 7A of the Fisheries Management Act 1994 that relate to the operation of this Act in connection with the terrestrial and aquatic environment.

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.

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). The area of native vegetation proposed to be removed does not exceed the biodiversity offsets scheme (BOS) area threshold.

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). The subject lot is not identified on the Biodiversity Values Map. The proposed development is not likely to significantly affect threatened species or ecological communities, or their habitats. The proposal does not trigger

entry to into the BOS. A Biodiversity Development Assessment Report from an accredited assessor is not required.

Council's Environment Officer has reviewed the application and provided satisfactory referral advice. The development is not considered to result in adverse impacts on biodiversity and is consistent with the provisions of the Biodiversity Conservation Act 2016.

2.1.1 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

Chapter 4 Koala Habitat Protection

The SEPP (Biodiversity and Conservation) 2021 applies to Wollongong Local Government Area, identified as being in the South Coast koala management area.

Section 4.10 Development assessment process – other land

Consent can be issued for development on the subject land if Council is satisfied that the land is *not* core koala habitat.

core koala habitat means—

- (a) an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas are recorded as being present at the time of assessment of the land as highly suitable koala habitat, or
- (b) an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas have been recorded as being present in the previous 18 years.

The subject lot has an area of more than one hectare. The submitted Ecological Assessment accompanying the application has considered Chapter 4 Koala Habitat Protection 2021 of this policy and has concluded the subject land is not core koala habitat. The application has been reviewed by Council's Environment Officer and the proposed development is considered unlikely to impact koalas or koala habitat.

2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 4 Remediation of Land

The site is not identified as being contaminated land. A Detailed Site Investigation (DSI) that accompanied the application reported elevated concentrations of zinc in some boreholes and also asbestos containing materials across the NW area of the site for the proposed development. The DSI has also recommended further investigation after the demolition of buildings and hardstand areas. A Remedial Action Plan (RAP) submitted states *"it should be noted that this RAP does not form a detailed specification for the proposed site remediation works, but rather represents a planning document which outlines the means by which site remediation can be achieved"*. The RAP provides a general sequence of remediation and validation as a planning document rather than being an actual remedial action plan. The recommended sequence of site remediation and validation is concurred with.

However, it is concluded that the site can be rendered suitable for the proposed use, as seniors housing subject to conditions to address the above with a Supplementary Detailed Site Investigation (DSI) to be prepared as well as a Remedial Action Plan (RAP). A Site Validation Report will also be required prior to issue of the Construction Certificate. Subject to the recommended conditions, no concerns are raised in regard to contamination as it relates to the intended use of the land and the consent authority can be satisfied of matters under clause 4.6 such that the site can be made suitable for the proposed use.

2.1.3 STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

On 14 December 2023 the Housing SEPP was amended by *State Environmental Planning Policy Amendment (Housing) 2023*. Upon that amendment, Clause 8 of Schedule 7A of the Housing SEPP 2021 was inserted, and states:

8 State Environmental Planning Policy Amendment (Housing) 2023

- (1) *An amendment made to this policy by the amending policy does not apply to the following—*

(a) a development application made, but not determined, on or before 14 December 2023,

Hence, the version of SEPP Housing as in force immediately before 14 December 2023 applies to the assessment of the application. That is the version of the SEPP, 10 November 2023 to 13 December 2023.

Nomination and application of Environmental Planning Instrument

As part of the assessment the application submission is required 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) 2021; or
- Wollongong Local Environmental Plan (WLEP) 2009

SEPP (Housing) 2021 has been nominated as the relevant EPI for which the application seeks to rely upon for the purpose of permissibility.

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

The development proposes seniors housing in the form of independent living units (ILU's) development and as such the provisions of Chapter 3 Part 5 of the SEPP apply.

seniors housing means a building or place that is—

- (a) a residential care facility, or*
- (b) a hostel within the meaning of State Environmental Planning Policy (Housing) 2021, Chapter 3, Part 5, or*
- (c) a group of independent living units, 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.*

Part 5 Housing for Seniors and people with a disability

Division 1 Land to which Part applies

79 Land to which Part applies

The site is zoned R2 Low Density Residential and as such Part 5 applies to the subject site.

81 Seniors housing permitted with consent

Development for the purposes of seniors housing may be carried out with development consent—

- (a) on land to which this Part applies, or*
- (b) on land on which development for the purposes of seniors housing is permitted under another environmental planning instrument.*

Comment:

The proposal is for seniors housing and the land is zoned R2 as such the development may be carried out with development consent under WLEP 2009.

Division 3 Development standards

84 Development standards—general

(1) This section applies to development for the purposes of seniors housing involving the erection of a building.

(2) Development consent must not be granted for development to which this section applies unless—

(a) the site area of the development is at least 1,000m², and

(b) the frontage of the site area of the development is at least 20m measured at the building line, and

Comment:

The subject site has an area of 92094m² (9.2Ha). Site has frontages of Huntley Road, Lindsay Evans Place and Princes Highway. All have frontages greater than 20m measured at the building. The frontage along the Princes Highway is approximately 450m in length.

However, these sections do not apply as the application has been made by a social housing provider. Refer to section 84(4) below.

(c) for development on land in a residential zone where residential flat buildings are not permitted—

(i) the development will not result in a building with a height of more than 9.5m, excluding servicing equipment on the roof of the building, and

(ii) if the roof of the building contains servicing equipment resulting in the building having a height of more than 9.5m—the servicing equipment complies with subsection (3), and

(iii) if the development results in a building with more than 2 storeys—the additional storeys are set back within planes that project at an angle of 45 degrees inwards from all side and rear boundaries of the site.

Comment:

Not Applicable. The site is zoned R2 Low Density Residential and residential flat buildings are permissible in the zone under WLEP 2009.

(3) The servicing equipment must—

(a) be fully integrated into the design of the roof or contained and suitably screened from view from public places, and

Comment:

The design of the lift overrun is not fully integrated into the design of the roof but is not visible from the street (Princes Highway) or the public domain generally due its position on the roof and screening provided by existing vegetation.

(b) be limited to an area of no more than 20% of the surface area of the roof, and

Comment:

The servicing equipment on the roof is less than 20% of the surface area of the roof, limited to 10.4% of the roof area for Building A and 1.8% for Building B.

(c) not result in the building having a height of more than 11.5m.

Comment:

Building A has a maximum height of 11.349m and Building B 10.438m.

(4) Subsection (2)(a) and (b) do not apply to development the subject of a development application made by the following—

(a) the Aboriginal Housing Office or the Land and Housing Corporation,

(b) another social housing provider.

Comment:

The development application is made by a social housing provider, Anglicare and therefore subsection (2)(a) and (b) do not apply.

85 Development standards for hostels and independent living units

(1) Development consent must not be granted for development for the purposes of a hostel or an independent living unit unless the hostel or independent living unit complies with the relevant standards specified in Schedule 4.

(2) An independent living unit, or part of an independent living unit, located above the ground floor in a multi-storey building need not comply with the requirements in Schedule 4, sections 2, 7–13 and 15–20 if the development application is made by, or by a person jointly with, a social housing provider.

Comment:

The development is made by a social housing provider therefore the requirements in Schedule 4 applicable are sections 1, 3, 4, 5, 6, 14 and 21 that relate to security pathway lighting, letter boxes, private car accommodation, accessible entry to each dwelling, location of the garbage storage area. An Access Consultant's Report has been included in the application submission and addresses these matters. Council's Building Officer and Community Safety Officer have reviewed the application submission and returned a satisfactory referral response.

87 Additional floor space ratios

(1) This section applies to development for the purposes of seniors housing on land to which this Part applies if—

(a) development for the purposes of a residential flat building or shop top housing is permitted on the land under another environmental planning instrument, or

(b) the development is carried out on land in Zone E2 Commercial Centre or Zone B3 Commercial Core.

(2) Development consent may be granted for development to which this section applies if—

(a) the site area of the development is at least 1,500m², and

(b) the development will result in a building with the maximum permissible floor space ratio plus—

(i) for development involving independent living units—an additional 15% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of independent living units, or

(ii) for development involving a residential care facility—an additional 20% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of the residential care facility, or

(iii) for development involving independent living units and residential care facilities—an additional 25% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of independent living units or a residential care facility, or both, and

(c) the development will result in a building with a height of not more than 3.8m above the maximum permissible building height.

Comment:

Residential flat buildings are permissible on the site under WLEP 2009. However, the application does not seek additional floor space ratio for the proposed development.

88 Restrictions on occupation of seniors housing

(1) Development permitted under this Part may be carried out for the accommodation of only the following—

(a) seniors or people who have a disability,

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

(2) Development consent must not be granted under this Part unless the consent authority is satisfied that only the kinds of people referred to in subsection (1) will occupy accommodation to which the development relates.

Comment:

The proposed would be considered satisfactory with regard to the above section.

90 Subdivision

(1) Development consent may be granted for the subdivision of land on which development has been carried out under this Part.

(2) Development consent must not be granted for the subdivision of a building resulting from development carried out under this Part on land in Zone E2 Commercial Centre or Zone B3 Commercial Core.

Comment:

No subdivision is proposed.

Division 4 Site Related Requirements

93 Location and access to facilities and services—-independent living units

(1) Development consent must not be granted for development for the purposes of an independent living unit unless the consent authority has considered whether residents will have adequate access to facilities and services—

- (a) by a transport service that complies with subsection (2), or*
- (b) on-site.*

(2) The transport service must—

- (a) take the residents to a place that has adequate access to facilities and services, and*
- (b) for development on land within the Greater Sydney region—*
 - (i) not be an on-demand booking service for the transport of passengers for a fare, and*
 - (ii) be available both to and from the site at least once between 8am and 12pm each day and at least once between 12pm and 6pm each day, and*
- (c) for development on land that is not within the Greater Sydney region—be available both to and from the site during daylight hours at least once each weekday.*

(3) For the purposes of subsections (1) and (2), access is adequate if—

- (a) the facilities and services are, or the transport service is, located at a distance of not more than 400m from the site, and*
- (b) the distance is accessible by means of a suitable access pathway, and*
- (c) the gradient along the pathway complies with subsection (4)(c).*

(4) In subsection (3)—

- (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) the distance is to be measured by reference to the length of the pathway, and*
- (c) the overall average gradient must be not more than 1:14 and the gradients along the pathway must be not more than—*
 - (i) 1:12 for a maximum length of 15m at a time, or*

- (ii) 1:10 for a maximum length of 5m at a time, or
- (iii) 1:8 for a maximum length of 1.5m at a time.

(5) In this section—

facilities and services means—

- (a) *shops 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.*

provide a booking service has the same meaning as in the Point to Point Transport (Taxis and Hire Vehicles) Act 2016, section 7.

Note—

Provide a booking service is defined as carrying on a business taking bookings for taxis or hire vehicles to provide passenger services, whether immediately or at a later time, and communicating the bookings to drivers for passenger services or providers of passenger services.

Comment:

The site is located within 400m of bus stops located close on the western side of the Princes Highway at the frontage of the site and on the eastern side of the highway near the intersection Mount Brown Road. Regular bus services by Premier Illawarra run from this bus stop from Dapto to Wollongong and Port Kembla. The closest facilities and services are located at Dapto Mall approximately 2km north where all basic services including community services and medical practitioners are available. However, the level difference between the Princes Highway and the proposed dwellings is significant and does not provide a suitable access pathway compliant with the required gradient with a series of stairs to access Princes Highway from the site. The public access pathway that runs along the northern boundary of the site accessed from Princes Highway would also be greater than 400m in length and exceed the required gradient requirements.

The facility operators, Anglicare currently provide a mini-bus service available to residents who are not able to walk or drive to Dapto or nearby areas with services and facilities. This mini-bus provides regular access to the local shopping precinct for residents and is also available for organised excursions/day trips. It is noted that a number of other on-site services are available but not all are required under this policy.

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. All required facilities are not provided on site and therefore access to a compliant transport service must be provided.

An existing Anglicare bus service (bus stop) is provided on-site from the Stage 1 residential care facility building north west of the site. An accessible path of travel is provided from the ILUs to this pick up and drop off point. Refer to **Attachment 1** for a diagram of the access to the bus stop from the proposed ILUs. The transport service provided to the proposed development will continue to be provided as per condition 140 of DA-2018/557 that is a public positive covenant and restriction of use on the transport, access to services for occupants. That consent approved the existing residential care facility building located in the north west corner of the site and the development has been completed. The pathway from the dwellings to the bus stop within the site is compliant with the required gradients and the requirements of section 93 are thus considered to be satisfied.

95 Water and sewer

(1) A consent authority must not consent to development under this Part unless the consent authority is satisfied the seniors housing will—

- (a) *be connected to a reticulated water system, and*
- (b) *have adequate facilities for the removal or disposal of sewage.*

(2) If the water and sewerage services will be provided by a person other than the consent authority, the consent authority—

(a) must consider the suitability of the site in relation to the availability of reticulated water and sewerage infrastructure, or

(b) if reticulated services are not available—must satisfy the relevant authority that the provision of water and sewerage infrastructure, including environmental and operational considerations, is satisfactory for the development.

(3) In this section—

relevant authority means the public authority responsible for water and sewerage services in the area in which the seniors housing is located.

Comment:

Details of the application submission were referred to Sydney Water for section 78 comments with conditionally satisfactory referral advice received. 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. It is considered the existing utility services on the site are able to be extended to accommodate the development as required.

96 Bush fire prone land

(1) A consent authority must not consent to development under this Part on bush fire prone land unless the consent authority is satisfied the development complies with the requirements of Planning for Bushfire Protection.

Comment:

The subject site is mapped as bushfire prone land. 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 2019.

Division 5 Design requirements

97 Design of in-fill self-care housing

In determining a development application for development of in-fill self-care housing, a consent authority must consider the Seniors Living Policy: Urban Design Guideline for Infill Development, March 2004, published on the Department's website.

Comment:

The proposal is consistent with the objectives and design principles of the guidelines in the Seniors Living Policy relating to: Responding to context, site planning and design, impacts on the streetscape, impacts on neighbours and internal site amenity. These matters are discussed in relation to the relevant controls within SEPP (Housing) 2021, ADG and throughout this assessment report.

98 Design of seniors housing

A consent authority must not consent to development for the purposes of seniors housing unless the consent authority is satisfied that the design of the seniors housing demonstrates adequate consideration has been given to the principles set out in Division 6.

Comment:

The application submission has demonstrated that adequate consideration has been given to the principles set out in Division 6. The proposed development has been designed appropriately given the constraints and characteristics of the site and will not result in adverse impacts on the amenity of the surrounding area as discussed below.

Division 6 Design Principles

99 Neighbourhood amenity and streetscape

Seniors housing should be designed to—

- (a) recognise the operational, functional and economic requirements of residential care facilities, which typically require a different building shape from other residential accommodation, and*
- (b) recognise the desirable elements of—*
 - (i) the location's current character, or*
 - (ii) for precincts undergoing a transition—the future character of the location so new buildings contribute to the quality and identity of the area, and*
- (c) complement heritage conservation areas and heritage items in the area, and*
- (d) maintain reasonable neighbourhood amenity and appropriate residential character by—*
 - (i) providing building setbacks to reduce bulk and overshadowing, and*
 - (ii) using building form and siting that relates to the site's land form, and*
 - (iii) adopting building heights at the street frontage that are compatible in scale with adjacent buildings, and*
 - (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and*
- (e) set back the front building on the site generally in line with the existing building line, and*
- (f) include plants reasonably similar to other plants in the street, and*
- (g) retain, wherever reasonable, significant trees, and*
- (h) prevent the construction of a building in a riparian zone.*

Comment:

The site is zoned R2 Low Density Residential and beyond the extent of the Dapto Town Centre. The existing character statement recognises that medium density housing exists within certain established residential areas in Dapto. The desired future character of Dapto outside of the town centre identifies that residential areas are likely to experience some redevelopment with medium density development and seniors living facilities over time.

Whilst the height of both the ILU buildings exceed the non-discretionary development standards in terms of the 9.5m height limit, the overall building height with the servicing equipment on the roof a building does not exceed the 11.5m standard. It is noted that previous development consents have granted 3 buildings on the site exceeding 12m in height. Proposed Building A is adjacent to Princes Highway and will appear 2 storey in appearance and partly obscured from the public domain view due to the existing vegetation and trees along the road reserve in conjunction with the tree retention along this frontage within the site and additional plantings.

DRP comments on the proposal considered the interface with the existing adjoining low density residential development to the north will provide an appropriate interface with the neighbouring residential properties (a 9m setback compliant with the ADG). The development provides a 6m setback to Princes Highway frontage that is compliant and generally consistent the streetscape in the immediate locality.

Whilst the overall size and scale of the development contrasts with the surrounding development in the context of the site and the existing use, it is not considered inconsistent with the current and desired future neighbourhood character.

The proposed development has been designed appropriately given the constraints and characteristics of the site and will not result in significant adverse impacts on the amenity of the surrounding area.

100 Visual and acoustic privacy

Seniors housing should be designed to consider the visual and acoustic privacy of adjacent neighbours and residents by—

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

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

Comment:

The proposal provides compliant separation distances between neighbouring properties and within the development as required by the ADG. Council's Architect and the DRP both highlighted where visual privacy could be improved to minimise impacts for residents within the development on the POS and habitable rooms of villas from Building B and location of pedestrian paths and amenity impacts for the units located below the level of Princes Highway. Further information has been provided by the applicant to respond to these matters at **Attachment 3**. Council's Environment Officer has reviewed the submitted Acoustic Report with referral advice received the proposal is conditionally satisfactory in this regard.

The overall visual and acoustic privacy of the residences is reasonable and will not be adversely impacted resulting from the design of the proposal.

101 Solar access and design for climate

The design of seniors housing should—

(a) for development involving the erection of a new building—provide residents of the building with adequate daylight in a way that does not adversely impact the amount of daylight in neighbouring buildings, and

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

Comment:

The proposal provides adequate solar access to residents of the building and does not affect the neighbouring properties (as they are located to the north of the development and adequate separation distance is provided). The DRP recommended that further design refinements of the villas to improve the solar access to living areas was required due to their positioning and orientation. The applicant in response to this matter has redesigned the northern villas, 01 and 05 by relocating the living space to the north and added windows to the northern façade.

Overall, the proposal has located windows of living and dining areas to the north where practicable and adequate natural ventilation, solar access, heating and lighting has been provided to the dwellings within the development.

102 Stormwater

The design of seniors housing should aim to—

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

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

Comment:

Council's Stormwater Officer has assessed the application and provided satisfactory referral advice subject to recommended conditions. The existing stormwater drains towards the western boundary where the site is adjacent to the railway corridor. The application has been referred to TfNSW – Sydney Trains and no objections were raised subject to conditions that included at **Attachment 7**.

The proposal includes a number of water sensitive urban design (WSUD) treatment measures that comply with Council's stormwater quality performance targets of Chapter E15 of WDCP 2009 including rainwater capture and reuse for toilet flushing and landscape irrigation of the site.

103 Crime prevention

Seniors housing should—

(a) be designed in accordance with environmental design principles relating to crime prevention, and

(b) provide personal property security for residents and visitors, and

(c) *encourage crime prevention by—*

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

(ii) providing shared entries, if required, that serve a small number of dwellings and that are able to be locked, and

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

Comment: Council's Safer Communities (SCAT) Officer provided conditionally satisfactory referral advice.

104 Accessibility

Seniors housing should—

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

Comment:

The proposed development satisfies the above control having direct access to transport services via a sealed accessible pathway that is clearly delineated within the site to the mini bus service provided by Anglicare to the local facilities as discussed above in section 93 of the Policy.

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

Comment:

Advice from DRP considered there is minimal space between the primary pedestrian access to the apartment buildings adjacent the basement carpark access and the adjacent villa. To address this issue the applicant has reconfigured this area, where some separation has been provided and where the access is more clearly delineated between the ramp and path design and proposed landscaping. A section plan has also been provided demonstrating the changes in levels, landscaping and fencing measures associated in this area will be able to maintain reasonable amenity for the adjacent villa and it's POS.

Convenient access is provided for parking via one driveway entry to the basement for the ILUs and individual driveways for the villas. Visitor parking is provided adjacent the basement ramp, immediately south of the ILU buildings and as a stacked space for the villas. The application has been referred to Council's Traffic Engineer and conditionally satisfactory advice was provided.

105 Waste management

Seniors housing should include waste facilities that maximise recycling by the provision of appropriate facilities.

Comment:

A waste storage facility for the ILUs is proposed within the basement carpark adjacent to the lifts for the bins. The villas will have their own individual bins. Waste collection of the bins will be carried out by a building caretaker/private contractor to the waste collection location south of the ILUs basement ramp. The application has been reviewed by Council's Traffic Engineer and conditionally satisfactory advice has been provided.

Division 7 Non-discretionary development standards

106 Interrelationship of Division with design principles in Division 6

Nothing in this Division permits the granting of consent to development under this Part if the consent authority is satisfied that the design of the seniors housing does not demonstrate that adequate consideration has been given to the principles set out in Division 6.

Comment:

The design of the seniors housing has demonstrated that adequate consideration has been given to the principles set out in Division 6 of this Policy as discussed above.

108 Non-discretionary development standards for independent living units—the Act, s 4.15

(1) The object of this section is to identify development standards for particular matters relating to development for the purposes of independent living units that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.

(2) The following are non-discretionary development standards in relation to development for the purposes of independent living units—

(a) no building has a height of more than 9.5m, excluding servicing equipment on the roof of a building,

Comment:

Excluding the servicing equipment on the roof of the building, Building A has a height of up to 11.349m at the highest point and Building B has a height of 10.438m. An exception to a development departure request statement has been provided by the applicant addressing Clause 4.6 of WLEP 2009. This is discussed in section 2.1.8 below in this report. A copy is provided at **Attachment 4**. This request is supported.

(b) servicing equipment on the roof of a building, which results in the building having a height of more than 9.5m—

(i) is fully integrated into the design of the roof or contained and suitably screened from view from public places, and

(ii) is limited to an area of no more than 20% of the surface area of the roof, and

(iii) does not result in the building having a height of more than 11.5m,

Comment:

The proposal does not exceed the 11.5m height limit when including the servicing equipment on the roof of Buildings A and B. Servicing equipment is limited to 10.4% of the roof area for Building A and 1.8% for Building B. Whilst the design of the lift overrun is not fully integrated into the design of the roof, it is most cases not visible from the street (Princes Highway) or the public domain due its position on the roof and screening provided by existing vegetation.

(c) the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less,

Comment:

Development proposes a FSR of 0.29:1.

(d) for a development application made by a social housing provider—at least 35m² of landscaped area per dwelling,

Comment:

The development application is made by Anglicare, who is a social housing provided and 35sqm of landscaped area per dwelling is (35 x 60 dwellings) 2100sqm. The proposal complies with the required landscaped area.

(e) if paragraph (d) does not apply—at least 30% of the site area is landscaped,

Comment:

Does not apply as paragraph (d) applies.

(f) a deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 3m and, if practicable, at least 65% of the deep soil zone is located at the rear of the site,

Comment:

The proposed development provides a deep soil zone of at least 15% of the site area that meets the minimum 3m dimensions of approximately 26% of the development area associated with Stage 3.

(g) at least 70% of the dwellings receive at least 2 hours of direct solar access between 9am and 3pm at mid-winter in living rooms and private open spaces,

Comment:

70% of the dwellings (ILUs and villas) will receive the required direct solar access.

(h) for a dwelling in a single storey building or a dwelling located, wholly or in part, on the ground floor of a multi-storey building—

(i) at least 15m² of private open space per dwelling, and

(ii) at least 1 private open space with minimum dimensions of 3m accessible from a living area located on the ground floor,

Note—

The open space needs to be accessible only by a continuous accessible path of travel, within the meaning of AS 1428.1, if the dwelling itself is an accessible one—see Schedule 4, section 2.

Comment:

All the proposed villas (9 dwellings) and the ground floor apartments in Building A and B have POS greater than 15sqm and with a minimum dimension of 3m accessible from the ground floor living area.

(i) for a dwelling in a multi-storey building not located on the ground floor—a balcony accessible from a living area with minimum dimensions of 2m and—

(i) an area of at least 10m², or

(ii) for each dwelling containing 1 bedroom—an area of at least 6m²,

Comment:

The balconies provided for the apartments in Building A and B and not in a ground floor apartment have an area greater than 10sqm with a minimum dimension of 2m. Each of these dwellings contain 1 bedroom with an area of at least 6sqm.

(j) for a development application made by, or made by a person jointly with, a social housing provider—at least 1 parking space for every 5 dwellings,

Comment:

The proposal has 60 dwellings and the application is made by a social housing provider, therefore a minimum of 12 parking spaces is required. The proposal has provided one car parking space for each dwelling. 51 car parking spaces in the basement for the ILUs and a single car space for each villa, totalling 9 spaces.

(k) if paragraph (j) does not apply—at least 0.5 parking spaces for each bedroom.

Comment:

Paragraph (j) applies therefore this section does not apply.

2.1.4 STATE ENVIRONMENTAL PLANNING POLICY NO 65—DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT

Note: SEPP 65 was incorporated into SEPP (Housing) 2021 as Chapter 4 under the SEPP Amendment (Housing) 2023. Under the savings and transitional provisions of Schedule 7A(8) of the Housing SEPP,

(1) An amendment made to this policy by the amending policy does not apply to the following—

(a) a development application made, but not determined, on or before 14 December 2023,

As the current development application was lodged on 10 August 2023, SEPP 65 applies.

The development meets the definition of a 'residential flat building' as it is more than 3 storeys and comprises more than 4 dwellings. As such, the provisions of SEPP 65 apply, to Buildings A and B. The proposal has been considered by Council's DRP in accordance with Clause 28 and Schedule 1. Whilst the DRP made comments relating to the 9 villas, SEPP 65 and ADG does to apply to these dwellings.

A statement has been prepared by a Registered Architect addressing the requirements of SEPP 65 and was submitted with the application at lodgement accordance with Clauses 50(1A) & 50(1AB) of the Environmental Planning and Environment Regulation 2000 (in force at time of lodgement).

Schedule 1 of SEPP 65 sets out the design quality principles for residential apartment development. These must be considered in the assessment of the proposal pursuant to clause 30(2)(a) of the Policy and are discussed below.

Clause 6A clarifies that only one policy applies across the State for these key design issues. Where there is an inconsistency with the DCP controls, the provisions of the ADG prevail.

Principle 1: Context and neighbourhood character

The proposal is consistent with the desired future character of the area as identified through the development standards and controls applicable to the land.

Principle 2: Built form and scale

Whilst the development is significantly larger than adjoining developments and some others in the immediate locality, the bulk and scale of the development is consistent with the applicable planning controls for the area. The development is not out of context with regard to the desired future character of the area and the likely impacts of the development on the locality and adjoining development have been assessed

The design of the development will positively contribute to the public domain and provide high level of amenity for the occupants by way of landscaped areas, private open space and the like.

Principle 3: Density

The density of the development complies with the maximum FSR permitted for the land. The development is not of a scale that is expected to place unreasonable strain on local infrastructure. The site is nearby existing public open space and services.

Principle 4: Sustainability

The proposal is considered acceptable with regard to sustainable design as follows:

- BASIX Certificates provided indicating minimum requirements are met.
- A Site Waste Management and Minimisation Plan has been provided indicating recycling of materials from the demolished buildings.
- The proposal does not impact on any heritage items or environmentally sensitive areas.

Principle 5: Landscape

The proposal provides suitable landscaped areas and communal open space that will improve the amenity of the occupants and soften the appearance of the development from adjoining properties and the public domain.

Principle 6: Amenity

The proposal meets the minimum requirements for solar access, ventilation, private and communal open space, storage, visual and acoustic privacy, access and the like.

Principle 7: Safety

The proposal is satisfactory with regard to safety and security.

Principle 8: Housing diversity and social interaction

The proposal provides a mix of unit sizes and layouts appropriate to the locality noting that a wider range of adaptable unit types would improve housing diversity.


Principle 9: Aesthetics

The proposal is of a high quality with regard to its appearance. A mixture of materials and finishes is provided, and the bulk of the development is suitably articulated. The chamfering of the tower form results in an interesting aesthetic which responds to the surrounding context.

Apartment Design Guide

An assessment of the application against the Apartment Design Guide (ADG) is provided at **Attachment 5**.

A number of design issues have been identified as discussed below:

4D	Apartment size and layout	
<p>4D-2</p> <p>Environmental performance of the apartment is maximised</p> <ol style="list-style-type: none"> Habitable room depths are limited to a maximum of 2.5 x the ceiling height In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window 	<p>Apartment environmental performance is maximised.</p>	<p>Apartments on the ground floor of Building A, G01/4A and G02/4A are single aspect west facing apartments both have an open plan layout.</p> <p>The habitable room depths for the dwellings complies and are not greater than 8m from a window in open plan layouts and the maximum habitable room depth is greater than 8m from a window. The depth for both apartments' measures at a depth of approximately 9.8m as marked in the inset below of Drawing No. PLA-AR-DA-0901 Revision C dated 7 February 2024, General Floor Plan – Ground Level G.</p>  <p>The ceiling height of the apartments are approximately 2.7m high for these rooms. Whilst the living rooms and 2 bedrooms are located on the external face of the building with the main living spaces oriented towards the primary outlook and aspect, away from the noise sources, being the Princes Highway to the east however, this is an outcome of the design due to the slope of the land as the apartments cannot be oriented east. The bathrooms and laundries for these 2 apartments do not appear to have an external openable window.</p> <p>Increasing the height of the ceilings would not be option, due the extent of the height required and the exceedance in the 9.5m height control and clause 4.6 request under section 108(2) of the SEPP. Alternatively, options could be explored to creating a larger apartment G01/4A to create a dual aspect apartment however, that would require the removal of the communal area that would be loss to the provision of valuable COS area for the residents of the development. A swap of the location of the communal room and the apartment could still allow improved internal amenity however, would conflict with the use of the room. Another consideration could be to reduce the size of these apartments to redesign the layout to enable a suitable room depth.</p>

There are no other specific areas of concern in relation to ADG provisions that warrant discussion beyond the assessment table in Attachment 5.

2.1.5 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

Subdivision 2 Development likely to affect an electricity transmission or distribution network

Section 2.48 Determination of development applications – other development

The development is to be carried out within or immediately adjacent to an easement for electricity purposes and referred to Endeavour Energy. Advice provided dated 24 August 2023 indicate the proposal is conditionally satisfactory. The application was re-referred and advice received 23 July 2024 provides that the previous submission remains applicable.

Subdivision 2 Development in or adjacent to rail corridors and interim rail corridors – notification and other requirements

Section 2.98 Development adjacent to rail corridors

Whilst the subject site is adjacent to a rail corridor to the west, the proposed buildings are located a significant distance over 100m and separated by the existing residential care facility building and internal road. The proposal will not have an adverse effect on rail safety.

Section 2.99 Excavation in, above or adjacent to rail corridors

The development potentially will have work that involves 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 stormwater drainage works for the proposed development as the site falls and drains to the rail corridor west of the site. The application was referred to Sydney Trains and correspondence received dated 23 August 2024 granted concurrence with conditions which have been included at **Attachment 7**

Section 2.100 Impact of rail noise or vibration on non-rail development

The site adjoins the rail corridor to the west and the proposed development, seniors housing is a form of residential accommodation. However, under the *Development near Rail Corridors and Busy Roads – Interim Guideline*, as the proposed buildings are greater than 80m away from the rail corridor this section of the policy is not applicable to the development in this instance.

Subdivision 2 Development in or adjacent to road corridors and road reservations

Section 2.119 Development with frontage to a classified road

The application was referred to TfNSW under Section 2.119 of State Environmental Planning Policy (Transport & Infrastructure) 2021 as the subject site has frontage to the Princes Highway, a classified (regional) road. Advice received from TfNSW did not raise any objections to the proposed development.

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 Council's Traffic Engineer and it is considered the development will not compromise the operation and function of the classified road.

Section 2.120 Impact of road noise or vibration on non-road development

The proposed development is located adjacent to the Princes Highway to the east with a traffic volume that is likely to be adversely affected by road noise or vibration. A Noise Assessment Report was provided with the applicant submission. The report included an assessment of the existing background and ambient noise levels in the area including construction measures so that the internal noise criteria of section 2.120(3) of this policy can be met.

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 Noise Impact Assessment. Draft conditions are recommended in this regard, as provided at **Attachment 7**. The

proposal will meet the requirements of the clause such that the development will not be adversely affected from road noise or vibration.

Section 2.122 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 will result in more than 200 or more motor vehicles per hour or 300 or more dwellings, therefore does meet the requirements under Schedule 3 of the SEPP to be referred to TfNSW. Nevertheless, the application was referred and correspondence provided from TfNSW dated 29 August 2023 provided that TfNSW has no objections to the proposed development, no conditions were recommended.

2.1.6 STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

Note: SEPP (Building Sustainability Index: BASIX) 2004 was repealed by SEPP (Sustainable Buildings) 2022 on 1 October 2023. Under section 4.2 Savings and transitional provisions of the SEPP (Sustainable Buildings) 2022,

(1) This policy does not apply to the following—

(a) a development application submitted on the NSW planning portal but not finally determined before 1 October 2023,

As the current development application was lodged on 10 August 2023, SEPP (Building Sustainability Index: BASIX) 2004 applies.

The proposal is BASIX affected development to which this policy applies. In accordance with, Section 27 Division 1 Part 3 of the Environmental Planning and Assessment Regulation 2021, a BASIX Certificate has been submitted in support of the application demonstrating that the proposed scheme achieves the BASIX targets.

The BASIX certificate was issued no earlier than 3 months before the date on which the development application was lodged. A revised BASIX Certificate was submitted accompanying the revised package and achieves the BASIX targets.

2.1.7 STATE ENVIRONMENTAL PLANNING POLICY (PLANNING SYSTEMS) 2021

Chapter 2 State and Regional development

Part 2.4 Regionally significant development

Pursuant to section 2.19(1) of SEPP (Planning Systems) 2021 the proposal is development specified in Schedule 6, Section 2 that has a capital investment value of more than \$30 million and accordingly the application is required to be determined by the Southern Regional Planning Panel pursuant to Section 4.5(b) of the Environmental Planning & Assessment Act, 1979. The proposal is general development with the applicant's CIV estimate for the project is \$31,859,683.

Note: CIV was replaced with Estimated Development Cost (EDC) to estimate development cost on 4 March 2024. Savings and transitional provisions under the Environmental Planning and Assessment Regulation 2021 have the effect that CIV applies for development applications submitted on the NSW Planning Portal before 4 March 2024.

2.1.8 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

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 State Environmental Planning Policy (Housing) 2021, Chapter 3, Part 5, or

(c) a group of independent living units, 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.

Demolition: In relation to a building means wholly or partly destroy, dismantle or deface the building.

Independent living unit means a dwelling or part of a building, whether or not attached to another dwelling—

(a) used to house seniors or people with a disability, and

(b) containing private facilities for cooking, sleeping and bathing, and

(c) where clothes washing facilities or other facilities for use in connection with the dwelling or part of a building may be provided on a shared basis,

but does not include a hostel.

Note—

Independent living units are a type of **seniors housing**—see the definition of that term in this Dictionary.

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.

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 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” and is permissible in the zone with development consent. Demolition is ancillary works to facilitate the proposal and as such is also permissible.

Section 2.7 Demolition requires development consent

Demolition of a building may be carried out only with development consent. Demolition of some of the existing structures on the subject site is proposed.

Part 4 Principal development standards

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. However, the non-discretionary standards in State Environmental Planning Policy (Housing) 2021 Section 108(2)(a) allow for a maximum building height of 9.5m.

Building A has a building height (excluding servicing equipment) 11.317m and Building B 10.438m.

(1) *The objectives of this clause are as follows:*

- (a) *to establish the maximum height limit in which buildings can be designed and floor space can be achieved,*
- (b) *to permit building heights that encourage high quality urban form,*
- (c) *to ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.*

(2) *The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).*

The proposed development does not comply with WLEP 2009 Clause 4.3(2) or State Environmental Planning Policy (Housing) 2021 Section 108 (2)(a).

An exception to a development departure request statement has been provided by the applicant addressing Section 4.6 of WLEP2009. A copy is provided at **Attachment 4**. This request is capable of support.

Clause 4.4 Floor space ratio

Maximum FSR permitted for the site:	0.5:1
FSR proposed:	$19,339.74\text{m}^2/92094\text{m}^2 = 0.29:1$

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

Clause 4.6 Exceptions to development standards

Note: Changes to Clause 4.6 commenced on 1 November 2023 through an amendment to the Standard Instrument LEP Order (Amending Order) and only apply to development applications lodged after this date. This application was lodged on 27 September 2023 therefore will be assessed under the previous clause.

The subject development seeks an exception to development standard in section 108(2)(a) of SEPP (Housing) 2021 in relation to the building height for the proposed Building A and B comprising of ILUs as residential flat buildings. The applicant has submitted Clause 4.6 Statement addressing the requested exception which is included at **Attachment 4**.

The development departure is dealt with as follows.

SEPP (Housing) 2021 Clause 4.6 Proposed Development Departure Assessment	
Development departure	<p>State Environmental Planning Policy (Housing) 2021 Section 108(2)(a) reads as follows:</p> <p><i>(2) The following are non-discretionary development standards in relation to development for the purposes of independent living units—</i></p> <p><i>(a) no building has a height of more than 9.5m, excluding servicing equipment on the roof of a building,</i></p> <p>The following height departures are sought:</p> <ul style="list-style-type: none"> Building A (eastern building) - Some parts of the western roof slab which overhangs the outdoor terraces on the uppermost level where the height will be as follows: <ul style="list-style-type: none"> - 10.606m at the north-western corner of the roof slab (Finished Level

	<p>(FL) = RL 51.25 – Existing Ground Level (EGL) RL 40.644);</p> <p>- 11.349m at the kink at the middle of the western side of the roof slab (FL = RL 51.25 – EGL RL 39.901);</p> <p>- 10.2m to the top of the solar panels near the middle of the western side of the roof (FL = RL 51.7 – EGL RL 41.5);</p> <p>- 11.317m at the south-western corner of the roof slab (FL = RL 51.25 – EGL RL 39.933);</p> <ul style="list-style-type: none"> Building B (western building) - Some parts of the western roof slab which overhangs the outdoor terraces on the uppermost level where the height will be as follows: <ul style="list-style-type: none"> - 10.132m at the north-western corner of the roof slab (FL = RL 48.1 – EGL RL 37.968); - 10.438m at the kink in the middle of the western side of the roof slab (FL = RL 48.1 – EGL RL 37.662); and - 9.59m just north of the south-western corner of the roof slab (FL = RL 48.1 – EGL RL 38.51).
Is the planning control in question a development standard	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	A satisfactory clause 4.6 variation has been submitted.
that there are sufficient environmental planning grounds to justify contravening the development standard	<p>Yes</p> <p>The applicant's Clause 4.6 Statement identifies the environmental planning grounds that are considered sufficient to support the development departure to building height with regard to the specifics of the proposed development and unique site circumstances.</p>
4.6 (4) (a) Consent authority is satisfied that:	
the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p>The applicant's Clause 4.6 Statement forms Attachment 4.</p> <p>The applicant's written request justifying why compliance with the building separation control is unreasonable and unnecessary.</p> <p>The planning grounds outlined in the Clause 4.6 Statement to demonstrate that there is an absence of environmental harm from the departure to building height includes (summarised):</p> <ul style="list-style-type: none"> - minimal impacts will result in terms of overshadowing and adequate solar access is provided to the proposed and does not adversely impact adjoining properties, - no overlooking impacts or adverse acoustic impacts, - the non-compliance are minor areas along the western edges of Building A and B not highly visible from the public domain or Princes Highway.

	There are sufficient planning grounds for the departure.
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>The proposed development will be in the public interest because it is consistent with the objectives of the building height standard and the objectives for development within the R2 zone will be achieved.</p> <p>The development is considered to respond to the objectives of this clause despite the minor variations.</p> <p><u>Objectives of the Height of Buildings Development Standard (section 108)</u></p> <p><i>The objective of this section is to identify development standards for particular matters relating to development for the purposes of independent living units that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.</i></p> <p>The applicant's statement provides the following:</p> <p><i>The object seeks to permit a consent authority to consider whether the height of a building, if above the height limit, is acceptable but not to impose a lower height limit.</i></p> <p><i>The proposed non-compliance does not offend this objective as it does not preclude the consent authority from considering the impacts of the proposed height non-compliance and coming to its own conclusion with respect to whether those impacts are acceptable.</i></p> <p><i>As demonstrated in this report and in the documentation accompanying the DA, the environmental impacts of the height non-compliances are considered to be minimal and acceptable.</i></p> <p>It is agreed that the above aspects of the development satisfy objectives of the standard in that, despite the proposal exceeding the 9.5m height limit, the development overall does not exceed 11.5m height standard and complies with section 108(2)(b).</p> <p><u>Objectives of the R2 Low Density Residential Zone</u></p> <p>The objectives of development within the R2 zone are:</p> <ul style="list-style-type: none"> <i>To provide for the housing needs of the community within a low density residential environment.</i> <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> <p>The applicant's statement outlines the following means of development satisfying the objectives of the R2 Low Density Residential zone:</p> <ul style="list-style-type: none"> - The proposal provides for additional housing for the community with residential flat building and attached dwellings (villas) <p>It is agreed that the above aspects of the development satisfy the R2 zone objectives.</p> <p>In addition, it is noted that the proposal provides specifically for seniors housing development, in which the existing facility on the site has a number of facilities and services for the residents on site.</p> <p>The applicant's 4.6 Statement adequately demonstrates that compliance with the building separation requirements is unnecessary and unreasonable in the circumstances of the case, noting the objectives of section 108(2)(a) are met.</p>

	<p>There are sufficient environmental planning grounds that are specific to the redevelopment of the site to justify contravening the development standard.</p> <p>There is no public benefit served in this instance by insisting on strict compliance with the standard.</p>
the concurrence of the Secretary has been obtained.	<p>The concurrence of the Secretary can be assumed in accordance with the Department of Planning Circular PS 18–003 'Variations to development standards', dated 21 February 2018.</p> <p>The Secretary can be assumed to have given concurrence if the matter is determined by a Sydney District or Regional Planning Panel in accordance with the Planning Circular.</p>

Council comment:

It is considered the exception to a development standard request for building height 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 and Endeavour Energy indicates the proposal is considered conditionally satisfactory.

Clause 7.2 Natural resource sensitivity – biodiversity

Council records indicate that the site is mapped as natural resource sensitivity –biodiversity, to an area to the southern of the site (corresponding to the area of the development footprint and associated APZ). This corresponds to the mapping of native vegetation community MU24 Lowland Woollybutt- Melaleuca Forest. One planted *Eucalyptus saligna* Sydney Blue Gum (tree 46) a species not characteristic of Lowland Woollybutt- Melaleuca Forest is proposed to be removed from the mapped area. The native vegetation mapped as natural resource sensitivity – biodiversity in the already existing APZ on site will need to continue being managed as an APZ.

The proposed development has been designed and site to have minimum adverse environmental impact and will be managed to have minimal environment impacts. Council's Environment Officer has reviewed the application and provided conditionally satisfactory referral advice.

Clause 7.6 Earthworks

The proposal involves excavation to facilitate the construction of the seniors housing development with regard to the residential apartment buildings. 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. The majority of the Building A has a height of 51.25 AHD, where the hot water and carpark exhaust enclosure 52.630 and lift over run are at AHD 52.350, while Building B is at a height of 49.20 AHD.

It is noted that further east across the Princes Highway and Mount Brown Road that runs parallel has existing ground levels of 50m AHD or above, with the existing buildings and vegetation greater than

the height of the proposed development therefore the proposal will be shielded. The proposed development will not comprise the operation of the Illawarra Regional Airport.

Section 7.14 Minimum site width

This section prescribes a minimum dimension of 18m for multi dwelling housing and 24m for a residential flat building. The site exceeds these dimensions with frontages of Huntley Road, Lindsay Evans Place and Princes Highway all greater than 20m wide, with the frontage along the Princes Highway is approximately 450m in length.

2.2 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

None applicable.

2.3 SECTION 4.15(1)(A)(III) ANY DEVELOPMENT CONTROL PLAN

2.3.3 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

A full assessment of the proposal against relevant DCP provisions is provided at Attachment 6.

2.3.4 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2024

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 (now SEPP Housing 2021) 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.

Advice received from Council's Development Contributions Officer is that the development is exempt from the Plan due to ministerial direction 'Revocation of Direction in force under section 94E and Direction under section 94E' dated 14 September 2007. Therefore, the application will not be levied.

2.3.5 ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (HOUSING AND PRODUCTIVITY CONTRIBUTIONS) ORDER 2023

The Housing and Productivity Contribution applies to development applications for new residential, commercial and industrial development (including complying development and State Significant Development) in the Greater Sydney, Illawarra Shoalhaven, Lower Hunter and Central Coast regions.

Contributions calculated and collected under the new system via the NSW Planning Portal will help deliver essential state infrastructure such as schools, hospitals, major roads, public transport infrastructure and regional open space. Local Developer Contributions are not impacted.

The Housing and Productivity Contribution is separate to the contributions that developers pay to councils for local infrastructure, such as local roads, drainage and local open space.

This scheme applies to development made on or after the commencement date of 1 October 2023. The application was lodged on 10 August 2023 and as such Housing and Productivity does not apply.

2.4 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.

2.5 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

50(1A) and (1AB) Design verification statement

A design verification statement accompanied the application in accordance with this clause.

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

Conditions are recommended with regard to demolition.

2.6 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT

The proposal has been assessed with regard to the likely impacts within the body of this report. Impacts are acceptable in the context of the applicable planning controls and design response of the proposal.

There will be temporary amenity and environmental impacts associated with the excavation and construction of the development. These impacts can be reasonably dealt with through the imposition of suitable conditions as provided for at **Attachment 7**.

2.7 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

Does the proposal fit in the locality?

The proposal is 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.

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

Refer section 1.4 of this report.

2.9 SECTION 4.15(1)(E) THE PUBLIC INTEREST

Approval of the proposal is consistent with the public interest as our growing population demands housing diversity and an aging population in particular places increasing demand on the public sector for the provision of specialist accommodation such as independent living units within seniors housing developments.

3 CONCLUSION

This application has been assessed as satisfactory having regard to the Heads of Consideration under Section 54.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of Wollongong Local Environmental Plan 2009 and all relevant Council DCPs, Codes and Policies.

The proposed development is permissible with consent and has regard to the objectives of the zone. Substantial compliance is achieved with the applicable controls. Where variations to the planning controls are proposed, these have been reasonably justified. The variations have been assessed as acceptable and achieve the relevant objectives of the control and the aims of Wollongong LEP 2009 including a Clause 4.6 Variation request in respect of building height under SEPP (Housing) 2021.

The recommendations of the DRP have been considered and reasonable changes made in the revised plans and whilst not all the DRP recommendations have not been addressed as suggested the proposal complies with the requirements of SEPP 65 and the ADG. The impacts that arise from a built form outcome are minimal and refusal, or redesign of the development is not warranted on this basis. The character and form of the development is consistent with the zoning and reasonably responds to the surrounding context.

Submissions raised during public exhibition have been considered at section 1.4. Internal and external referrals are satisfactory and where outstanding issues have been identified they are dealt with through suitable conditions of consent. The application is considered acceptable with regard to the likely impacts as discussed above. It is considered that the proposed development has been designed appropriately given the nature and characteristics of the site and is unlikely to result in significant adverse impacts on the character or amenity of the surrounding area.

4 RECOMMENDATION

DA-2023/615 be approved subject to the conditions provided at **Attachment 7**.

5 ATTACHMENTS

1. Plans – Architectural, Landscape and Stormwater
2. DRP commentary -10 November 2023
3. Applicant's response to DRP commentary
4. Applicant's Clause 4.6 Variation Request – Height of Buildings
5. Apartment Design Guide Assessment
6. Wollongong Development Control Plan 2009 Assessment
7. Draft conditions