

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSWC-170
DA Number	1308/2021/DA-SL
LGA	Campbelltown
Proposed Development	Construction of a seniors housing development comprising of 45 self-contained units and basement car parking
Street Address	Lot 33 DP 700703, Lot 34 DP 700703 (future lot 194 as per Part 5 Activity Determination)
Applicant/Owner	NSW Land and Housing Corporation
Date of DA lodgement	5 May 2021
Total number of Submissions Number of Unique Objections	No submission received
Recommendation	Approval – subject to conditions in Attachment 1.
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Development carried out by or on behalf of the Crown that has a capital investment value of more than \$5 million – Clause 4 of Schedule 7 (\$16,820,000.00).
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 • State Environmental Planning Policy 65 – Design Quality of Residential Flat Development • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • Campbelltown Local Environmental Plan 2015 • Campbelltown (Sustainable City) Development Control Plan 2015 (SCDCP)
List all documents submitted with this report for the Panel's consideration	<p>Attachment 1 – Recommended conditions of consent</p> <p>Attachment 2 – SEPP 65 Apartment Design Guide Assessment</p> <p>Attachment 3 – Design quality principles assessment</p> <p>Attachment 4 – Architect's Design Certification Statement, Response to Design Quality Principles and ADG</p> <p>Attachment 5 – Development Control Plan Compliance Table</p> <p>Attachment 6 – Seniors Living Policy: Urban Design Guidelines for Infill Development Compliance Table</p> <p>Attachment 7 – Architectural Plans</p> <p>Attachment 8 – Landscape Plans</p> <p>Attachment 9 – Civil Plans</p> <p>Attachment 10 – Waste Management Plan</p> <p>Attachment 11 – Clause 4.6 Variation 40(4)(a)</p> <p>Attachment 12 – Clause 4.6 Variation 40(4)(b)</p>

	<p>Attachment 13– Record of Briefing – Sydney Western City Planning Panel 12 November 2021</p> <p>Attachment 14 – Cover Letter in response to Council’s RFI request</p> <p>Attachment 15 – Design Excellence Panel Minutes</p> <p>Attachment 16 – Council’s Request for Additional Information letter</p> <p>Attachment 17 – Amended SEE prepared by BBC Consulting Planners, dated December 2021.</p> <p>Attachment 18 – Access Report</p> <p>Attachment 19 – BASIX Certificate</p> <p>Attachment 20 – Acoustic Assessment</p> <p>Attachment 21 – BCA Report</p> <p>Attachment 22 – Remediation Action Plan</p> <p>Attachment 23 – Activity determination (7/09/2018)</p> <p>Attachment 24 – Activity determination as modified (3/08/2021)</p> <p>Attachment 25 – Activity determination as modified (20/06/2021)</p> <p>Attachment 26 – Bus stop location plan</p> <p>Attachment 27 – Applicant’s response in relation to clause 26 of SEPP Seniors and basement design</p> <p>Attachment 28 – Sydney Water response</p> <p>Attachment 29 – Endeavour Energy response</p>
Clause 4.6 requests	<ul style="list-style-type: none"> - SEPP Seniors - Clause 40(4)(a) the height of all buildings in the proposed development must be 8 metres or less - SEPP Seniors - Clause 40(4)(b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height
Summary of key submissions	No submissions received.
Report prepared by	Emma Page (Senior Development Planner)
Report date	14 February 2022

Summary of s4.15 matters

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

Yes**Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Yes**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**Special Infrastructure Contributions**

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

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

No**Conditions**

Have draft conditions been provided to the applicant for comment?

Yes

Executive Summary

The proposal has been referred to the Sydney Western City Planning Panel pursuant to Clause 4 of Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011, as the development application is for development carried out by or on behalf of the Crown that has a capital investment values of more than \$5 million (\$16,820,000.00, excluding GST).

This application proposes the construction of a seniors living development comprising 45 self-contained dwellings and basement car parking at Lot 33 DP 700703 and Lot 34 DP 700703 in the suburb of Rosemeadow. The development site forms part of a Part 5 Activity Determination (BGNTX (as amended)) which was approved on 7 September 2018.

The site is zoned R2 Low Density Residential under the provisions of Campbelltown Local Environmental Plan 2015. The proposed seniors housing development is permissible with development consent under the provisions of clause 15(a) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

In accordance with Council's Community Participation Plan, the proposal was notified and placed on public exhibition from 3 June 2021 to 2 July 2021. No submissions were received.

The main matters for discussions identified during the assessment of the development are summarised below:

- Non-compliance with Design Criteria 1 of Objective 3D-1 of the Apartment Design Guide for the required communal open space area.
- Non-compliance with Design Criteria 1 of Objective 4E-1 of the Apartment Design Guide for minimum balcony sizes and widths.
- Non-compliance with clause 40(4)(a) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, proposing a maximum non-compliance of 2.03 metres (Building A).
- Non-compliance with clause 40(4)(b) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 proposing a one storey non-compliance adjoining the eastern, southern and western site boundaries.
- Two separate written Clause 4.6 variation requests have been provided in relation to the proposed non-compliances with clauses 40(4)(a) and 40(4)(b) of SEPP Seniors.

Clause 7(1) of State Environmental Planning Policy No. 55 – Remediation of Land has been considered and is satisfied subject to a recommended condition of consent for the provision of a Section A1 Site Audit Statement certifying that the land is suitable for the proposed use.

This application has been assessed against the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*. Having regard to these provisions, the application is recommended for approval. The recommended condition of consent are listed in Attachment 1. In accordance with Section 4.33(1)(b), the recommended conditions have been reviewed and approval has been given by the applicant.

1. Application Overview

1.1 Site and Locality

The subject site is located within the suburb of Rosemeadow. The locality is characterised by low density residential development and Rosemeadow Market Place is approximately 250m walking distance from the site.

The Rosemeadow renewal project is a small-scale neighbourhood redevelopment transforming approximately 165 social housing properties into a mixed community including both private and social housing. In total, the renewal project will deliver approximately 240 lots and housing of which up to 30% is social housing.

The development site is included within stage 3 of the Rosemeadow renewal project. The stage 3 project was approved on 7 September 2018 under Part 5 of the *Environmental Planning and Assessment Act 1979*. The activity determination (BGNTX) was approved for the following:

- Subdivision of four (4) lots into 99 lots, comprising 91 residential lots, three (3) residue lots, and one drainage reserve, 4 future road dedication lots, demolition, associated subdivision works, tree removal, street landscaping, traffic median infrastructure and installation of additional stormwater quality treatment devices.

Future lot 194, approved as part of the activity determination, is the subject site for the proposed seniors housing development. Future lot 194 provides a frontage of 80.7m to Road No. 2, adjoins future allotment lot 193 to the south, adjoins 2 residential allotments to the north and a drainage reserve to the east.

The activity determination was modified on 3 August 2020 which included the following condition to be included in the activity determination:

- Lot 194 must be developed wholly for the purpose of seniors housing, as defined in SEPP (Housing for Seniors of People with a Disability) 2004.

The activity determination was further modified on 20 June 2021 to incorporate amendments to site levels, retaining walls, stormwater design and location of stormwater quality treatment devices, include additional easements, amendments to lots that comprise the development site, footpaths and traffic median infrastructure.

The development site is not on land that is identified on a bush fire prone land map or within the vicinity of land identified on a bush fire prone land map. The site is also not within an aboriginal archaeological sensitivity zone.

1.2 Proposal

The application seeks approval for the construction of a seniors housing development consisting of 45 self-contained dwellings and basement car parking to be undertaken by a social housing provider.

Specifically, the following works are proposed:

- All 45 dwellings contain two bedrooms and are spread over six buildings, each building having separate access from ground level;

- 40 accessible dwellings;
- Construction of a basement car parking level with 45 car parking spaces and storage areas;
- Four lifts provided from the basement level to Buildings A, B, D, E;
- Centrally located stairs within the common open space area for basement access;
- Waste storage areas along the frontage of the development;
- Stormwater and landscaping works;
- Central communal open space area consisting of BBQ facilities and various seating areas;
- Pedestrian connection from the site over the drainage reserve to Copperfield Drive with a gate preventing access to the general public;
- Fencing provided to the northern, eastern and southern property boundaries.

The development is generally characterised by two longitudinal building forms with a physical break between Building A and Building B to facilitate pedestrian access to the central common open space area and Building D, Building E and Building F.

1.3 Application History

The relevant application history is provided below:

Date	Milestone
5 May 2021	Development application lodged
22 April 2021	Application briefed at the Campbelltown Design Excellent Panel
30 August 2021	Kick-off briefing
6 October 2021	Request for Additional Information letter issued to applicant
29 October 2021	Meeting with applicant to discuss matters raised in Council's Request for Additional Information letter
12 November 2021	Briefing with Sydney Western City Planning Panel
23 December 2021	Applicant provided additional information provided to Council
10 February 2022	Draft conditions of consent provided to applicant in accordance with section 4.33 of the <i>Environmental Planning and Assessment Act 1979</i>
22 February 2022	Applicant provided concurrence to draft recommended conditions.

Report

The development has been assessed in accordance with the heads of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and having regard to those matters the following issues have been identified for further consideration.

2. Campbelltown Local Strategic Planning Statement

This document establishes a set of strategic directions to guide decision making and development outcomes. These directions are broad in nature and form a prelude to a new statutory town plan for the City.

The 'Campbelltown Local Strategic Planning Statement is a vision statement of broad town planning intent for the longer term future of the City of Campbelltown that contributes to the community objectives of:

- A vibrant, liveable city;
- A respected and protected natural environment;
- A thriving, attractive city; and
- A successful city.

The development application satisfies the 'Vibrant, Liveable City' theme as the development is deemed to enhance livability and improve the quality of the local environment and provides for high quality, diverse housing.

3. Section 4.15(1)(a)(i) Any Environmental Planning Instruments

3.1 State Environmental Planning Policy (State and Regional Development) 2011

Pursuant to Clause 4 of Schedule 7, the proposed development is regionally significant development due to the development being carried out by or on behalf of the Crown that has a capital investment value of more than \$5 million (\$16,820,000.00, excluding GST). Accordingly, the application is referred to the Sydney Western City Planning Panel for determination.

A briefing between Council and the Sydney Western City Planning Panel was held on 12 November 2021. A number of key issues were discussed. Attachment 13 includes the applicant's response to the key issues. Council's response is provided in the below table:

Key issues	Response
The Panel is sympathetic to the suggestion of the Design Review Panel that a break be introduced into the single building marked on the plans as Buildings D, E and F. There may be some impact on yield but the advantage of reducing the building mass and improving the relationship between the development and the green space provided by the drainage reserve would seem important. That change would go a long way to offsetting the impacts of the height non-compliance.	This matter is discussed in section 7.1 of this report.
The Panel also notes the Design Review Panel's concern over the height non-compliance of Buildings A and B given their relationship with the proposed adjoining townhouse development site.	Solar access investigation plans submitted with the amended information (Drawing no. A-8100) demonstrate that the adjoining townhouse site would comply with Part 3.4.4(b) of Council's SCDCP 2015 which requires a minimum 20sqm fixed area of the required private open space shall receive three (3) hours of continuous direct solar access on 21 June, between 9.00am and 3.00pm, when measured at ground level.
The clause 4.6 requests do not appear to presently sufficiently explore the required matters for consideration in that regard, particularly having regard to the objectives of the standard.	Revised clause 4.6 variation requests provided which have adequate regard to the objectives of the relevant standard.
A plan showing how the landscaping deep soil requirements in the SEPP have been met would assist.	Details provided on the landscape plan.
Where the minimum open space area deemed compliance control under the SEPP are not achieved, the proposed areas for the open space should be demonstrated to be sufficient and acceptable on merit having regard to the usual considerations of solar access, amenity and usability.	Non-compliant private open spaces are proposed. Discussion and justification provided in section 7.7 of this report.
The Panel notes that the garbage arrangements will involve a caretaker. It therefore suggests that basement location for the garbage storage would not present the usual difficulties of transporting	The applicant has detailed that amended plans have been prepared to provide one additional waste storage area at the southern end of the central courtyard area to reduce travel distances

waste to the street, and should be considered. That might allow compaction of waste thereby reducing storage requirements and lessening the burden on the waste system with environmental benefits.	<p>for residents to transport waste. The additional waste storage area has been conveniently located for easy and practical access whilst mitigating any visual or amenity impacts to the centre courtyard and adjoining units.</p> <p>The applicant also details that the waste storage areas and bins shall be cleaned and maintained on a regular basis by the caretaker to ensure no issues arise in relation to odours, vermin or unsightliness. The owner of the development requires the general contractor to clean the bins and enclosure after each time the bins are emptied.</p>
The Panel supports the positive comments of the Design Review Panel as to the architectural scheme overall particularly in its articulation, materiality and approach to the site.	Noted. No changes proposed by the revised information received 23 November 2021.

3.2 State Environmental Planning Policy No. 55 – Remediation of Land

This Policy provides a state-wide planning approach to remediation and aims to promote the remediation of any contaminated land for the purpose of reducing the risk of harm to human health and/or the environment. An assessment of the relevant clauses is provided below:

Clause 7 Contamination and remediation to be considered in determining development application

Clause 7(1) provides that a consent authority must not consent to the carrying out of any development on land unless –

- (a) it has considered whether the land is contaminated, and
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The subject land is to be created as a lot for residential purposes under the Part 5 Activity Determination. This requires remediation of the land before the lot is created and NSW Land and Housing have accepted responsibility for ensuring that the land is suitable.

Condition 10 of the Activity Determination provides the following:

- Site Soil Contamination: The site has been identified as being potentially affected by soil contamination. A proposal for remediation is to be prepared by a suitably qualified person, which may include preparation of a Remediation Action Plan, and remediation is to be carried out in accordance with the proposal. A Validation Report, prepared in accordance with Environment Protection Authority requirements, is to be obtained from a qualified expert on completion of the remediation work to verify that the site is suitable for the intended residential use. A copy of the Validation Report is to be provided to the Land and Housing Corporation on completion of the remediation works.

A Remediation Action Plan (RAP) prepared by GeoEnviro Consultancy Pty Ltd (Ref: JC17299C-r1), was submitted with the application. The RAP concludes that subject to site remediation as outlined in the RAP, the subject site will be suitable for the proposed residential subdivision development.

Land and Housing Corporation have stated they wish to proceed with construction of the subject development prior to the Part 5 Activity Determination subdivision being registered. Accordingly, the application details that Land and Housing Corporation support the introduction of a suitably worded condition to the effect that the subject land must be remediated to be suitable for the proposed use prior to construction works commencement as evidenced by the provision of a site validation report prepared by a suitably qualified hygienist, or alternative form of evidence acceptable to Council.

The following condition is recommended which satisfies clause 7(1) of SEPP 55:

- Prior to the issue of a Crown building work certificate or the commencement of works, whichever occurs first, a Section A1 Site Audit Statement under the Contaminated Land Management Act, 1997, is required to be submitted, certifying that the land is suitable for “residential with minimal opportunity for soil access, including units”.

In response to clause 7(2), the development of seniors living housing on a lot created for residential purposes is not a change of use within the meaning of this clause.

3.3 Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment

The proposal is within the Georges River Catchment therefore the Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment applies and must be considered when a consent authority determines a development application.

The general aims of the plan are:

- (a) to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment,
- (b) to protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner,
- (c) to ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries,
- (d) to establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment,
- (e) (Repealed)
- (f) to provide a mechanism that assists in achieving the water quality objectives and river flow objectives agreed under the Water Reform Package.

The proposal does not conflict with any of the general aims or objectives of the policy.

The proposed development is also not anticipated to impact any of the general principles and specific planning principles in clauses 8 and 9 of the plan. Accordingly, the proposed development is unlikely to result in any impact to adjacent or downstream local government areas, or impact the Georges River in any way, and is therefore considered acceptable.

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

Clause 2 Aims of Policy

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP Seniors) aims to encourage the provision of housing (including residential care facilities) that will:

- (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and
- (b) make efficient use of existing infrastructure and services, and
- (c) be of good design.

A response to the above objectives is provided below:

- The proposed development includes the construction of 45 self-contained dwellings that will increase the supply of housing to meet the needs of seniors or people with a disability.
- The proposed seniors housing development is also making efficient use of existing infrastructure, associated with the Part 5 Activity Determination and existing bus services nearby.
- Overall, the design of the development is considered to be of good design and provides a positive contribution to the future character of the Rosemeadow redevelopment area.

Clause 4 Land to which Policy applies

In accordance with clause 4(1), SEPP Seniors applies to land within New South Wales that is land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if –

- (a) development for the purpose of any of the following is permitted on the land –
 - (i) dwelling-houses,
 - (ii) residential flat buildings,
 - (iii) hospitals,
 - (iv) development of a kind identified in respect of land zoned as special uses, including (but not limited to) churches, convents, educational establishments, schools and seminaries, or
- (b) the land is being used for the purposes of an existing registered club.

The subject site is zoned R2 Low Density Residential. Dwelling houses are a permitted land use within the R2 Low Density Residential zone. Accordingly, Seniors SEPP applies to the development site.

Clause 4A Land to which Policy applies – heritage conservation areas in Greater Sydney Region

Clause 4A(1) of SEPP Seniors states that the policy does not apply to the Greater Sydney Region if an environmental planning instrument identifies the land as being within a heritage conservation area. The site is not within a heritage conservation area and therefore the policy does apply.

The development site is not listed in clause 4A(3A).

Clause 4B Land to which Policy applies – metropolitan rural areas in Greater Sydney Region

In accordance with clause 4B(1), SEPP Seniors does not apply to land identified on the metropolitan rural areas exclusion zone map as a metropolitan rural area exclusion zone. The development site is not identified on the metropolitan rural areas exclusion zone map as a metropolitan rural area exclusion zone, and therefore SEPP Seniors applies.

Clause 13 Self-contained dwellings

Clause 13 of SEPP Seniors provides that a self-contained dwelling is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.

Clause 13 provides the following examples:

(2) Example: “in-fill self-care housing” In this Policy, in-fill self-care housing is seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.

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

The proposed development seeks consent for 45 self-contained dwellings where services providing meals, cleaning services, personal care or nursing care services are not provided.

Clause 14 Objective of Chapter

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

Clause 15 What Chapter Does

Clause 15 states that Chapter 3 Development for Seniors Housing allows the following development despite the provisions of any other environmental planning instrument if the development is carried out in accordance with this Policy—

- (a) development on land zoned primarily for urban purposes for the purpose of any form of seniors housing, and
- (b) development on land that adjoins land zoned primarily for urban purposes for the purpose of any form of seniors housing consisting of a hostel, a residential care facility or serviced self-care housing.

Seniors housing is not a permitted land use under the provision of Campbelltown Local Environmental Plan 2015 (LEP 2015). Despite this, clause 15(a) above provides that seniors housing is permitted on the development site as the development is on land zoned primarily for urban purposes. Clause 15(b) is not applicable to this application as the land is zoned primarily for urban purposes and is not land that adjoins land zoned primarily for urban purposes.

Clause 16 Development consent required

In accordance with clause 16 of SEPP Seniors, seniors housing may be carried out only with consent unless another environmental planning instrument allows the development without consent. Seniors housing is not a permitted land use under the provisions of CLEP 2015, and accordingly, consent is sought for the purposes of seniors housing under the provisions of SEPP Seniors.

Clause 18 Restriction on occupation of seniors housing allowed under this Chapter

Clause 18(1) of SEPP Seniors requires seniors housing to be carried out for the accommodation of the following only:

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

In accordance with Clause 18(2) a consent authority must not consent to a development application unless:

- a) a condition is imposed by the consent authority to the effect that only the kinds of people referred to in subclause (1) may occupy any accommodation to which the application relates, and
- b) the consent authority is satisfied that a restriction as to user will be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, limiting the use of any accommodation to which the application relates to the kinds of people referred to in subclause (1).

A condition of development consent has been recommended for the use of the proposed accommodation to be used strictly for the following residents:

- a) seniors or people who have a disability,

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

Additionally, a condition of development consent has been recommended which requires a restriction as to user to be registered against the title of the development site in accordance with clause 18(1).

Part 2 Site-related requirements

An assessment of the application against the clauses in SEPP (Seniors) 2004 relevant to the proposal is presented below:

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	
Clause	Assessment Comment
Clause 26 Location and access to facilities	
(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to: (a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner.	The entrance to Rosemeadow Market Place (4 Thomas Rose Drive, Rosemeadow), is approximately 250m from the development site. However, not all services referred to in clause 26(1) are provided at Rosemeadow Market Place and pathways gradients have not been provided by the applicant to assess compliance with clause 26(2) via a suitable access pathway. Accordingly, in order to satisfy clause 26(1)(a)-(c), access must comply with clause 26(2). Compliance is detailed below.
(2) Access complies with this clause if: (a) the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development that is a distance accessible by means of a suitable access pathway and the overall average gradient for the pathway is no more than 1:14, although the following gradients along the pathway are also acceptable— (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time, (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time, (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time, or	The applicant is relying upon existing bus services to access facilities and services at Macarthur Square Shopping Centre. The facilities and services relied upon are more than 400 metres from the site of the proposed development. Compliance is detailed below in response to clause 26(2)(b).
(2) Access complies with this clause if: (b) in the case of a proposed development on land in a local government area within	(b)(i) The site is located within Greater Sydney.

the Greater Sydney (Greater Capital City Statistical Area)—there is a public transport service available to the residents who will occupy the proposed development:

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

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

(iii) that is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive), and the gradient along the pathway from the site to the public transport services (and from the public transport services to the facilities and services referred to in subclause (1)) complies with subclause (3),

Existing public transport services are available to the residents who will occupy the proposed development within 400 metres from the development site. Once constructed as part of the Part 5 Activity Determination, the access to the bus stops is considered to be a suitable access pathways within the meaning of SEPP Seniors.

The following bus stops are within 400 metres of the site:

-Rosemeadow Reserve, Copperfield Drive (Stop ID: 2560386)

-Copperfield Drive opposite Rosemeadow Reserve (Stop ID: 2560377)

Access to the bus stops

The Access Report, prepared by Vista Access Architects (dated 30 March 2021) provides that the overall pathway gradient complies, subject to minor rectification works involving a kerb ramp on Copperfield Drive. A detailed longitudinal grade survey has been provided that indicates the grades of the pathways from the site to the bus stops on Copperfield Drive are within the range as required by this clause. The report does note that a small section of longitudinal section 3 has a grade of 1:6.95 and therefore the kerb ramp will be required to be rectified as per AS 1428.1. Rectification of the non-compliance ramp is recommended as a condition of development consent.

(ii) BBC Consulting Planners details the bus services provide access to the following facilities and services:

- Bus routes 887 and 888 provides services to Macarthur Square Shopping Centre which contains facilities and services listed in clause 26(1)(a)-(b).
- Bus route 888 provides access to H.J. Daley Central Library via a 115 metre suitable access pathway.
- Bus route 888 provides access to a community centre at 6 MacBeth Way, Rosemeadow via a 300 metre suitable access pathway.

(iii) BBC Consulting Planners details that the bus stop is at the entrance to Macarthur Square which is accessible from the bus stop as shown below:



	<p>Macarthur Square has been the subject of upgrade works over recent years with the main consent for upgrades including the following condition:</p> <p><i>Prior to Council or an accredited certifier issuing a Construction Certificate, the applicant shall demonstrate by way of detailed design, compliance with the relevant access requirements of the BCA and AS 1428 – Design for Access and Mobility. In addition, the applicant shall demonstrate that the pedestrian access route from the Macarthur Gardens retirement village to the entry of the shopping centre complies with AS 1428.1.2009.</i></p> <p>BBC Consulting Planners also includes the following in response to subclause 26(2)(iii):</p> <ul style="list-style-type: none"> - H.J. Daley Central Library, Campbelltown provides community services including an ebook service and mobile library service provided directly to the home. In addition the library is readily accessible from bus route 888 and has a single level access for entry and exit to the library, an accessible toilet, recharge points for wheelchairs and accessible parking. There is a path from the bus stop approximately 115 metres from the library that is generally flat and appears to satisfy the gradient requirements of SEPP (Seniors). - A seniors group that meets at a community centre at 6 MacBeth Way, Rosemeadow. There is concrete path from the bus stop to the facility along a route that is generally flat and appears to satisfy the gradient requirements of the SEPP.
<p>(3) For the purposes of subclause (2) (b) and (c), the overall average gradient along a pathway from the site of the proposed development to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) is to be no more than 1:14, although the following gradients along the pathway are also acceptable:</p> <p>(i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,</p> <p>(ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,</p> <p>(iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time.</p>	<p>Noted and detailed above.</p>
<p>(4) For the purposes of subclause (2):</p> <p>(a) a suitable access pathway is a path of travel by means of a sealed footpath or other similar and safe means that is</p>	<p>Noted. A suitable access pathway is provided from the site to the identified bus stops on Copperfield Drive. The response from BBC Consulting Planners details that a suitable access pathway is available and provided from the bus stop to the relevant facilities and services.</p>

<p>suitable for access by means of an electric wheelchair, motorised cart or the like, and</p> <p>(b) distances that are specified for the purposes of that subclause are to be measured by reference to the length of any such pathway.</p>	
Clause 27 Bush fire prone land	
<p>(1) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land identified on a bush fire prone land map certified under section 10.3 of the Act as “Bush fire prone land—vegetation category 1”, “Bush fire prone land—vegetation category 2”, “Bush fire prone land—vegetation category 3” or “Bush fire prone land—vegetation buffer” unless the consent authority is satisfied that the development complies with the requirements of the document titled Planning for Bush Fire Protection, ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019.</p>	<p>N/A – The site is not located on bush fire prone land.</p>
Clause 28 Water and sewer	
<p>(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.</p>	<p>The application was referred to Sydney Water for comment. The following response was provided:</p> <p><u>Waste servicing</u></p> <ul style="list-style-type: none"> -Potable water servicing should be available via a 100mm DICL water reticulation (laid in 1982) on Fitzwater Way. -Amplifications, adjustments, and/or minor extensions may be required. <p><u>Wastewater servicing</u></p> <ul style="list-style-type: none"> -Wastewater servicing should be available via 150mm VC wastewater reticulations (laid in 1983) within the property boundary. -The proposed building footprint traverses a number of 150mm VC wastewater reticulations within the site. Deviation and amplifications to these reticulations may be required. Further requirements will be provided at the Section 73 stage. <p>The above response from Sydney Water specifies that water servicing and wastewater servicing can be achieved.</p> <p>Accordingly, a Section 73 application condition has been recommended.</p>

Clause 29 Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply	
<p>(1) This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) to which clause 24 does not apply.</p> <p>Note.</p> <p>Clause 24 (1) sets out the development applications to which that clause applies.</p> <p>(2) A consent authority, in determining a development application to which this clause applies, must take into consideration the criteria referred to in clause 25(5)(b)(i), (iii) and (v).</p> <p>(3) Nothing in this clause limits the matters to which a consent authority may or must have regard (or of which a consent authority must be satisfied under another provision of this Policy) in determining a development application to which this clause applies.</p> <p>Clause 25(5)(b)(i), (iii) and (v) are provided below:</p> <p>25(5)(b) is of the opinion that the proposed development is compatible with the surrounding land uses having regard to (at least) the following criteria:</p> <p>(i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,</p> <p>(iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,</p> <p>(v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development,</p>	<p>Clause 24 of SEPP Seniors does not apply to this development application.</p> <p>Accordingly, clause 25(5)(b)(i), (iii) and (v) are required to be assessed.</p> <p>(b) is on the opinion that the proposed development is compatible with the surrounding land uses having regard to (at least) the following criteria-</p> <p>(i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development</p> <p>The proposed seniors housing development is a residential use which is compatible with the surrounding residential zoned land.</p> <p>(iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,</p> <p>No concerns are raised regarding the existing capability of the infrastructure meeting the demands of the development.</p> <p>(v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development,</p> <p>The proposed bulk and scale of the development is deemed acceptable. The building design is considered to be significantly articulated and well-designed and maintains solar access to the future town house site to the south of the development site.</p>
Clause 30 Site Analysis	
<p>(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the</p>	<p>Satisfactory site analysis has been provided (Drawing No. A-1000), which is also accompanied by a design statement.</p>

<p>applicant has taken into account a site analysis prepared by the applicant in accordance with this clause.</p> <p>(2) A site analysis must:</p> <p>(a) contain information about the site and its surrounds as described in subclauses (3) and (4), and</p> <p>(b) be accompanied by a written statement (supported by plans including drawings of sections and elevations and, in the case of proposed development on land adjoining land zoned primarily for urban purposes, an aerial photograph of the site):</p> <p>(i) explaining how the design of the proposed development has regard to the site analysis, and</p> <p>(ii) explaining how the design of the proposed development has regard to the design principles set out in Division 2.</p>	
Clause 31 Design of in-fill self-care housing	
<p>In determining a development application made pursuant to this Chapter to carry out development for the purpose of in-fill self-care housing, a consent authority must take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration) the provisions of the Seniors Living Policy: Urban Design Guideline for Infill Development published by the Department of Infrastructure, Planning and Natural Resources in March 2004.</p>	<p>The development application proposes in-fill self-care housing.</p> <p>The applicant has provided an assessment of the proposed development against the provision of Seniors Living Policy: Urban Design Guideline which is contained in the amended SEE in Attachment 4.</p> <p>Council's assessment of the Seniors Living Policy is provided in Attachment 6.</p>
Clause 32 Design of residential development	
<p>A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2.</p>	<p>See assessment below.</p>
Division 2 Design Principles	
Clause 33 Neighbourhood amenity and streetscape	
<p>The proposed development should:</p> <p>(a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and</p>	<p>Satisfactory. The proposed built form is considered to have regard to the future urban character of the Rosemeadow Renewal Area.</p>
<p>The proposed development should:</p> <p>(b) retain, complement and sensitively harmonise with any heritage conservation</p>	<p>The site is not within the vicinity of a heritage item or heritage conservation area.</p>

areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and	
The proposed development should: (c) 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 development, and (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and	(i) Appropriate setbacks are proposed from Copperfield Drive and the northern and southern property boundaries. (ii) The development generally conforms to the Part 5 Activity Determination approved levels. (iii) Building heights as viewed from Road No. 2 are considered acceptable. (iv) The boundary is setback from the side property boundaries and is not considered to be a visual impact on future neighboring residential allotments.
The proposed development should: (d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and	The minimum setback of the built form from the principal road frontage (Road No. 2) is 5.3 metres, which is generally consistent with the front setback of residential development as specified in SCDCP (5.5 metres).
The proposed development should: (e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and	The overall planting scheme is considered appropriate in relation to the scale of the proposed development.
The proposed development should: (f) retain, wherever reasonable, major existing trees, and	No existing trees on the site. Proposed plantings are considered satisfactory.
The proposed development should: (g) be designed so that no building is constructed in a riparian zone.	Satisfactory. No buildings are proposed to be constructed in a riparian zone.
Clause 34 Visual and acoustic privacy	
The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by: (a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	(a) The proposed development has been designed with sufficient landscaped setbacks and splayed windows and screened balconies. (b) Acceptable noise levels in bedrooms is achieved with recommended conditions of consent for specific construction measures to address noise from Copperfield Drive.
Clause 35 Solar access and design for climate	
(a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and	Satisfactory. Adequate daylight is provided to the main living areas – the development complies with Design Criteria 1 of Objective 4A-1 whereby 36 (80%) dwellings receive a minimum of 2 hours direct sunlight to both living rooms and balcony/terrace areas.

(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.	Natural ventilation and solar access for the proposed dwellings are considered satisfactory.
Clause 36 Stormwater	
The proposed development should: (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and	Satisfactory. Stormwater concept plans provided – satisfactory subject to recommended conditions of consent for the stormwater to comply with Council's Engineering Design Guide.
(b) include, where practical, on-site stormwater detention or re-use for second quality water uses.	Tanks for water re-use are proposed.
Clause 37 Crime prevention	
The proposed development should provide personal property security for residents and visitors and encourage crime prevention by: (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and	Gate access control is proposed via a gate along the pedestrian footpath to the south of the site in two locations to prevent public access. A garage door is also proposed to the basement level.
(b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and	The entry to each block of dwellings has the ability to be locked.
(c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	It would be possible to obtain views of people entering existing the building from courtyards and balconies/terrace areas.
Clause 38 Accessibility	
The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.	Accessibility from the site to the bus stops on Copperfield Drive is assessed in the Access Report and is considered acceptable subject to a compliant pram ramp upgrade.

Clause 39 Waste management	
The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	Waste management facilities include an adequate number of recycling waste bins which is considered satisfactory.

Clause 40 Development standards - minimum sizes and building height

Pursuant to Clause 40(1) of the SEPP Seniors, a consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in the table below.

Clause	Proposed	Compliance
(2) Site Size		
The size of the site must be at least 1,000 square metres.	The site on the approved Stage 5 subdivision plan is 5105.4sqm.	N/A - In accordance with Clause 40(5)(b) site size requirement does not apply to a development application made by a social housing provider.
(3) Site frontage		
The site frontage must be at least 20 metres wide measured at the building line.	Frontage to proposed Road No. 2 is 80.7m.	N/A - In accordance with Clause 40(5)(b) site frontage requirement does not apply to a development application made by a social housing provider.
(4) Height in zones where residential flat buildings are not permitted		
If the development is proposed in a residential zone where residential flat buildings are not permitted:		
(a) the height of all buildings in the proposed development must be 8 metres or less, and	The applicant has provided a variation request to the 8 metre height limit. Height is defined as: height in relation to a building, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.	Non-compliance. Clause 4.6 variation provided. Detailed below SEPP Seniors assessment.
(b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and Note. The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.	3 storeys proposed. The applicant has provided a variation request for the 2 storey height limit.	Non-compliance. Clause 4.6 variation provided. Detailed below SEPP Seniors assessment.

(c) a building located in the rear 25% area of the site must not exceed 1 storey in height.	N/A – social housing provider.	N/A – Pursuant to Clause 40(5)(b) this clause does not apply to a development application made by a social housing provider.
(5) Development applications to which clause does not apply Subclauses (2), (3) and (4) (c) do not apply to a development application made by any of the following–		
(a) the Department of Housing, (b) any other social housing provider.	The application is made by the Department of Housing. Accordingly, subclauses (2), (3) and (4)(c) do not apply to this development application.	Noted above.

Clause 41 Standards for hostels and self-contained dwellings

Clause 41 of SEPP (Seniors) provides that a consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purpose of a hostel or self-contained dwelling unless the proposed development complies with the standards specified in Schedule 3 for such development.

An Access Report prepared by Vista Access Architects (Reference Number: 20192), has been submitted which provides an assessment of the requirements in Schedule 3 of SEPP Seniors. The report determines that the development is compliant or capable of compliance with the details to be verified at Crown building work certificate stage. Accordingly, compliance with Schedule 3 of SEPP Seniors is recommended as a condition of development consent.

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

Pursuant to Clause 50 of the Seniors SEPP, the consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a self-contained dwelling (including in-fill self-care housing and serviced self-care housing) on any of the following grounds–

Clause	Proposed	Compliance
(a) Building height		
If all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys), or	Development exceeds 8m height. Clause 4.6 variation provided in relation to clause 40(4)(b). Height non-compliance is considered satisfactory.	Non-compliance – considered satisfactory.
(b) Density and scale		
If the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less,	Gross floor area of 3,464sqm proposed. FSR = 0.68:1. Clause 50(b) provides that if the floor space ratio of the development is 0.5:1 or less, then the development cannot be refused in relation to density and scale. The gross floor area of the development, when expressed	Non-compliance – considered satisfactory.

	as a floor space ratio, exceeds 0.5:1. See section 7.1 for a discussion in relation to the building scale.	
(c) Landscaped area		
If- (i) in the case of a development application made by a social housing provider – a minimum 35sqm of landscaped area per dwelling is provided, or	35sqm x 45 dwellings = 1,575sqm required. 1,777sqm provided.	Satisfactory
(ii) in any other case – a minimum of 30% of the area of the site is to be landscaped.	N/A	N/A
(d) Deep soil zones		
if, in relation to that part of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed, there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the area of the site (the deep soil zone). Two-thirds of the deep soil zone should preferably be located at the rear of the site and each area forming part of the zone should have a minimum dimension of 3 metres,	1,396sqm (27%). The location of deep soils areas is considered satisfactory.	Satisfactory
(e) Solar access		
if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,	Applicant is using the provisions of SEPP 65 and the ADG to comply with the minimum requirement of 2 hours of sunlight. Compliance with the ADG is considered the appropriate control as the development is functioning as a residential flat building. Application complies with Design Criteria 4A-1:1. Drawings A-8200 and A-8201 demonstrate compliance.	N/A
(f) Private open space for in-fill self-care housing		
If- (i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey	Numerous terrace private open space areas do not comply with this requirement. However, the private open space areas are considered useable.	Non-compliance - considered satisfactory

building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor, and	See section 7.7 of planning report for discussion.	
(ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area, 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 Division 4 of Part 4.	Numerous balcony private open space areas do not comply. However, balcony sizes considered useable. See section 7.7 of planning report for discussion.	Non-compliance – considered satisfactory
(g) Repealed		
(h) Parking		
If at least the following is provided– (i) 0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider, or	N/A – Application is made by a social housing provider (NSW Land and Housing Corporation).	N/A
(ii) 1 car space for each 5 dwellings where the development application is made by, or is made by a person jointly with, a social housing provider.	45/5 = 9 parking spaces required. The proposed development provides a total of 45 car parking spaces (including nine accessible car parking spaces). Accordingly, the development proposes a surplus of 36 additional car parking spaces for the development.	Satisfactory

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

A consent authority must not grant consent to carry out development for the purpose of a residential care facility for seniors unless the proposed development includes a fire sprinkler system. The proposal does not seek consent for a residential care facility.

Clause 4.6 Exceptions to development standards

Clause 4.6 of CLEP 2015 provides that development consent may, subject to this clause, be granted for development even though the development would contravene a development

standard imposed by this or any other environmental planning instrument, where certain matters are met.

The objectives of Clause 4.6 are to:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The above subclauses provide a degree of flexibility in the application of certain development standards where the applicant has provided sufficient justification satisfying the provisions of Clause 4.6 and where the consent authority is satisfied of certain prescribed matters.

In this particular case, the development application is seeking departure from Clause 40(4)(a) and 40(4)(b) of SEPP Seniors.

Each development standard variation request is assessed separately below.

Clause 40(4)(a) SEPP Seniors

The development is seeking departure from Clause 40(4)(a), which is not a development standard that is expressly excluded from the operation of clause 4.6. Clause 40(4)(a) requires the height of all buildings in the proposed development to be 8 metres or less. The descriptive “height” in this instance is defined as the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point. The maximum height proposed is 10.03 metres, a non-compliance of 2.03 metres.

Development departure	Clause 40(4)(a) SEPP Seniors
Is the planning control a development standard	Yes – clause 40(4)(a) of SEPP Seniors requires the height of all buildings in the proposed development to be 8 metres or less
4.6(3) Written request submitted by applicant contains a justification:	
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	<p>The written variation request submitted with the development application provides written justification as to why compliance with the development standard is both unreasonable and unnecessary.</p> <p>The applicant has provided the following comments in addressing why compliance with the development standard is unreasonable or unnecessary in this case, as summarised:</p> <ul style="list-style-type: none"> - There is no specifically stated objective of the development standard expressed in Clause 40(4)(a) of SEPP Seniors. Consideration is given to the objectives of the building height development standard. - The design of the development is consistent with the objective of the LEP height standard as follows: <ul style="list-style-type: none"> • The height of the development is appropriate for the locality given the proximity of the site to a higher intensity centre comprising the shopping centre and other activities. • The adjacent centre is zoned B1 Neighbourhood Centre. The height of the development being part 2 storeys and part 3 storeys is considered to be compatible with the hierarchy and roles of centres. • The development is setback approximately 21 metres from Copperfield Road providing the opportunity for distance and

	<p>landscaping to soften the appearance of the building and reduce its bulk and scale when viewed from the public street.</p> <ul style="list-style-type: none"> • The built form is highly modulated and articulated. • Solar access to future townhouses to the south of the site (the only site potentially affected by overshadowing) has been investigated in detail by the project architects having regard to a compliant development on the sites to the south. • Buildings C and F adjacent to the northern boundary are two storeys in height to respond to the low-density detached housing planning to the north. The development has been designed to minimise potential for overlooking properties to the north. • To the south, the development also presents as two separate elements of limited depth with the eastern building (Building A) of three storeys setback approximately 10.7m from southern boundary and the western building (Building D) of two storeys setback 6.8m. This provides appropriate separation between buildings and prevents any loss of amenity resulting from overshadowing, overlooking or less or view in relation to future adjoining townhouses. <p>- The proposed seniors living development will meet an important social need in providing independent living units in the local community close to essential services and shop and public transport.</p>
<p>(b) that there is sufficient environmental planning grounds to justify contravening the development standard.</p>	<p>The written request from the applicant does detail that there is sufficient environmental planning grounds to justify contravening the development standard.</p> <p>The following justification is put forward in the Applicant's request:</p> <ul style="list-style-type: none"> - The bulk and scale of the proposal is compatible with the emerging character of the Rosemeadow Renewal Area and expected future development on adjoining sites including the future low density residential area to the north and future medium density townhouses to the south. - Elements of the development exceeding the height controls front a new street and the drainage reserve adjoining Copperfield Drive such that the higher building elements adjacent to Copperfield Drive are acceptable because of the separation provided to the adjacent future development (to the south of the site). - The additional height is acceptable in that the proposed building setbacks have been designed to reduce perceived bulk, scale and overshadowing as required, and the form and configuration of the proposal is sympathetic to the land form. - Perimeter deep soil landscaping is proposed along the site boundaries, providing an appropriate built form transition from those parts of the building that exceed the height limit and maintaining privacy to properties adjacent to the site as well as future residents of the site. - The extent to which the buildings exceed the maximum buildings height does not change the relationship of the development to adjoining land to any significant extent. - The surrounding area is undergoing urban change with a renewing of housing stock from a previously high concentration of social housing to a mix of private and social housing. Lot sizes are decreasing across the area, leading to an increase in density whilst

	<p>keeping the residential suburban feeling that comes with R2 Low Density Residential.</p> <ul style="list-style-type: none"> - The inherent characteristics of the site including its size, nature of surrounding development, and being part of the Rosemeadow Renewal Area in which significant growth and change is occurring, make the proposal suitable and entirely justifiable on environmental grounds.
4.6(4)(a) Consent authority is satisfied that:	
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p><u>Compliance with the development standard is unreasonable or unnecessary</u></p> <p>In response to the comments raised above (3)(a), is it considered that strict compliance with the applicable height control is unreasonable and unnecessary having regards to the following matters:</p> <ul style="list-style-type: none"> - The development is setback 21 metres from Copperfield Drive and has suitably articulated and attractive presentation to Copperfield Drive. The setback assists with reducing the prominence of the additional height as viewed from Copperfield Drive. - It is noted that for the building to be compliant with clause 40(4)(a), the third storey element would need to be removed for the development. The removal of the third storey element would the impact the yield of the development and reduce the capacity of the site to supply dwellings that meet the needs of seniors or people with a disability. - The non-compliant height (maximum 2.03m at Building A), does not give rise to impacts associated with overlooking. - The third storey element of Building C and F are sufficiently setback from the northern property boundary to avoid privacy/over-looking impacts. - In accordance with Test 1 of Wehbe (Wehbe v Pittwater Council), the objectives of the standard are achieved notwithstanding non-compliances with the standard. There are no specifically stated objectives of Clause 40(4)(a) of the SEPP Seniors. Accordingly, in this instance, the objectives of the height standard in Campbelltown LEP 2015 is deemed appropriate to use. - Accordingly, the objectives of the height standard in the LEP are: <ul style="list-style-type: none"> (a) to nominate a range of building heights that will provide a transition in built form and land use intensity across all zones, (b) to ensure that the heights of buildings reflect the intended scale of development appropriate to the locality and the proximity to business centres and transport facilities, (c) to provide for built form that is compatible with the hierarchy and role of centres, (d) to assist in the minimisation of opportunities for undesirable visual impact, disruption to views, loss of privacy and loss of solar access to existing and future development and to the public domain. <p>The proposed development is consistent with the above objectives for the following reasons:</p> <ul style="list-style-type: none"> - In response to objective (a), the development includes transition in built form for Building C (18m from northern property boundary), D (13m from southern boundary) and F (19 metres from northern property boundary) where the building form provides increased setbacks from the northern and southern property boundaries for the third storey component.

	<ul style="list-style-type: none"> - In response to objective (b), additional height increases the number of dwellings within the development which is suitably located adjacent to facilities and services accessed via existing bus stops on Copperfield Drive and is within walking distance to Rosemeadow Market Place. - In response to objective (c), the height non-compliance is not considered to be detrimental to the hierarchy and role of centres. The adjoining B1 zone, which includes Rosemeadow Market Place, has a prescribed height limit which is consistent with the adjoining R2 zoned land, being 9m. The setback of the proposed development from Copperfield Drive, together with extensive landscaping, reduces the visual bulk scale, and perceived additional height of the proposed development. - The additional non-compliant height does not detract from the high-quality design of the development. - In response to objective (d), the portion of the development that does not comply with clause 40(4)(a) does not cause any undesirable visual impact, disruption to views, loss of internal or adjoining future development sites. Further, the application provides an assessment of the amount of solar access received to the future 'townhouse' development to the south which is compliant with Part 3.3.3(b) of SCDCP 2015. <p><u>Sufficient environmental planning grounds</u></p> <p>The above detailed environmental planning grounds provided by the applicant (as summarised in clause 4.6(3)(b) above) justify contravening the development standard. The reasons put forward in the applicants written request focus on the redevelopment of the Rosemeadow Renewal Area which is to be in a higher density than the surrounding established R2 zone and the development being compatible with the emerging character of the immediate locality.</p>
<p>(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</p>	<p><u>Consistent with the objectives of the particular standard</u></p> <p>As discussed above, the proposed development is in the public interest as the objectives of the LEP Height standard are met.</p> <p><u>Consistent with the objectives for development within the zone</u></p> <p>The site is within a R2 Low Density Residential zone. The relevant objectives of this zone are:</p> <ul style="list-style-type: none"> - To provide for the housing needs of the community within a low density residential environment. - To minimise overshadowing and ensure a desired level of solar access to all properties. - To facilitate a development within an area that is well connected to existing transport services. <p>The proposal is considered to be in the public interest as the objectives of the R2 Low Density zone are met as detailed below:</p> <ul style="list-style-type: none"> - The development provides for seniors and people with a disability specific housing typology. The building form of the development responds to the future lower density development to the north and south of the site by increasing setbacks and transitioning to two

	storeys adjoining the residential allotments. The setbacks of the third storey element is considered to be sufficient to assist with transitioning between future residential development to the north and south of the site. - Although the height is exceeded, the development has demonstrated that overshadowing to the future townhouse development to the south of the site is minimised.
(b) the concurrence of the Secretary has been obtained.	Regional planning panels may assume concurrence

In the circumstances of this case, it is considered appropriate in this instance to apply a degree of flexibility when applying clause 40(4)(a) of SEPP Seniors having regard to the assessment carried out in the above table.

Clause 40(4)(b) SEPP Seniors

The development is seeking departure from clause 40(4)(b), which is not a development standard that is expressly excluded from the operation of clause 4.6. Clause 40(4)(b) requires a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies), must be not more than 2 storeys in height. A third storey element is proposed to the eastern, southern and western property boundaries.

Development departure	Clause 40(4)(b) SEPP Seniors
Is the planning control a development standard	Yes – clause 40(4)(b) of SEPP Seniors is a development standard which specifies the following standard: <i>(b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies), must be not more than 2 storeys in height, and</i> Note. The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.
4.6(3) Written request submitted by applicant contains a justification:	
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	The written variation request submitted with the development application provides written justification as to why compliance with the development standard is both unreasonable and unnecessary. The applicant has provided the following comments in addressing why compliance with the development standard is unreasonable or unnecessary in this case, as summarised: - The intent of the standard is to avoid an abrupt change in scale of the development in the streetscape. - The building is setback 21 metres from Copperfield Drive comprising a deep soil landscaped area within the site of 6 metres and the drainage reserve of 15 metres. The development would be recessed well behind the proposed dwelling houses fronting Copperfield Drive and Julius Road. The resulting scale of the building is reduced by this setback from the street and by buildings closer to the street to the north and south (future town house development to the south of the site). Landscaping is also provided in the building setback and drainage reserve.

	<ul style="list-style-type: none"> - The development presents as separate building elements to Road No. 2. This is achieved by providing significant building articulation in plan and elevation with the two separate buildings broken into a further 5 elements aligned with pedestrian entry points from the street. - The scale of the development to Road No 2 is further reduced by: <ul style="list-style-type: none"> • Maintaining a two storey building height adjacent to the northern side boundary with opportunities for generous planting in the side boundary setbacks; • Highly modulated and articulated facades oriented to the street with well-proportioned façade elements including balconies, window openings and robust façade brickwork elements; • Elements of the upper level are setback further from the street frontage; • The provision of a generous setback from the street frontage. - At the southern end of the frontage to Road No 2, the development is part three storeys. However, the setback of the three storey element is 10.7 metres from the adjoining property to the south fronting Julius Road. The separation between the proposed development and buildings on the adjoining site would be approximately 21 metres. The development has been designed to avoid an abrupt change in the scale of development in the streetscape and is consistent with the objective of the standard. - The development is considered to be compatible and harmonious with the emerging character of the streetscape and is designed to ensure that the transition from three storey elements to the likely one or two storey buildings on adjoining and adjacent sites is gradual, softened by landscaping, does not constrain the development potential on adjoining sites.
<p>(b) that there is sufficient environmental planning grounds to justify contravening the development standard.</p>	<p>The written request from the applicant does detail that there is sufficient environmental planning grounds to justify contravening the development standard.</p> <p>The following justification is put forward in the applicant's request:</p> <ul style="list-style-type: none"> - Any abrupt change in scale in the streetscape is managed by having the three storey elements set well back from side boundaries. - The bulk and scale of the proposal is compatible with the emerging character of the Rosemeadow Renewal Area and expected future development on adjoining sites including the future low density residential area to the north and future medium density townhouses to the south. - The elements of the development exceeding the height control front a new street and the drainage reserve adjoining Copperfield Drive such that the higher building elements adjacent to this road are acceptable on environmental planning grounds because of the separation provided to adjacent future development and the compatibility with the emerging character of the streetscapes and locality. - The additional height is acceptable in that the proposed building setbacks have been designed to reduce perceived bulk, scale and overshadowing as required, and the form and configuration of the proposal is sympathetic to the land form. - Perimeter deep soil landscaping is proposed along the site boundaries, providing an appropriate built form transition from

	<p>those parts of the building that exceed the height limit and maintaining privacy to properties adjacent to the site as well as future residents of the site.</p> <ul style="list-style-type: none"> - The extent to which the buildings exceed the number of storeys control does not change the relationship of the development to adjoining land to any significant extent. - There will be no significant adverse amenity impacts arising from the extent to which - the buildings exceed two storeys adjacent to a boundary development standard in relation to overlooking, overshadowing, obstruction of light or air, obstruction of views or any other such impacts on nearby existing or future residential properties as a result of the height of the buildings. - The inherent characteristics of the site including its size, nature of surrounding development, and being part of the Rosemeadow Renewal Area in which significant growth and change is occurring, make the proposal suitable and entirely justifiable on environmental planning grounds.
4.6(4)(a) Consent authority is satisfied that:	
<p>(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</p>	<p><u>Compliance with the development standard is unreasonable or unnecessary</u></p> <p>In response to the comments raised above (3)(a), it is agreed that strict compliance with the applicable height control is unreasonable and unnecessary having regards to the following matters:</p> <ul style="list-style-type: none"> - In accordance with Test 1 of Wehbe (Wehbe v Pittwater Council), the objectives of the standard are achieved notwithstanding non-compliances with the standard. - The note under the subclause 40(4)(b) standard provides the following: <i>The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.</i> <p>The proposed development is consistent with the above purpose (objective) for the following reasons:</p> <ul style="list-style-type: none"> - There is currently no immediate streetscape associated with the development site. The site has been specifically selected for a seniors living development as part of the Part 5 Activity Determination due to the close proximity to Rosemeadow Market Place and public bus services. - Buildings A, B and C directly front Road No. 2. The development as viewed from the public domain is well articulated and the bulk and massing is broken-up with gaps in the built form to visually reduce perceived abrupt changes between the development and the maximum two storey residential development to the north and south of the site. - Buildings D, E and F benefit from a very large setback to Copperfield Drive across the drainage easement reducing the apparent scale from the public domain. The buildings are stepped in plan view to further break down massing. - The third storey element of building A and B are partially setback to reduce scale. - Buildings C and F are two storeys to provide an appropriate height adjacent to future detached dwellings to the north.

	<p><u>Sufficient environmental planning grounds</u></p> <p>The detailed environmental planning grounds provided by the application (summarised in response to clause 4.6(3)(b)), justifies contravening the development standard. The reasons put forward in the applicant's written request focus on the redevelopment of the Rosemeadow Renewal Area which is to be in a higher density than the surrounding established R2 zone and the development being compatible with the emerging character of the immediate locality as well as providing an appropriate transition from the property boundaries to the proposed third storey element.</p>
(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and	<p><u>Consistent with the objectives of the particular standard</u></p> <p>As discussed above, the proposed development is in the public interest as the objectives of the standard are met.</p> <p><u>Consistent with the objectives for development within the zone</u></p> <p>The site is within a R2 Low Density Residential zone. The relevant objectives of this zone are:</p> <ul style="list-style-type: none"> - To provide for the housing needs of the community within a low density residential environment. - To minimise overshadowing and ensure a desired level of solar access to all properties. - To facilitate a development within an area that is well connected to existing transport services. <p>The proposal is in the public interest as the objectives of the R2 Low Density zone are met as detailed below:</p> <ul style="list-style-type: none"> - The site is part of Stage 3 Rosemeadow Renewal Area. The site has been specifically earmarked for a seniors living development due to the close proximity to Rosemeadow Market Place and public bus services. Stage 3 subdivision will result in a higher density yield of residential allotments in comparison to the existing surrounding residential area. The development provides for seniors and people with a disability specific housing typology. The building form of the development responds to the future lower density development to the north and south of the site by increasing setbacks and transitioning to two storeys adjoining the residential allotments. The setbacks of the third storey element is considered to be sufficient to assist with transitioning between future residential development to the north and south of the site. - Although the two storey height limit is exceeded, the development has demonstrated that overshadowing to the future townhouse development to the south of the site is minimised.
(b) the concurrence of the Secretary has been obtained.	Regional planning panels may assume concurrence.

In the circumstances of this case, it is considered appropriate in this instance to apply a degree of flexibility when applying clause 40(4)(b) of SEPP Seniors having regard to the assessment carried out in the above table.

3.5 State Environmental Planning Policy 65 – Design Quality of Residential Flat Development

Clause 4 Application of Policy

State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65) applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if –

- (a) the development consists of any of the following –
 - (i) the erection of a new building,
 - (ii) the substantial redevelopment or the substantial refurbishment of an existing building,
 - (iii) the conversion of an existing building, and
- (b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and
- (c) the building concerned contains at least 4 or more dwellings.

The development is for the erection of a new building and a portion of the building is at least 3 storeys.

Clause 4(2) provides the following:

(2) If particular development comprises development to which subclause (1) applies and other development, this Policy applies to the part of the development that is development to which subclause (1) applies and does not apply to the other part.

SEPP 65 technically applies to the portion of the development that is 3 storeys. However, as the development is functioning as a residential flat building, including the 2 storey portions of the building, SEPP 65 is deemed to practically apply to the entire development.

Part 4 Application of design principles

Clause 28 Determination of development applications

Design Review Panel

Clause 28(1) of SEPP 65 states that after receipt of a development application for consent to carry out development to which SEPP 65 applies and before it determines the application, the consent authority is to refer the application to the relevant design review panel (if any) for advice concerning the design quality of the development. Accordingly, the application was referred to the Campbelltown Design Review Panel. In accordance with Clause 28(2)(a), the consent authority included the advice obtained from the design review panel in Council's Request for Additional Information dated 6 October 2021. The response is discussed in section 7.1 of this report.

Design Quality Principles

Clause 28(2)(b) of SEPP 65 states that the consent authority is to take into consideration the design quality of the development when evaluated in accordance with the design quality principles. Schedule 1 of the SEPP outlines 9 design quality principles that apply to residential flat development. An assessment of the design quality principles is provided in Attachment 3.

Clause 30(2)(c) Standards that cannot be used as grounds to refuse development consent or modification of development consent

Clause 30(2)(c) of SEPP 65 states that development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to –

- (a) the design quality principles, and
- (b) the objectives specified in the Apartment Design Guide for the relevant design criteria.

In accordance with (a) above, the application provides detailed compliance with the design quality principles prepared by Simon Mather of MAKO Architecture (Attachment 4). The relevant Design Criteria are also generally complied with, however, the application proposes the following non-compliances:

- The proposed communal open space does not comply with Design Criteria 1 of Objective 3D-1 which requires communal open space to have a minimum area equal to 25% of the site. 17.8% of the site is proposed as communal open space. See section 7.10 of this report for discussion.
- The proposed balcony sizes and dimensions do not comply with Design Criteria 1 of Objective 4E-1 of the ADG. See section 7.7 of this report for discussion.

Statement by a qualified designer

A development application that relates to residential apartment development must be accompanied by a statement by a qualified designer. Under Clause 50(1AB) of the *Environmental Planning and Assessment Regulation 2000*, the statement must be prepared by a qualified designer that must:

- (a) verify that he or she designed, or directed the design, of the development, and
- (b) provide an explanation that verifies how the development:
 - (i) addresses how the design quality principles are achieved, and
 - (ii) demonstrates, in terms of the Apartment Design Guide, how the objectives in Parts 3 and 4 of that guide have been achieved.

Simon Mather of MAKO Architecture has provided the required verification (NSW Architects Registration Board No. 9520), dated 22 February 2021.

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

In accordance with Schedule 1 of the Regulations and State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, a BASIX Certificate (No. 1179483M) has been submitted in support of the application demonstrating that the proposal achieves the BASIX targets.

3.7 State Environmental Planning Policy (Sydney Region Growth Centres) 2006

In accordance with clause 5 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006, the policy applies to all land in a growth centres. The site is not within the Greater Macarthur Growth Area and is not applicable to this site or development type.

3.8 Campbelltown Local Environmental Plan 2015

Clause 2.3 Zone objectives and Land Use Table

The development site is zoned R2 Low Density Residential under the provisions of Campbelltown Local Environmental Plan 2015. Seniors housing is not permitted in the zone. Consent is sought pursuant to clause 15(a) of SEPP Seniors.

In accordance with clause 2.3(2), the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The objectives of R2 Low Density Residential are:

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

In having response to the above objectives, the proposed development is providing housing for the needs of the community within the R2 low density zone, while also minimises overshadowing to the impacted future residential allotment to the south.

Clause 4.3 Height of buildings

Clause 4.3(2) of CLEP 2015 states that 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 Height of Buildings Map identifies a maximum building height of 8.5m. However, the height development standard for seniors housing is prescribed by SEPP Seniors.

Clause 4.3A Height restrictions for certain residential accommodation

Clause 4.3A(2) states that a dwelling contained within a residential flat building must not be higher than 2 storeys. Storey is defined as follows:

storey means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or*
- (b) a mezzanine, or*
- (c) an attic.*

Each individual self-contained dwelling is single storey and satisfies clause 4.3A of CLEP 2015.

7.1 Earthworks

Clause 7.1(3) requires the consent authority to consider the following matters in deciding whether to grant development consent for earthworks:

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- (b) the effect of the development on the likely future use or redevelopment of the land,
- (c) the quality of the fill or the soil to be excavated, or both,
- (d) the effect of the development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

In response to the above, conditions of development consent are recommended which requires an engineering design from a qualified engineer for the proposed structures including the basement, suitable erosion/sediment control measures, stormwater management plan and a construction management plan to mitigate impacts of the development.

Clause 7.10 Essential Services

Clause 7.10 requires the consent authority to ensure development consent must not be granted unless the essential services listed below are available or that adequate arrangements have been made to make them available when required for the development:

Clause 7.10	Response
(a) the supply of water,	See below response from Sydney Water.
(b) the supply of electricity,	See below response from Endeavour Energy.
(c) the disposal and management of sewage,	See below response from Sydney Water.
(d) stormwater drainage or on-site conservation,	Stormwater concept provided – recommended conditions of consent for a stormwater management plan to be implemented in accordance with Council's Engineering Design Guide.
(e) suitable road and vehicular access,	Suitable road and vehicular access for the site is approved as part of the Part 5 Activity Determination and is considered satisfactory.
(f) telecommunication services	The site is located within an established residential area with telecommunication services readily available to service the site.
(g) the supply of natural gas.	Condition 64 of the Part 5 Activity Determination requires that where the site is to be connected to reticulated gas, a certificate from an approved gas carrier to certify that satisfactory arrangements have been made to ensure the provision of underground gas services to each lot in the development is to be obtained prior to the subdivision certificate being issued. Accordingly, satisfactory arrangements will be made available as part of the Part 5 Activity Determination works.

Sydney Water

The following response was provided by Sydney Water on 20 July 2021:

Service	Response
Water Servicing	<ul style="list-style-type: none"> - Potable water servicing should be available via a 100mm DICL water reticulation (laid in 1982) on Fitzwater Way. - Amplifications, adjustments and/or minor extension may be required.
Wastewater Servicing	<ul style="list-style-type: none"> - Wastewater servicing should be available via a 150mm VC wastewater reticulations (laid in 1983) within the property boundary. - The proposed building footprint traverses a number of 150mm VC wastewater reticulations within the site. Deviation and amplifications to these reticulations may be required. Further requirements will be provided at the Section 73 stage.

The above response from Sydney Water does not constitute formal approval of their servicing requirements. Detailed requirements, including any potential extensions or amplifications, will be provided once the development is referred to Sydney Water for a Section 73 application. Accordingly, it is a recommended condition of consent that a Section 73 application is undertaken.

Endeavour Energy

Endeavour Energy's response dated 5 July 2021 is summarised below:

- Endeavour Energy has no objection to the development application.
- Currently there is an easement benefitting Endeavour Energy for low voltage underground cables associated with Fitzwater Way and the previous development of the site.
- Low voltage underground cables to part of the Copperfield Drive road verge/roadway for street lighting.
- As a condition of consent Council should request the submission of documentary evidence from Endeavour Energy confirming that satisfactory arrangements have been made for the connection of electricity, the extinguish of the existing easement and the design requirements for the substation, prior to the release of the construction certificate/commencement of works.

In relation to the easement benefitting Endeavour Energy through the site, the applicant provides the following commentary:

- In March 2021, Endeavour Energy approved the removal of existing assets within the broader subdivision land, which includes the subject seniors site (Part 5 Activity Determination).
- Confirms that extinguishment of easements will occur under a separate process.
- The applicant intends to undertake this process (extinguishment process) with Endeavour Energy prior to registration of the plan of subdivision and would be open to a suitably drafted condition requiring the release of Endeavour Energy easements burdening the development site prior to physical works commencement.

Accordingly, a condition has been recommended for evidence to be provided to the certifier prior to the commencement of any works on the site confirming the electrical easements have been extinguished. Conditions have also been recommended for suitable arrangements to be made for

electricity connection purposes and design requirements for the substation prior to the issue of a Crown building work certificate.

4. Section 4.15(1)(a)(ii) Any Proposed Instrument

At the time of lodgment of the development application, draft SEPP (Housing) 2021 was a proposed planning instrument. State Environmental Planning Policy (Housing) 2021 commenced on 26 November 2021. Schedule 7 of the Policy contains saving provisions to the effect that the provision of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 continue to apply to a development application made, but not yet determined, on or before the commencement date.

5. Section 4.15(1)(a)(iii) Any Development Control Plan

5.1 Campbelltown (Sustainable City) Development Control Plan 2015 (SCDCP)

An assessment of the relevant sections of the Campbelltown (Sustainable City) Development Control Plan 2015 (SCDCP) is provided in Attachment 5.

The non-compliance with SCDCP is discussed below.

Part 19.3.4(a)(iv)

Part 19.3.4(a)(iv) of SCDCP provides that independent living units and self-contained dwellings shall comply with Part 5.4.8 for residential flat buildings. Part 5.4.8.5(d) provides that the distance between any dwelling and the waste disposal point shall be a maximum of 40 metres (excluding distance travelled in a lift).

In relation to distance of travel from units to bin bays the WMP indicates provision of an additional bin bay located near units 2 and 17, albeit with 2 units exceeding the maximum travel distance by a distance of 8m (20%). Given there are 45 self-contained dwellings proposed for this development it is considered that a departure of 8m to 2 units is acceptable given the following rationale:

- i. Units 31 and 43 have direct access to lift service to ground and basement floors thus facilitating travel to bin bays;
- ii. The nearest bin bay is located within 40m from the lift (at ground level) that services units 31 and 43 in Building E;
- iii. The caretaker is responsible for all bin movements to and from the collection point each week.

The exceedance of the 40m travel distance between two dwellings and the associated collection point is considered acceptable in the specific circumstances of this development.

5.2 Campbelltown Local Infrastructure Contributions Plan 2018

Under Part 2.7(6) of the Campbelltown Local Infrastructure Contributions Plan 2018, 'development for the purposes of any form of seniors housing as defined in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 that is provided by a social housing provider' is development that is exempt under this Plan.

In accordance with the *Environmental Planning and Assessment Act 1979* definitions, 'social housing provider' means any of the following –

- (a) the Department of Human Services,
- (b) the Land and Housing Corporation,
- (c) a registered community housing provider,
- (d) The Aboriginal Housing Office,
- (e) a registered Aboriginal housing organisation within the meaning of the *Aboriginal Housing Act 1998*,
- (f) a local government authority that provides affordable housing,
- (g) a not-for-profit organisation that is a direct provider of rental housing to tenants.

As the applicant/owner of the subject site is a social housing provider, Section 7.11 contributions do not apply to this development.

6. Section 4.15(1)(a)(iia) Any Planning Agreement that has been entered into under Section 93F, or any draft planning agreement that a development has offered to enter into under Section 93F

N/A – no planning agreement or draft planning agreement is applicable.

7. Section 4.15(1)(b) The likely impacts of development

Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* requires the consent authority to assess the developments potential impacts on the natural and built environment.

The key matters for consideration when considering the potential impacts as a result of the development on the natural and built environment are provided below. The matters identified below also respond to the key issues discussed at the Panel briefing held on 12 November 2021.

- Height non-compliance
- Drainage reserve pedestrian access
- Driveway and stormwater conflict
- Driveway gradients and manoeuvring
- Landscaping and deep soil
- On-going waste management
- Private open space/balcony sizes
- Access Report and BCA Report
- Noise management
- Communal open space
- Suitable access pathway

7.1 Height non-compliance

The proposed building height does not comply with clause 40(4)(a) and clause 40(4)(b) of SEPP Seniors. The height non-compliances have been accompanied by two separate clause 4.6 variation requests and the non-compliances are supported as detailed in this report.

Height non-compliance and building design

In relation to the overall building design, the Panel identified the following key issue:

- The Panel is sympathetic to the suggestion of the Design Review Panel that a break be introduced into the single building marked on the plans as Buildings D, E and F. There may be some impact on yield but the advantage of reducing the building mass and improving

the relationship between the development and the green space provided by the drainage reserve would seem important. That change would go a long way to offsetting the impacts of the height non-compliance.

A revised design was not provided in response to the Panel's above comments. The response from BBC Consulting Planners included the following response to the Panel's comments:

- We believe a break in the building will not improve access to the drainage reserve. The most direct/aligned connection from the communal space to the drainage reserve is already provided at the southern end of the site, providing convenient access to both Rosemeadow Market Place and the bus stop on Copperfield Drive.
- We also note the presence of the circa 2 metre retaining wall between the site and drainage reserve, and understand that an additional (second) connection to the drainage reserve is not desirable by Council, who will be the end owners of this newly created lot.
- A connection between Building D and E would create a path that would need to travel past the living room balconies of the Units 15 and 16 and reduce the deep soil available for trees in this location.
- The site is set back significantly (15.4m) from Copperfield Drive across the drainage reserve [A-1000]. Street trees to Copperfield Drive, landscaping of the drainage reserve and deep soil tree planting within the eastern site setback will provide ample softening and screening of the building from the public domain. This can be compared to the visual impact of the continuous row of two-storey houses that can be built on neighbouring sites to the north much closer to the street without significant intervening landscaping [A-5200] or the on-grade car parking and commercial buildings across Copperfield Drive.
- A break in the building between Building D and E will not improve solar access, natural cross ventilation or privacy amenities.
- The continuity of the building is beneficial to buffer vehicular noise from Copperfield Drive, where a break would allow acoustic impact to the communal courtyard which is conceived as a quiet green space for residents
- The building is stepped along its length in plan and is strongly articulated in elevation and at the skyline. Even if it were not screened by landscaping, it would not read as a monotonous wall [A-7002].
- The length of the building is not appreciable from the primary address of Road No 2 which does contain a break to relate to the streetscape provide a primary address between the buildings.
- The building length is totally appropriate in its context, is serviced by three lift cores and is well modulated.

Overall, the building mass of Building D, E and F and the visual relationship between the development and the drainage reserve are considered appropriate as detailed below:

- The visual relationship between the east facing dwellings and the drainage reserve, as viewed from the development, would look over the top of the retaining wall and through to the vegetated drainage reserve which is considered to improve the visual amenity for the dwellings.
- The building design is considered to be significantly articulated and well-designed.
- The roof form does not add visual bulk to the development.
- The building form as viewed from Road No. 2 is considered to be sufficiently articulated with visual relief between the third storey elements.
- Clause 50(b) of SEPP Seniors requires the maximum floor space ratio of 0.5:1. The gross floor area of the development, when expressed as a floor space ratio, exceeds 0.5:1, being

0.68:1. The overall scale of the development is considered satisfactory, particularly given the well-articulated form as viewed from Copperfield Drive.

Height non-compliance and overshadowing impacts

In relation to the proposed height non-compliance, the Panel identified the following key issue:

- The Panel notes the Design Review Panel's concern over the height non-compliance of Buildings A and B given their relationship with the proposed adjoining townhouse development.

Part 3.4.4(b) of SCDP 2015 requires the following solar access provision for residential development in R2 Low Density Residential zones which would be applicable to any proposed residential development on the future residential sites adjoining the development site to the south:

- A minimum 20sqm fixed area of the required private open space shall receive three (3) hours of continuous direct solar access on 21 June, between 9.00am and 3.00pm, when measured at ground level.

A detailed shadow analysis has been provided (drawing no. A-8100) demonstrating solar access to the future townhouse development to the south of the site. The analysis provides an analysis of and confirms compliance with Part 3.4.4(b) of SCDP.

7.2 Drainage reserve pedestrian access

A pedestrian bridge connection from the site over the drainage reserve to Copperfield Drive forms part of the proposed works. Council provided additional correspondence to the applicant in relation to the proposed pedestrian bridge access from the site through the drainage reserve in relation to the pedestrian bridge design:

- Provide a realistic, to-scale drawing
- Materials to have a 100 year design life - concrete, robust, steel construction
- Handrails to be continuous
- No mound on landing - grade to be continuous so that the site drains properly
- Free draining underneath bridge construction
- Maintenance free under bridge i.e. concrete or filled in.

The applicant response detailed that a condition of development consent should be applied to the effect that the bridge is to be designed of concrete and/or steel construction, handrails to be continuous, no mound on landing - grade to be continuous so that the site drains properly, free draining underneath bridge construction and maintenance free under the bridge i.e. concrete or filled.

Accordingly, a condition of development consent is recommended for the bridge construction requirements. Further, the condition is also recommended for the applicant to demonstrate that the bridge structure/construction does not impact on the GPT location or any other infrastructure within the drainage reserve to the east of the site. Details are also requested to demonstrate how the pedestrian bridge connects with the existing pathway on Copperfield Drive.

7.3 Driveway and stormwater conflict

The proposed driveway location conflicts with a lintel located to the south of the driveway. The lintel forms part of the Part 5 Activity Determination stormwater works and is not yet constructed. The applicant has indicated that it is intended to relocate the lintel such that it is 1 metre from the edge of the driveway. Accordingly, a condition of consent is recommended for the lintel to be moved a minimum of 1 metre clearance from the edge of the driveway wing.

7.4 Driveway gradients and manoeuvring

The following matters were raised by Council's Development Engineer and included in Council's Request for Additional Information correspondence:

Council request	Applicant response
Council requires a 2-way flow throughout both ramps and the basement. The ramp and intersections in the basement is to be designed in accordance with Clause 2.5.2 (b) and (c) of AS2890.1.	<p>The applicant's traffic consultants, TTPP, advises as follows:</p> <p>AS 2890.1 states at 2.5.2 (c) that intersections between circulation roadways and ramps, and with parking aisles shall be designed so that both the approach roadways and the intersection area are wide enough to accommodate turning vehicles and there is adequate intersection sight distance. However, it does not say simultaneously - indeed it talks about where intersection areas are designed for one car at a time, and also areas where it is necessary for two vehicles to pass one another. As the only guidance on one way / two-way traffic flows in car parks is based upon guidance figure of 30vph (and 18 vehicles is significantly less than 30) so we think it is reasonable to say that it only needs to be one way.</p> <p>AS 2890.12.5.2 (c) also specifies that in both cases areas shall be checked using single turn swept path templates for the B99 vehicle and the B85 vehicle, generated in accordance with Appendix B, Paragraph B3.1, which include the swept path clearances specified in Paragraph B3.2. The swept path clearances shall clear any kerbs at the boundary of the intersection area.</p>
Provide more swept paths for all end spots. Show 2 way car flow through the little S shape formed on the upper level of the car park.	<p>TTPP advises as follows:</p> <p>Swept path assessment has been undertaken for three additional end spots and the little S shape on the upper level of the car park (Attachment 2). The S shape cannot accommodate two-way flow as shown in the attached but again, if it is less than 30vph, the standard says one way is acceptable. Given sight distance is sufficient for motorists to see approaching vehicles, they could wait until the S bend area is clear.</p>
Provide a plan with markups showing aisle widths.	Plan provided by Mako Architecture.
Basement parking plan has failed to comply with 2.4.2 (c) in the AS2890.1. The ramp requires 300mm clearance on either side which hasn't been shown as per clause 2.5.2 (c) in the AS2890.1. The	<p>TTPP advises as follows:</p> <p>AS2890.1 Clause 2.4.2 (c) requires a 1m blind aisle extension at the end of a parking aisle. As such, the</p>

basement is to comply with the relevant standards.	<p>width from the end of the parking aisle is required to be 3.4m (i.e. 2.4m wide functional parking bay plus 1m blind aisle extension). The design is compliant to this clause to improve accessibility for the last space.</p> <p>AS2890.1 Clause 2.4.2 (c) also requires the last parking space widened by 300mm if bounded by a wall or a fence. This 300mm widening is to allow for a door opening outside a car space design envelope as per Figure 5.2 in AS2890.1. The car spaces at the ends are not bounded by a wall nor a fence, but only columns located outside the design envelopes. Therefore, the design is compliant to this clause.</p>
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The response from the applicant is noted. A condition of development consent was recommended for the basement to include two way flow throughout the entire basement, however the condition was subsequently removed by the applicant. This being the case, a condition was recommended and approved by the applicant for the applicant to submit signage and line-marking plans for basement car parking in accordance with the relevant Australian Standards which is to provide clear direction for vehicular movements through the basement.

7.5 Landscaping and deep soil

The Panel discussed the following issue in relation to landscaping deep soil:

- A plan showing how the landscaping deep soil requirements in the SEPP have been met would assist.

Clause 50(d) of SEPP (Seniors) requires 15% of the area of the site to be of sufficient depth to support growth of trees and shrubs and for the area to be included to have a minimum dimension of not less than 3 metres.

A specific plan (landscape plan sheet 4 of 4) has been provided with the revised information which indicates that the development includes 1,396sqm (27.34%) of communal landscape area/deep soil area, satisfying clause 50(d) of SEPP Seniors.

7.6 On-going waste management

A Waste Management Plan (WMP), prepared by Creative Planning Solutions, dated 25 November 2021, was provided with the amended information detailing the waste arrangements for the development.

The key matters relating to waste for the site, as detailed in the WMP as follows:

- A maintenance contractor is to be engaged to manage generation, collection and recycling of garden organics which negates the need for individual dwelling/unit bins.
- A bulky waste storage area has been provided in the north-western corner of the basement adjacent to the lift.
- A caretaker will be responsible for moving bulky waste from the basement storage area to the footpath for collection.

In relation to waste matters, the Panel discussed the following key issue in relation to waste for the proposed development as part of the panel briefing:

- The Panel notes that the garbage arrangements will involve a caretaker. It therefore suggests that basement location for the garbage storage would not present the usual difficulties of transporting waste to the street, and should be considered. That might allow compaction of waste thereby reducing storage requirements and lessening the burden on the waste system with environmental benefits.

In response to the above, the applicant advised the following:

- Amended plans have been prepared to provide one additional waste storage area at the southern end of the central courtyard area to reduce travel distances for residents to transport waste. The additional waste storage area has been conveniently located for easy and practical access whilst mitigating any visual or amenity impacts to the centre courtyard and adjoining units.
- The areas provided are sufficient to house the appropriate numbers of bins with appropriate clear door widths for bin maneuverability. Waste storage areas and bins shall be cleaned and maintained on a regular basis by the caretaker to ensure no issues arise in relation to odours, vermin or unsightliness. The owner of the development required the general contractor to clean the bins and their enclosure after each time the bins are emptied.

Council's Domestic Waste Service Coordinator provided the following response in relation to the proposed bin bay location and design:

- The bin bays fronting Road No. 2 remain located within relatively close proximity to dwellings. There is still the potential for residents to be impacted by odour escaping from bins, as well as noise, and impacting the amenity of nearby occupants.
- It is noted in Section 6 of the WMP that the bins are proposed to be cleaned out after every collection to avoid the build-up of unhealthy and potentially insanitary conditions. This action may well address odour concerns.
- Refer architectural plan drwg. A-7005 'A' for view of typical bin storage area showing landscaping and bin opening limiters.
- It is accepted that the inclusion of bin-opening limiters fitted to bin bays and bin cleaning carried out weekly by the maintenance contractor (in properly constructed and drained bin bay areas), will significantly reduce the potential for odour emissions. However, if left unattended issues are likely to immediately arise. The bin area must be cleaned after every collection to reduce odour related issues.
- Part 19.3.4(a)(iv) provides that independent living units and self-contained dwellings shall comply with Part 5.4.8 for residential flat buildings. Part 5.4.8.5(d) provides that the distance between any dwelling and the waste disposal point shall be a maximum of 40 metres (excluding distance travelled in a lift). In relation to distance of travel from units to bin bays the WMP indicates provision of an additional bin bay located near units 2 and 17, albeit with 2 units exceeding the maximum travel distance by a distance of 8m (20%). Given there are 45 self-contained dwellings proposed for this development it is considered that a departure of 8m to 2 units is acceptable given the following rationale:
 - Units 31 and 43 have direct access to lift service to ground and basement floors thus facilitating travel to bin bays;
 - The nearest bin bay is located within 40m from the lift (at ground level) that services units 31 and 43 in Building E;

- The caretaker is responsible for all bin movements to and from the collection point each week.
- The exceedance of the 40m travel distance between two dwellings and the associated collection point is considered acceptable in the specific circumstances of this development.

A condition of consent is recommended for the waste management of the site to be undertaken in accordance with the WMP which includes washing/cleaning of bins on a regular basis.

7.7 Private open space/balcony sizes

The proposed balcony sizes do not comply with the minimum balcony area dimensions required by SEPP Seniors or the ADG.

The minimum requirements prescribed by SEPP Seniors are as follows:

- Clause 50(f)(i) requires a dwelling that is wholly, or in part, located on the ground floor of a multi storey building, not less than 15 sqm of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long.
- Clause 50(f)(ii) requires that any dwelling located above ground level, is provided with a balcony area of not less than 10sqm, this is not less than 2 metres in either length or depth.

The minimum requirements required by Design Criteria 1 of Objective 4E of the ADG requires the following:

- 2 bedroom apartments are required to have primary balconies that are a minimum dimension of 10sqm, with a minimum depth of 2m. The minimum balcony depth to be counted as contributing to the balcony area is 1m.

The following balconies/terraces do not comply with the above controls:

Dwelling No.	Primary balcony/terrace area sqm	Secondary balcony/terrace area sqm	Total sqm
Ground level			
1	31	-	31
4	31	-	31
5	18	12.7	30.7
6	17	17	34
7	17	17	34
8	17	17	34
10	12	-	12
11	8.6	11.4	20
13	12	-	12
14	8.6	11.4	20
15	8.6	21	29.6
16	12	-	12
17	26	3	29
First floor			
18	9.4	5.5	14.9
19	9.4	3.8	13.2
20	9.4	3.8	13.2
21	9.4	5.5	14.9
22	9.6	4.3	13.9
23	7.7	4.3	12

Dwelling No.	Primary balcony/terrace area sqm	Secondary balcony/terrace area sqm	Total sqm
24	7.7	4.3	12
25	7.7	4.3	12
27	13.2	-	13.2
28	8.6	2.8	11.4
29	8.6	2.8	11.4
30	12.8	-	12.8
31	8.6	2.8	11.4
32	8.6	2.8	11.4
33	12.7	-	12.7
34	9.1	2.5	11.6
Second floor			
35	9.4	3.8	13.2
36	9.4	3.8	13.2
38	9.6	4.3	13.9
40	9.5	5.5	15
42	12	-	12
43	8.6	2.8	11.4
44	8.6	2.8	11.4
45	12	-	12

The area calculated for the balconies above include non-compliance width (i.e. less than 2m). In relation to minimum requirements for open space, the Panel noted the following key issue as part of the panel briefing:

- Where the minimum open space area deemed compliance control under the SEPP are not achieved, the proposed areas for the open space should be demonstrated to be sufficient and acceptable on merit having regard to the usual considerations of solar access, amenity and usability.

A response, prepared by BBC Consulting Planners, dated 22 December 2021, was provided in support of the non-compliances and details the following in relation to the non-compliances:

- Three ground floor balconies (units 10, 13 and 16) fail to meet the required area of 15sqm. In these cases, balconies are elevated above the site level due to cross fall of site, have no privacy implications and are well buffered by deep landscape planting. The areas could be extended to comply, but at the expense of beneficial deep soil landscape area.
- 11 ground floor balconies (units 1, 4, 5, 6, 7, 8, 11, 12, 14, 15, 17) have greater than the required area, but do not comply with the 15sqm of space with 3m minimum dimension clause. In these cases, layouts are functional, furnished and well buffered by landscape planting. The area of the terraces could be extended to comply, but at the expense of beneficial landscape plantings in common areas, and hence, certainly maintained.
- On balance, it is our opinion that the ground floor terraces are optimal as designed because they allow for practical use of the outdoor space and allow for maximised common planting areas, which are in turn beneficial in providing a buffer between common walkways and private open space.

In response to the above, it is noted that three single aspect dwellings do not comply with the terrace open space area requirements (dwellings 10, 13 and 16) which require a minimum 15sqm area. For these dwellings, the proposed 12 sqm area is deemed to be useable with the majority of the open space area to be a depth of 2.3m. The balcony area is accessible from both the living/dining area and a bedroom which improves the amenity of the dwellings.

Further, the response from BBC Consulting Planners does not detail the non-compliance of the numerous balconies located on the first and second levels that do not comply with the minimum

10sqm area requirement of which the minimum depth is to be 2 metres to be considered “useable”. The useability of the above ground floor non-compliant balcony areas is discussed below:

- The majority of upper level dwellings include two balconies, a primary balcony designed for private open space purposes and a secondary balcony for clothes lines and potential future air conditioning units. Providing the secondary balcony allows the primary balcony to be exclusively used for outdoor seating etc. and the primary balcony is not impacted by uses that would impact upon the balcony area.
- Objective 4E-1 is for apartments to provide appropriately sized private open space and balconies to enhance residential amenity. The reduced balcony sizes are deemed useable and for the majority of proposed dwellings, the reduced area of the principal balcony is compensated for by a second smaller balcony.

In the circumstances of this case, it is deemed appropriate for the dwellings to include balconies/terrace areas that are less than required by both the ADG and SEPP Seniors.

7.8 Access report and BCA report

Council’s Request for Additional Information, dated 6 October 2021, included the following matter to be addressed:

- The plans are to be amended to incorporate the recommendations contained within the Access Report and the BCA report. In particular is the necessity to redesign the fire isolated stairway to also comply with AS1428.

The applicant advised the following:

- Access and BCA reports have been checked – ‘can comply’ items are not considered core design issues. Propose to coordinate at construction certificate stage such that the construction certificate would be consistent with the development application.

In response to the above commentary, Council’s Building and Fire Safety Specialist provided that as long as the applicant acknowledges that the issues, including the performance solution relating to using the roof top as open space for the basement exit discharge for an accessible provision as required by AS1428, can be addressed without significant alteration resulting in a modification application, the proposed development can be conditioned using standard conditions requiring compliance with the BCA. Accordingly, a condition of consent is recommended requiring compliance with the BCA.

7.9 Noise management

An Acoustic Assessment Report, prepared by Acoustic Logic, dated 26/04/2021, was provided with the development application which assessed potential noise impacts associated with the proposed development. Conditions are recommended to the applicant to provide a statement from a suitably qualified acoustic consultant confirming that the construction plans and details are in compliance with the relevant acoustic standards detailed in the acoustic assessment prepared by Acoustic Logic (Revision 3, dated 26/04/2021).

7.10 Communal open space

The proposed communal open space does not comply with Design Criteria 1 of Objective 3D-1 which requires communal open space to have a minimum area equal to 25% of the site. 17.8% of the site is proposed as communal open space. The non-compliant area is considered appropriate for the following reasons:

- The communal open space area is centrally located between the two longitudinal buildings.
- The communal open space areas include pedestrian pathways for walking/exercise which also connects the development to Copperfield Drive via a pedestrian bridge link.
- A number of seating areas are proposed within the communal open space area which assists in creating areas for residents to interact as well as an outdoor covered BBQ area and lawn area to facilitate areas where residents can interact.

In this circumstances if this case, it is deemed that an adequate area of communal open space is provided and the quality and generous landscaping of the communal open space is sufficient as well as providing opportunities for resident interaction.

7.11 Suitable access pathway

The subject site forms part of a Part 5 Activity Determination. In order to satisfy the suitable access pathway requirements of clause 26 of SEPP (Seniors), specific footpaths associated with the Part 5 Activity Determination are required to be constructed prior to occupation of the development. Specifically, a condition of consent is recommended for the footpath from the site along Road No. 2 and to continue the footpath on in front of residue Lot 193, which is to connect into the exiting footpath network on Copperfield Drive, to be completed prior to the occupation for the subject development.

Further, a condition of consent is also recommended for the rectification works to the kerb ramp on Copperfield Drive to be completed, as required by the Access Report (Issue C), prepared by Vista Access Architects, dated 30/03/2021.

It is also recommended that the footpaths that form part of the suitable access pathway to the bus stop locations on Copperfield Drive, are to be surveyed to ensure compliance with the gradients specified in clause 26 of SEPP (Seniors).

8. Section 4.15(1)(c) The Suitability of the Site for the Development

Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 requires the consent authority to assess the suitability of the site for the proposed development.

The application has demonstrated that the development would not have an adverse impact on the immediate or surrounding locality, particularly in relation to the future town house development site to the south of the development site.

Subject to the recommended conditions of development consent, the site is suitable for the proposed development.

9. Section 4.15(1)(d) Any Submissions Made in Accordance with This Act or the Regulations

In accordance with Council's Community Participation Plan, the development application was notified and exhibited from 3 June 2021 to 2 July 2021. No submissions of objection were received.

10. Section 4.15(1)(e) The Public Interest

The public interest is a comprehensive requirement that requires consent authorities to consider the long-term impacts of development and the suitability of the proposal in a larger context. Implicit to the public interest is the achievement of desired environmental and built form outcomes adequately responding to and respecting the desired future outcomes expressed in environmental planning policies and development control plans.

The proposed development is appropriate with consideration to the future character of the Rosemeadow Renewal Area. Rosemeadow Renewal Area is to be a higher density than the surrounding established R2 zone and the development is compatible with the emerging character of the immediate locality. The development is also sensitive to the future townhouse development to the south of the site in terms of solar access.

The proposed development is in the public interest as it provides additional seniors specific housing which meets the objectives of both the applicable zone objectives and SEPP Seniors.

Accordingly, the approval of the proposed development is considered to be in the public interest.

11. Conclusion

This application has been assessed against the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The proposed seniors housing development is permissible with consent under the provisions of clause 15(a) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

The development is generally consistent with State Environmental Planning Policy 65 – Design Quality of Residential Flat Development and the Apartment Design Guide. Variations to the ADG Design Criteria in relation to communal open space and balcony sizes are considered satisfactory in the circumstances of this case.

The development is also generally consistent with State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. Two clause 4.6 variation requests, in relation to the overall height of the development and the number of storeys, have been submitted with the development application and are both supported.

The development appropriately address the public domain by positively contributing to the future character of the surrounding residential renewal area. The development will increase the supply of housing for seniors or people with a disability in an established residential area.

Overall, having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and the relevant matters discussed within this report, it is considered appropriate that the development be recommended for approval, subject to the recommended conditions of consent in Attachment 1.

12. Recommendation

It is recommended that development application 1308/2021/DA-SL for the construction of a seniors living development comprising 45 self-contained dwellings and basement car parking at Lot 33 DP 700703 and Lot 34 DP 700703 (future lot 194 as per Part 5 Activity Determination), Rosemeadow, be approved subject to the recommended conditions of consent in Attachment 1.