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| Panel Reference   | PPSSTH-333   |
| DA Number   | DA-2023/785  |
| LGA   | Wollongong City Council  |
| Proposed Development  | Demolition of existing buildings and construction of group home (10 units)   |
| Street Address  | 1-3 Kemblawarra Street WARRAWONG   |
| Applicant/Owner   | Salvation Army Housing   |
| Date of DA lodgement  | 4 October 2023   |
| Total number of Submissions   | One (1) - Neutral  |
| Number of Unique Objections   | Nil  |
| Recommendation  | Approval   |
| Regional Development Criteria (State Environmental Planning Policy (Planning Systems) 2021 – Schedule 6 Regionally significant development) | <p>Schedule 6 Clause 5 Private infrastructure and community facilities over \$5 million</p> <p>Under Clause 5(b) of Schedule 6, a group home with a capital investment value (CIV) of more than \$5 million is identified as regionally significant development. The CIV values the proposed development at \$7,466,000 (excluding GST).</p>   |
| List of all relevant s4.15(1)(a) matters  | <p><b>s4.15(1)(a)(1) any relevant environmental planning instruments:</b></p> <p><u>State Environmental Planning Policies (SEPPs):</u></p> <ul style="list-style-type: none"> <li>SEPP (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Housing) 2021</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (Sustainable Buildings) 2022</li> </ul> <p><u>Local Environmental Planning Policies:</u></p> <ul style="list-style-type: none"> <li>Wollongong Local Environmental Plan (WLEP) 2009</li> </ul> <p><u>Other policies</u></p> <ul style="list-style-type: none"> <li>Wollongong Development Control Plan 2009 (WDCP 2009)</li> <li>Wollongong City-Wide Development Contributions Plan (2021)</li> </ul> <p><b>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:</b></p> <p>N/A</p> <p><b>s4.15 (1)(a)(iii) Any development control plan:</b></p> <ul style="list-style-type: none"> <li>Wollongong Development Control Plan (WDCP) 2009</li> </ul> <p><b>s4.15 (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</b></p> <p>N/A</p> <p><b>s4.15 (1)(a)(iv) the regulations</b></p> <ul style="list-style-type: none"> <li>Clause 61 (1) demolition</li> </ul> <p><b>s4.15(1)(a)(v) any coastal zone management plan:</b></p> <ul style="list-style-type: none"> <li>There is no Coastal Zone Management Plan currently applicable to the land.</li> </ul> |

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|---|--|
| List all documents submitted with this report for the Panel's consideration (attachments) | 1 Full set of plans<br>2 Clause 4.6 Variation Request – Floor Space Ratio<br>3 WDCP 2009 assessment<br>4 Draft conditions of consent |
| Clause 4.6 requests   | <ul style="list-style-type: none"> <li>Floor Space Ratio</li> </ul>  |
| Summary of key submissions  | <ul style="list-style-type: none"> <li>Potential impact on drainage line on adjacent property</li> </ul>                             |
| Report prepared by  | Brad Harris – Development Project Officer  |
| Report date   | 8 May 2024   |

Summary of s4.15 matters Yes

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

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Legislative clauses requiring consent authority satisfaction

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

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

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Clause 4.6 Exceptions to development standards

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

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Special Infrastructure Contributions

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

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

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Conditions

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

## 1 APPLICATION OVERVIEW

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### 1 EXECUTIVE SUMMARY

#### Proposal

Demolition of existing buildings and construction of group home (10 units)

#### Permissibility

The proposed group home is a permissible use in the R2 Low Density Residential zone.

#### Notification and submissions

The application received one (1) submission following notification and this is discussed at section 1.3 of this report.

#### Planning controls and compliance

The following planning controls apply to the proposal:

##### State Environmental Planning Policies:

- SEPP (Resilience and Hazards) 2021
- SEPP (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Sustainable Buildings) 2022

##### Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

##### Development Control Plans:

- Wollongong Development Control Plan 2009

##### Other policies

- Wollongong City Wide Development Contributions Plan
- Wollongong Community Participation Plan

The proposal is satisfactory with regard to the applicable planning controls as discussed in the body of this report.

#### Likely impacts

The proposal is considered acceptable with regard to the likely impacts.

#### Referrals

Council's Traffic, Landscape and stormwater officers have provided satisfactory referrals

#### Recommendation

It is recommended that the application be conditionally approved.

### 1.1 DETAILED DESCRIPTION OF PROPOSAL

The proposal is for contemporary purpose-built accommodation in the form of a two storey group home. The new transitional group home will replace the existing single storey eight bedroom group home on the site approved in 1998. The group home will be operated and staffed by The Salvation Army.

The proposal comprises the following:

- Two (2) storey transitional group home development comprised within three (3) interconnected buildings. Four (4) group homes are situated at ground level and six (6) group homes are situated on the first level, comprising ten (10) group homes in total.
- Each group home is accessed via an external corridor or balcony, with lift and stair access to the first floor.
- Each group home comprises two (2) bedrooms, an open plan kitchen living-dining area, bathroom, and laundry.
- The ground floor of the development includes a secure entry lobby, office space and a staff room for support staff, two (2) consultation rooms, accessible bathroom, storage areas and an externally accessible waste room for bin storage. A separate area at ground floor provides communal space, additional storage and two (2) bathrooms for residents.
- The first floor also includes a north-west facing terrace, which is protected from views from Kemblawarra Road by a 1.7m high privacy screen.
- Paved pedestrian and vehicular connection and access to Kemblawarra Road.
- Front at-grade parking comprising seven (7) car parking spaces, including one (1) accessible parking space, accessed from Kemblawarra Road.
- Communal open space including children's playground and seating / BBQ area, which is screened from Kemblawarra Road by a high concrete block fence.
- New landscaped areas, including significant new additional tree cover and layered mass planting.

## 1.1 BACKGROUND

DA-1989/98 for an eight (8) bedroom transitional group home was approved by Wollongong City Council on 27 May 1998. The development comprised three (3) single bedrooms with shared bathroom facilities, five (5) family/twin bedrooms with shared bathroom facilities, communal facilities, and office accommodation for staff. The application was submitted by the NSW Department of Housing with the transitional group home itself staffed and operated by The Salvation Army.

The existing group home is proposed to be demolished to facilitate the redevelopment of the site for a ten (10) bedroom transitional group home under this DA.

A re-lodgement meeting was held for the proposal on 4 April 2023.

### Customer service actions

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

## 1.2 SITE DESCRIPTION

The site is located at 1-3 Kemblawarra Road, Warrawong and is identified by title as Lot 1 in Deposited Plan 1005758.

The site comprises an irregular shaped allotment orientated in a north-west to south-east direction with an area of 1,507m<sup>2</sup>. The site fronts Kemblawarra Road to the north-west.

The site currently comprises a single storey building with a single vehicular access from Kemblawarra Road, adjacent to the western boundary providing access to a car parking area. The site is relatively flat, with a slight fall of 0.7m towards the western corner of the site.

The site is bounded by R2 zoned residential development. Immediately to the north-west of the site is Kemblawarra Road. The neighbouring property to the south-west (5 Kemblawarra Road) is a single dwelling house. The site is bound to the north-east by private open space associated with a single storey dwelling at 142 Shellharbour Road. To the east of the site are 144 and 146 Shellharbour Road. 144 Shellharbour Road comprises a single storey dwelling house, whilst 146 Shellharbour Road is currently vacant.

Land further to the south and south-west of the site is zoned E4 General Industrial and E5 Heavy Industrial. Large industrial developments exist in the vicinity of the site along Shellharbour Road, as well as along King Street (in zone E3 Productivity Support) further to the west.

The site is located approximately 7.4km to the south of Wollongong Central Business District (CBD), 1.8km south-west of Port Kembla train station, and 65m to the north-west of Coomaditchie Lagoon

Reserve. The Warrawong Plaza shopping mall is located approximately 640m to the north-west of the site and provides essential services such as supermarkets, a grocery store and a pharmacy.

#### Property constraints

Council records identify the land as being impacted by the following constraints:

- Acid sulphate soils: The site is mapped as containing Class 5 acid sulfate soils. No concerns are raised in this regard.
- Flooding: The site is identified as being located within an uncategorised flood risk precinct. Council's Stormwater Officer has reviewed the application including a flood study prepared by the applicant's stormwater consultant. No concerns have been raised and a satisfactory referral has been provided which includes appropriate conditions in respect of stormwater and flooding.

There are no restrictions on the title.



**Figure 1: Aerial photograph**



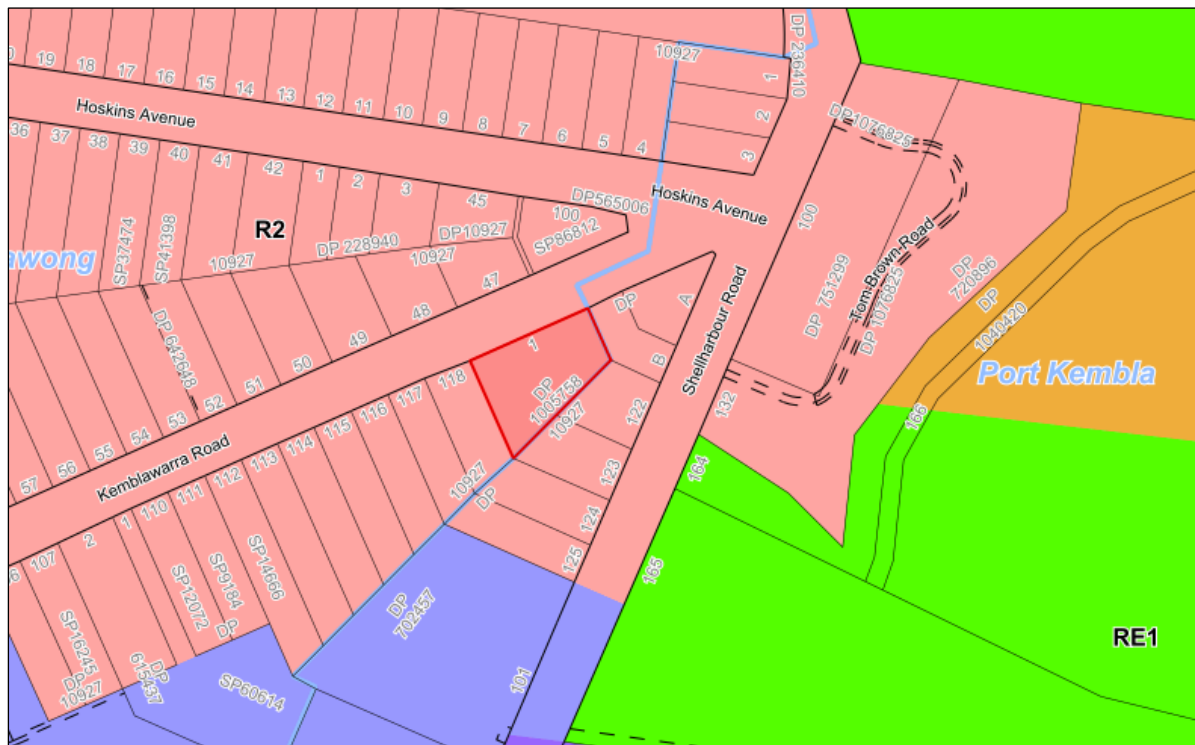


Figure 2: WLEP 2009 zoning map



Figure 3: Site photograph

### 1.3 SUBMISSIONS

The application was notified in accordance with Council's Community Participation Plan. One (1) submission was received and the issues identified are discussed below.

**Table 1: Submissions**

| Concern  | Comment   |
|--|---|
| An adjoining property owner states there is an 'ag pipe' along the western boundary of his property (No.146 Shellharbour Road), connected to a pit at the lowest point and with a stormwater line running from the pit along and inside southern boundary of DA property for disposal of rainwater/stormwater from his property. | The submitter's property is currently vacant land. There is no evidence of a legal stormwater connection from the objector's property to Kemblawarra Road. There are no drainage easements on either the objector's property or the site of the proposed development. |
| The owner of this adjoining property seeks assurances that the existing disposal system won't be affected by the proposed development.   | There are no proposed works that would affect the submitter's property and any development on his property would need to demonstrate an appropriate stormwater design in accordance with Council's policies.  |

## 1.4 CONSULTATION

### 1.4.1 INTERNAL CONSULTATION

Council's Stormwater, Environment, Landscape and Traffic officers have reviewed the application and given a satisfactory referral. Conditions of consent were recommended and are included in the consent.

### 1.4.2 EXTERNAL CONSULTATION

None required

## 2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

### Environmental Planning and Assessment Amendment (Housing and Productivity Contributions) Order 2023

This Order took effect on 1 October 2023. It does not apply to the subject proposal as no subdivision is proposed.

### 2.1 SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT

#### COASTAL MANAGEMENT Amendment Act 2021

The *Coastal Management Amendment Act 2021* commenced on 1 November 2021, to give coastal councils until 31 December 2023 to implement their CZMPs. By effect this enables a continuation of the current certified CZMP (20 December 2017) whilst Council undertakes further studies and community consultation for a transition to a new Coastal Management Plan.

#### 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 would be triggered by clearing of an area 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).

No native vegetation is proposed to be cleared for the development. The minimum subdivision lot size for the land under WLEP 2009 is 449sqm. Therefore the proposal does not trigger the requirement for a biodiversity offset scheme.

The site is not identified as being of high biodiversity value on the [Biodiversity Values Map](#).

Council's Environmental Assessment Officer has considered whether the development site would potentially provide suitable habitat for any threatened species and the test of significance and has concluded that the proposed development is not expected to likely significantly affect threatened species or ecological communities, or their habitats. The development proposed would not be considered a key threatened process.

The development would therefore not be 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 POLICIES

### 2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

#### Chapter 3 Koala habitat protection 2020

The State Environmental Planning Policy (Koala Habitat Protection) 2021 applies to the Wollongong Local Government Area, identified as being in the South Coast koala management area.

##### 11 Development assessment process—no approved koala plan of management for land

There is no approved koala plan of management applying to the land, and the land does not have an area of at least 1 hectare (including adjoining land within the same ownership). As such, Clause 11 does not apply to the land.

##### 12 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 land has not been assessed by a suitably qualified and experience person as being highly suitable koala habitat, and Council has no record of the presence of koalas on the site currently or within the previous 18 years. The proposal does not include the removal of significant native vegetation and as such, the land is not considered to core koala habitat and consent can be granted for the proposed development in this regard.

### 2.1.3 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

#### Chapter 4 Remediation of land

##### 4.6 Contamination and remediation to be considered in determining development application

A desktop audit via Council's land information system database for property constraints and previous uses was undertaken to understand the likelihood of contamination issues.

The audit revealed there are no constraints or past uses that give rise to concerns or the need for further investigation regarding land contamination and the SRPP as determining authority can be satisfied that clause 4.6 matters are thus satisfied. A specific condition of consent is proposed relating to an unexpected finds protocol.



## 2.1.4 STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

The proposal is BASIX affected development to which this policy applies. In accordance with Part 3 Division 1 Section 27 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.

The proposal is considered to have demonstrated compliance with sustainable building standards in accordance with the SEPP.

## 2.1.5 STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

SEPP (Housing) 2021 came in force on 26 November 2021 supporting delivery on NSW Housing strategy by driving the development of affordable and diverse housing.

### Chapter 3 Diverse housing

#### Part 2 Group homes

The SEPP provides for Group Home development by making them permissible with consent within prescribed zones. The R2 Low Density Residential zone a prescribed zone and the proposal meets the definition of a Transitional Group Home under the SEPP.

## 2.1.6 STATE ENVIRONMENTAL PLANNING POLICY (PLANNING SYSTEMS) 2021

### Chapter 2 State and regional development

#### Part 2.4 Regionally significant development

#### **2.19 Declaration of regionally significant development: section 4.5(b)**

(1) Development specified in Schedule 6 is declared to be regionally significant development for the purposes of the Act.

#### Schedule 6

### **5 Private infrastructure and community facilities over \$5 million**

Development that has an estimated development cost of more than \$5 million for any of the following purposes—

- (a) air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities,
- (b) affordable housing, child care centres, community facilities, correctional centres, educational establishments, **group homes**, health services facilities or places of public worship.

As the development is for a group home and has a capital investment value of more than \$5 million, the proposal is regionally significant development and is accordingly referred to the SRPP for determination.

## 2.1.7 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

#### Clause 1.4 Definitions

**group home** means a permanent group home or a transitional group home.

#### **Note—**

Group homes are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**group home (transitional)** or **transitional group home** means a dwelling—

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and

- (b) that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people,

but does not include development to which *State Environmental Planning Policy (Housing) 2021*, Chapter 3, Part 5 applies.

The development will provide temporary accommodation for women and children escaping domestic violence, and therefore comprises a transitional group home development.

## **Part 2 Permitted or prohibited development**

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

The 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 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; Boat launching ramps; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Exhibition homes; Exhibition villages; **Group homes**; Health consulting rooms; Home-based child care; Home businesses; Home industries; Hospitals; Hostels; Information and education facilities; Jetties; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; 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; Tank-based aquaculture; Veterinary hospitals

The proposal is categorised as a **group home** as defined above and is permissible in the zone with development consent.

## **Part 4 Principal development standards**

### Clause 4.1 Minimum subdivision lot size

449m<sup>2</sup>. No subdivision proposed.

### Clause 4.3 Height of buildings

The proposed building height of 8m does not exceed the maximum of 9m permitted for the site.

### Clause 4.4 Floor space ratio

Maximum FSR permitted for the zone: 0.5:1

Site area: 1,507m<sup>2</sup>

GFA: 868m<sup>2</sup>

FSR:  $868\text{m}^2/1,507\text{m}^2 = 0.576:1$

A Clause 4.6 request has been submitted to support the proposed variation to this standard (refer to **Attachment 2**).

### Clause 4.6 Exceptions to development standards

| WLEP 2009 clause 4.6 proposed development departure assessment |                              |
|--|------------------------------|
| Development departure  | Clause 4.4 Floor Space ratio |
| Is the planning control in question a development standard     | Yes                          |

4.6(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- (b) there are sufficient environmental planning grounds to justify contravention of the development standard.

A satisfactory clause 4.6 variation has been submitted

**Yes**

In accordance with the provisions of the EP&A Regulation 2021, the applicant has submitted a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

The applicant's Clause 4.6 Statement forms **Attachment 2**. It identifies the environmental planning grounds that are considered sufficient to support the development departure regarding the specifics of the proposed development (see comments below).

The application provides for a gross floor area of 868m<sup>2</sup>, which equates to an FSR of 0.576:1. This is a variation of 15.2%, or 114.5m<sup>2</sup>.

The applicant argues that the development has been designed to include high quality landscaped setbacks to the street and site boundaries, with a generous area of communal open space and planting beds for shade tree planting and layered mass planting. The bulk and scale of the proposed development has been separated into three distinct but interconnected buildings fronting Kemblawarra Road, and is consistent with the desired future character of Warrawong.

The objective of clause 4.4 are:

- (a) *to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- (b) *to establish the maximum development density and intensity of land use, taking into account the availability of infrastructure to service that site and the vehicle and pedestrian traffic the development will generate,*
- (c) *to ensure buildings are compatible with the bulk and scale of the locality.*

Comment:

The arguments presented by the applicant are accepted and it is considered the minor exceedance in the FSR standard would not be perceptible in the context of the site and the additional floor space would not result in any adverse impacts on adjacent properties or in the streetscape generally.

The proposed development represents a contemporary built form that provides a modern purpose-built accommodation to be operated by a social housing provider as a much-needed community facility. It is considered that on this basis the proposed development can be considered as being in the public interest as it is consistent with the objectives of the floor space ratio standard and the objectives for development within the zone.

It is considered that strict compliance with the standard in the context of the proposal and the subject site would not result in any significant public benefit in this specific instance. Accordingly the proposed variation to the Floor Space Ratio development standard is supported.

## **Part 5 Miscellaneous provisions**

### Clause 5.21 Flood planning

The property is flood affected and a flood study has been prepared by consultants on behalf of the applicant. The Flood Study concludes that the site is in a Medium Flood Risk Precinct and that the proposed development can meet all the requirements outlined in Chapter 13 Floodplain Management of the Wollongong Development Control Plan 2009, which sets out Council's detailed controls for land within the flood planning area.

Council's stormwater engineer has reviewed the applicant's flood study and following receipt of additional modelling to confirm the results of the study, has provided a satisfactory referral and recommended appropriate conditions of consent.

The proposal will therefore comply with the relevant requirements of Clause 5.21(2) of the WLEP 2009 and is consistent with the objectives of the clause.

Clause 5.22 Special flood considerations

Clause 5.22 (2) This clause applies to—

(a) for sensitive and hazardous development—land between the flood planning area and the probable maximum flood...

Whilst this clause defines group homes as a type of “sensitive and hazardous development”, Council's stormwater engineer has confirmed that on the basis of the submitted flood study the site is not between the flood planning area and the Probable Maximum Flood and therefore the provisions of Clause 5.22 do not apply.

**Part 7 Local provisions – general**

Clause 7.1 Public utility infrastructure

The development is already serviced by electricity, water and sewerage services.

A condition will be imposed upon the development consent requiring approval from the relevant authorities for the connection of electricity, water and sewerage to service the site.

Clause 7.5 Acid Sulfate Soils

The site is identified as being affected by class 5 acid sulphate soils. An acid sulphate soils management plan is not required.

Clause 7.6 Earthworks

The earthworks associated with the proposal are not expected to have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features surrounding land.

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

Not applicable

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

**2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009**

Whilst Wollongong Development Control Plan 2009 does not contain specific controls for Group Homes, the scale and form of development is similar to Multi Dwelling Housing and for comparison purposes an assessment of the proposal against these controls has been undertaken and is provided a **Attachment 3**.

**2.3.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN**

**DEVELOPMENT CONTRIBUTIONS**

Wollongong City-Wide Development Plan - City Wide

The Wollongong City-Wide Development Contributions Plan applies to the subject property. This Plan levies a contribution based on the estimated cost of development.

The applicant has requested an exemption from development contributions under Clauses 15 of the Plan:

i. An application for privately funded community infrastructure, such as but not limited to education facilities (primary and secondary) and private hospitals.

j. Any other development for which Council considers an exemption is warranted, where the decision is made by formal resolution of the Council at a public Council meeting.

This request has been referred to Council's Contributions Officer who has noted that the applicant, Salvation Army Housing, is a Tier 2 Registered Community Housing Provider. Additionally, the land is owned by the Land and Housing Corporation which under Section 15B(2) of the *State Environmental Planning Policy (Housing) 2021* states:

*In this division, residential development carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation is taken to be used for the purposes of affordable housing.*

For the purposes of the Housing SEPP the development is considered affordable housing, and under section 208 of the *Environmental Planning and Assessment Act 1979* the cost of development cannot be used to calculate development contributions. Accordingly the applicant's request for an exemption to the Payment of a s.94A Levy is supported.

## **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)**

### **Environmental Planning and Assessment Regulation 2021**

#### 2 Savings

Any act, matter or thing that, immediately before the repeal of the 2000 Regulation, had effect under the 2000 Regulation continues to have effect under this Regulation.

2000 Regulation means the Environmental Planning and Assessment Regulation 2000 as in force immediately before its repeal on 1 March 2022.

#### 6 Determination of BASIX development

A BASIX Certificate has been provided.

#### 61 Additional matters that consent authority must consider

Conditions of consent are recommended with regard to demolition.

#### 62 Consideration of fire safety

Not applicable

#### 63 Considerations for erection of temporary structures

Not applicable

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

There are not expected to be adverse environmental impacts on either the natural or built environments or any adverse social or economic impacts in the locality. This is demonstrated through the following:

- The proposal is satisfactory regarding the applicable planning controls as detailed in the body of this report.
- Submissions raised following notification would not preclude the development.
- Internal and external referrals are satisfactory subject to appropriate conditions of consent

Context and Setting:



The physical impacts of the proposal (i.e. overshadowing, privacy, setbacks, bulk, and scale) on surrounding development have been considered. The proposal has been assessed with regard to the amenity impacts from the development, the zoning, permissible height and FSR for the land, and existing and future character of the area including heritage impacts and is considered to be compatible with the locality.

## **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 considered appropriate with regard to the zoning of the site and likely impacts on the locality and adjoining land are acceptable. It is noted that the proposal effectively continues the existing use of the site as a group home albeit to a slighter larger scale and thus there will be no significant change to existing impacts.

### Are the site attributes conducive to development?

The proposal suitably responds to the site attributes.

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

One submission received. The submission is addressed in Section 1.5 of this report.

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

The application is not expected to have any unreasonable impacts on the environment or the amenity of the locality. It is considered appropriate with consideration to the zoning and the character of the area is satisfactory with regard to the applicable planning controls. One submission was received following notification of the proposal. This has been addressed in this report. The proposal is therefore considered to be satisfactory having regard to public interest considerations.

## **3 CONCLUSION**

This application has been assessed having regard to the Heads of Consideration under Section S4.15(1) of the Environmental Planning and Assessment Act 1979. The proposed development is permissible with consent and has regard to the objectives of the zone and is consistent with the applicable provisions of the relevant planning instruments including Wollongong LEP 2009, relevant state policies, Council DCPs, Codes and Policies. The design of the development is appropriate regarding the controls outlined in these instruments.

The proposal does not fully comply with the floor space ratio development standard under WLEP 2009. The applicant has followed the process set out in clause 4.6 of WLEP 2009 and adequately justified the development standard departure. The character and form of the development is consistent with the zoning and reasonably responds to the surrounding context and the applicable controls.

It is considered that the proposed development has otherwise 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**

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It is recommended that the development application be approved subject to conditions of consent which form **Attachment 4**.

## **ATTACHMENTS**

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- 1 Plans
- 2 Clause 4.6 Variation Request (FSR)
- 3 WDCP 2009 Compliance table
- 4 Draft Conditions of Consent

