SYDNEY WESTERN CITY PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSWC-52
DA Number	DA/2019/719/1
LGA	Wollondilly Shire Council
Proposed Development	Seniors Living development comprising 214 self-contained dwellings, including alterations and additions to the existing dwelling and associated works
Street Address	2689 - 2707 Remembrance Drive, 4-66 Rockford Road, 10 Hawkins Road & 7, 11 & 15 Stratford Road, TAHMOOR
Applicant/Owner	Applicant/Owner: Common Ground Property (NSW) Pty Ltd.
Date of DA lodgement	17 December 2019
Number of Submissions	Advertising of carried out from 23 January 2020 to 21 February 2020. **1 submission received**
Recommendation	Approval subject to conditions of consent.
Regional Development Criteria (Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011)	Capital Investment Value (CIV) exceeds $30 million ($35,063,478)
List of all relevant s4.15(1)(a) matters	• *Environmental Planning and Assessment Act 1979* • *Environmental Planning and Assessment Regulation 2000* • *Coal Mine Subsidence Compensation Act 2017* • *Roads Act 1993* • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy N0 44 – Koala Habitat Protection • State Environmental Planning Policy No 55 – Remediation of Land • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 • Sydney Regional Environmental Planning Policy No 20 – Hawkesbury-Nepean River • Wollondilly Local Environmental Plan 2011
List all documents submitted with this report for the Panel's consideration	1. Survey Plan 2. Staging Plan 3. Architectural Plans 4. Intersection Plans 5. Civil + Stormwater Plans 6. Plan for Easement 7. Landscape Plans 8. Statement of Environmental Effects including Cl4.6 request. 9. Access Report 10. Traffic Impact Assessment 11. Bio Diversity Assessment Report

	12. Heritage Impact Statement 13. Indicative Dwelling Design 14. Legal Advice to Council re Cl 4.6 variation 15. Site Compatibility Certificate 16. Subsidence Advisory General Terms of Approval (GTA) 17. Sydney Water Comments 18. External & Internal Response Table 19. Draft Conditions 20. Pedestrian Pathway
Clause 4.6 requests	Yes – further identified in the report below
Summary of key submissions	• Impact that the Dam Dewatering will have on Flora and Fauna • Impact the proposed waste water system may have on the nearby Bargo River National Park • Density is out of character • Tree Removal / harm on local Flora and Fauna • Infrastructure Concerns
Report prepared by	Wollondilly Shire Council – Development Services Section
Report date	16 September 2020

Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	**Yes**
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? *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? *Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report.*	**Yes**

1. PURPOSE OF REPORT

The purpose of this report is to seek determination of a staged development for the construction of 214 self-contained dwellings and associated work pursuant to State Environmental Planning Policy (Housing for Senior's or people with disability) 2004 (hereafter referred to as "SEPP Senior's") subject to conditions of consent.

The Panel is the determining authority for this DA as the capital investment value (CIV) of the proposed development is $35,063,478 million, and exceeds the CIV threshold of $30 million.

2. PANEL BRIEFING

On 19 October 2020, Council officers briefed the Sydney Western Regional Panel. The key issues raised are discussed below:

1. ***The Panel request Secretariat advice as to whether procedurally, panel members involved in determining a Site Compatibility Certificate, are able to consider a DA relating to the same matter.***

   Noted – a matter for the Panel to resolve before determination.

2. ***The Panel were informed that Council's engineer has reached a sufficient level of satisfaction that the onsite treatment proposed could be managed with the available land, noting that evidence of the availability of a sewer connection is to be provided before Stage 5 receives a construction certificate.***

   Council's Development Engineer and Environmental Health Officer have indicated that they are satisfied with the proposal and appropriate conditions of consent have been included in this regard.

3. ***Arrangements for, and timing of, pedestrian access to the Tahmoor township was raised. In particular the Panel would like the assessment report to clarify proposed footpath and crossing arrangements and the timing of when critical works are to occur. The expectation would be that pedestrian infrastructure would be provided as part of stage 1 of the project and if this is to be compromised, the Panel would expect specific advice about that issue from both the Applicant's engineers, and Council staff, with specific reference to the "Road User Safety Management" advice contained at section 5.5 of the report.***

   Condition 21 (18) in Attachment 19 requires that all pedestrian path upgrades be constructed in Stage 1.

4. ***The Panel would be grateful for any detail available for any potential additional pedestrian connections between Stratford Road and Rockford Road, and if suitable Remembrance Drive.***

   The applicant has provided an updated plan, which details the pedestrian upgrades included in the proposed development (See attachment 20). The Pedestrian Network plan including the 1.5m wide paths are considered satisfactory by Council's Development Engineer.

5. ***The Panel restated that the commitment to higher levels of care for residents being available to even earlier stages of the development was an important aspect of the public interest which was a requirement for the SCC approval, noting Council's assessment staff's advice that Conditions 1(3) and 28(3) were recommended to that end, and that close consideration of this matter will be required.***

   Conditions are included to maintain the higher level of care required to satisfy the Site Compatibility certificate, additionally the applicant has lodged a DA for a Residential Care Facility which is currently under assessment. If approved this will support the ongoing higher levels of care proposed with this application.

6. ***The Panel queries whether solar panels can be incorporated into any parts of the design, and whether roof materials and colours can be specified, to improve environmental performance.***

   The applicant has advised that 'The proponent has no objection to introducing solar panels to the roof of each dwelling, as well as to the roof of the dining room extension, to enable gas boosted solar hot water.' Condition 13(9) has been included to this end.

7. ***The Panel noted that a considered public submission was made objecting to the development which raised a number of important merit considerations including the suitability of the proposed density and environmental impacts, which are addressed in the Council officer's report.***

   Noted – all public submissions have been appropriately addressed in the report.

8. ***The Panel noted the requirement expressly nominated in the SCC in relation to pedestrian access and asked that the width of footpaths be reviewed as to their suitability to accommodate for disabled access and whether they ought to be extended to Tahmoor shopping centre.***

   The applicant has increased the width of the proposed pedestrian paths as detailed in Attachment 20.

9. ***With those matters addressed in a final report or addendum, the matter would seem to be suitable for electronic determination.***

   Noted

3. EXECUTIVE SUMMARY

Council is in receipt of a Development Application from Common Ground (NSW) Pty Ltd seeking approval for the construction of a Seniors Living development comprising 214 self-contained dwellings including alterations and additions to an existing heritage listed dwelling and other associated works. The application is lodged pursuant to Wollondilly Local Environmental Plan 2011 and State Environmental Planning Policy (Housing for Senior's or people with disability) 2004. One (1) submission has been received.

It is recommended that the Panel approve development application no. DA/2019/719/1 subject to conditions attached to this report.

4. BACKGROUND

The subject site is zoned partly R2 Low Density Residential and partly RU4 Primary Production Small Lots, pursuant to Wollondilly Local Environmental Plan 2011 (**'**LEP**'**). The LEP permits *Senior's Housing* (which is a type of *Residential Accommodation)* in the R2 zone, but does not permit Senior's Housing in the RU4

zone. However, the RU4 component of the site is immediately adjacent to land zoned *"…primarily for urban purposes"*.

A 'Site Compatibility Certificate' ('SCC') was issued by the Sydney Western City Planning Panel on 22 March 2019 pursuant to clause 25(4) (a) of the *State Environmental Planning Policy (Housing for Senior's or People with a Disability) 2004* (**'**Senior's SEPP'). The SCC authorises *"a (maximum 120-bed residential care facility and (maximum) 220 serviced and self-care units with a maximum floor space ratio of 0.2:1 and a maximum building height of 9m (two storeys)".*

A separate development application (DD2019/718/1 – 36 Rockford Road) for a boundary adjustment is currently under assessment. The DA seeks to create the site on which the RCF will be erected. Consent is not sought for the erection and use of the RCF and will be subject to a future application.

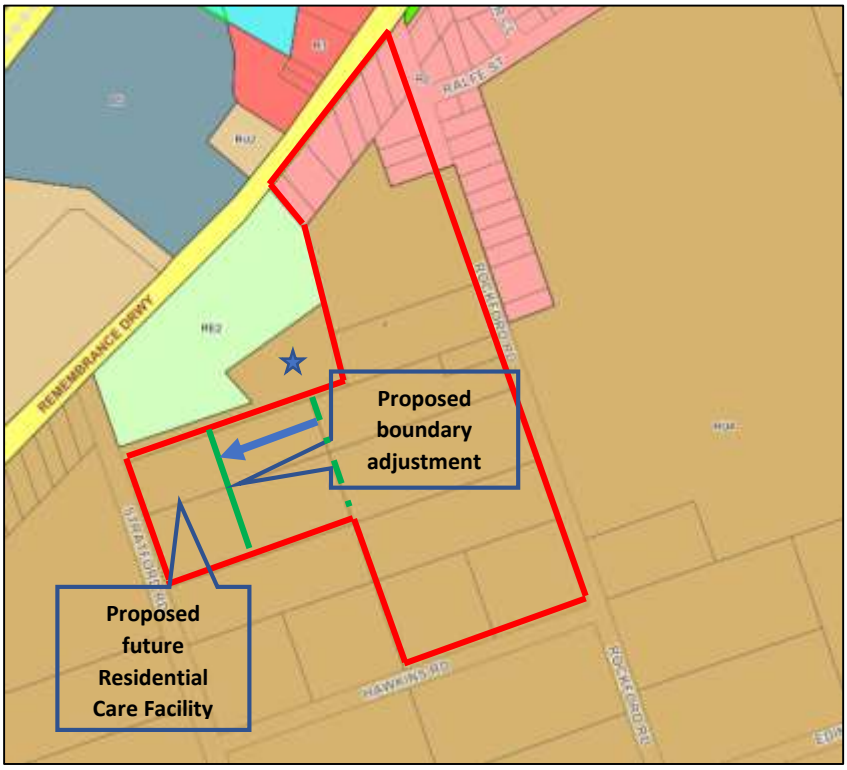


Figure 1 – zoning map WLEP 2011

The subject site comprises twenty (20) contiguous allotments, legally described as follows:

• Lots 1, 2, 3, 4, 5, 6, 7, 22, 23, 27, 28, 29, 30, 31, 32, 35, 36 and 37 DP 12096
• Lots 2 and 3 DP 236262
• ★ Lot 11 in DP 739884 located adjacent to the north western portion of the site, (in the ownership of the subject site owner) will be utilised for the purposes of drainage via an easement. Lot 11 in DP 739884 does not seek approval for a Seniors Living development and is used to assist in orderly management of stormwater-as such will not be consolidated with any other lot.

Currently occupying the subject site is a two-storey dwelling with associated structures that is listed as an item of local heritage significance (Stratford House: Item I235), under WLEP 2011.

The traffic management works proposed for the Remembrance Driveway/Rockford Road and Remembrance Driveway/Stratford Road intersections triggered a referral to TfNSW.

The application is ***Integrated Development*** for the purposes of section 4.46(1) EPA Act, requiring approval under section 22 *Coal Mine Subsidence Compensation Act 2017* (**'**CMSC Act'), as the subject site is within a *Proclaimed Mine Subsidence District.*

It is noted that the application is not Integrated Development under section 138(2) of the *Roads Act 1993 and Section 91 of the Water Management Act 2000* as it does not meet the requirements of Integrated Development under these acts. This is further investigated below.

Figure 2 – Aerial photo of the subject site (including lot for drainage easement) – Council's GIS

The proposal is Regionally Significant Development pursuant to Schedule 7, clause 2. The proposal is viewed as generally consistent with the aims and objectives of State Environmental Planning Policy (State and Regional Development) 2011 and the following legislation and environmental planning instruments:

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2000*
- *Coal Mine Subsidence Compensation Act 2017*
- *Roads Act 1993*
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy N0 44 – Koala Habitat Protection
- State Environmental Planning Policy No 55 – Remediation of Land
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- Sydney Regional Environmental Planning Policy No 20 – Hawkesbury-Nepean River
- Wollondilly Local Environmental Plan 2011

The development application was referred for comments externally to Transport for NSW, Department of Planning, Industry & Environment (DPI&E), Sydney Water, Subsidence Advisory NSW, Tharawal Local Aboriginal Land Council and Cubbitch Barta Native Title Claimants Aboriginal Corporation,

No response was received from the Tharawal Local Aboriginal Land Council or the Cubbitch Barta Native Title Claimants Aboriginal Corporation. Responses from all other agencies have now been received and no

significant concerns have been raised subject to GTA conditions being imposed for a number of those agencies (See attachment 15).

The Site

The subject site is bounded by Rockford Road to the east; Remembrance Driveway to the northwest, Hawkins Road to the south and Stratford Road to the west. The total site comprises 21 separate titles and contains an area of 14.364ha (by survey) or 14.244ha (by title). Land uses surrounding the site include residential dwellings, rural residential (hobby farm) uses, a hotel, public school and an electrical substation. The development is proposed to be constructed in 11 stages. The staging will also assist in managing effluent disposal, which is proposed to be managed onsite until such time as permission is granted for the site to be connected to Sydney Water's reticulated sewerage scheme.

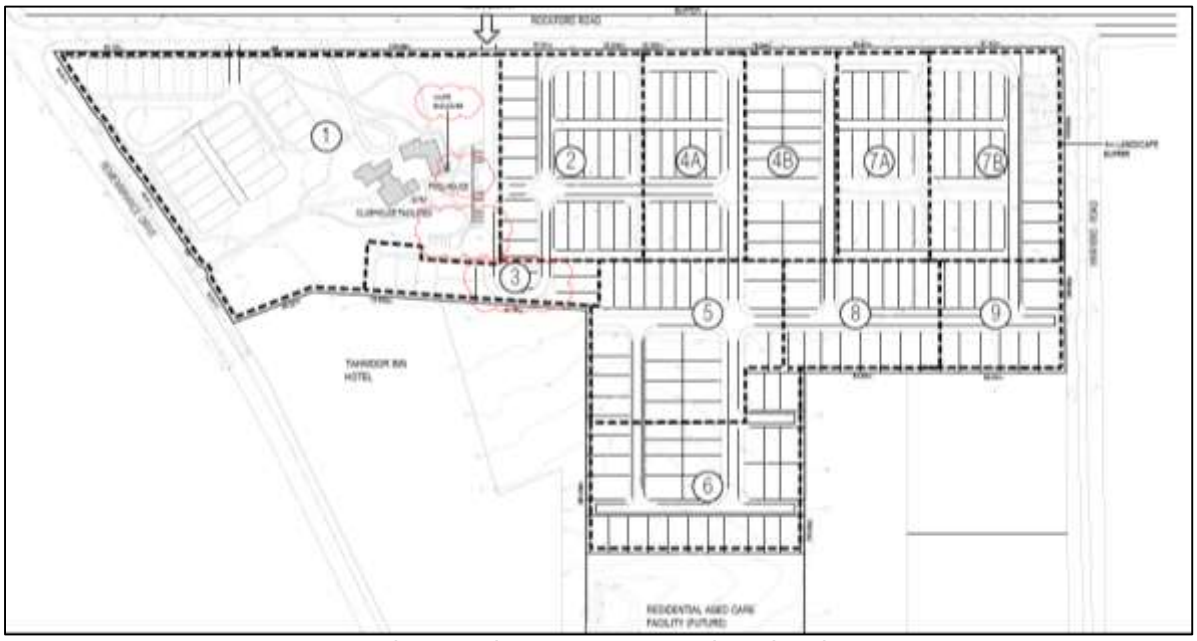
An existing sheltered bus stop is located near the front of the site, with an existing concrete continuous path of travel to and from all services in the Tahmoor Township. The site will be serviced with electricity, telephone, Sydney Water sewerage (when available) and water connections and natural gas.

The proposed development

- Demolition of structures (as identified on the demolition plan) and removal of vegetation (as identified on the tree removal/retention plan);
- Dewatering of the existing two (2) farm dams;
- Alterations and additions to the existing Stratford House dwelling (local heritage Item) and associated buildings and 'change of use' from residential to administrative, recreation and dining room;
- Erection of 214 self-contained dwellings;
- Installation of an onsite effluent disposal system, including the decommissioning of the existing system presently connected to Stratford House;
- Landscaping; and
- Civil and stormwater works.

Masterplan Overlay – Source: Precise Planning

The development will be constructed in 11 construction stages as depicted below.



Staging Overlay – Source: Precise Planning

Staging details

Stage	Detail	Dwelling Types	Dwelling Numbering
1	Erection of 24 dwellings, together with associated landscaping and stormwater works; alterations and additions to Stratford House; installation of the onsite effluent disposal system; dam dewatering	Type A – 12 Type B – 8 Type C – 2 Type E – 2 TOTAL – 24	Nos 1 to 24
2	Erection of 24 dwellings, together with associated landscaping and stormwater works	Type A – 15 Type B – 1 Type C – 4 Type D – 2 Type E – 2 TOTAL – 24	Nos 25 to 48
3	Erection of 9 dwellings, together with associated landscaping and stormwater works	Type B – 6 Type C – 1 Type D – 2 TOTAL – 9	Nos 51 to 59
4A	Erection of 15 dwellings, together with associated landscaping and stormwater works	Type A – 15 TOTAL – 15	Nos 60 to 74
4B	Erection of 18 dwellings, together with associated landscaping and stormwater works	Type B – 8 Type C – 1 Type D – 1 Type E – 6 Type F – 2 TOTAL – 18	Nos 75 to 91 + 184
5	Erection of 24 dwellings, together with associated landscaping and stormwater works, Decommissioning of the onsite effluent disposal system and connection to Sydney water sewerage scheme.	Type A – 8 Type C – 8 Type D – 1 Type E – 4 Type F – 3 TOTAL – 24	Nos 92 to 113 + 49 and 50

6	Erection of 31 dwellings, together with associated landscaping and stormwater works	Type B – 13 Type C – 2 Type D – 4 Type E – 9 Type F – 3 TOTAL - 31	Nos 114 to 144
7A	Erection of 15 dwellings, together with associated landscaping and stormwater works	Type A – 15 TOTAL – 15	Nos 145 to 159
7B	Erection of 25 dwellings, together with associated landscaping and stormwater works	Type A – 15 Type B – 3 Type C – 5 Type D – 2 TOTAL – 25	Nos 160 to 183 + 209
8	Erection of 17 dwellings, together with associated landscaping and stormwater works	Type A – 7 Type B – 2 Type C – 4 Type D – 1 Type E – 2 Type F – 1 TOTAL – 17	Nos 185 to 200 + 214
9	Erection of 12 dwellings, together with associated landscaping and stormwater works	Type A – 4 Type C – 3 Type D – 2 Type E – 2 Type F – 1 TOTAL – 12	Nos 201 to 208 and 210 to 213

Table 1 – Staging of Development – Source: Precise Planning

The Proposal in detail

The proposed development will be undertaken as follows:

Demolition of structures and dewatering of two farm dams

The de-watering of the two farm dams will be undertaken in accordance with the *Aquatic Ecology Dam Dewatering Report* ('dam dewatering report') prepared by Narla Environmental.

Removal of Vegetation

Approximately 11.3 Hectares of Native vegetation is proposed to be removed, the breakdown of this vegetation removal is as follows:

Vegetation type	Area to be removed (ha)
Remnant bushland - weed infested	0.5
Canopy remnant - under scrubbed	3.8
Derived native grassland	6.5
Exotic dominated grassland and gardens	0.5
Total	11.3

Vegetation Removal Quantities. Source: Land Eco Biodiversity Development Assessment Report, 2019

Erection and use of serviced self-care housing

The application proposes the construction of 214 serviced self-care houses, comprising six (6) different-dwelling types. The details of each dwelling type is outlined below:

Dwelling type	Description	Garage	Footprint	Configuration	Number
A	Single storey, 3 bedroom with detached garage structure, skillion roofs	Two garage doors facing rear elevation, total area 45sqm	172sqm	3 bedroom + study; 2 bathrooms	91
B	Single storey, 2 bedroom with open carport, skillion roofs	Open carport at front elevation, total area 27sqm	126.1sqm	2 bedroom; 1 bathroom	41
C	Single storey, 2 bedroom with open carport to side, skillion roofs	Open carport at side, total area 21.6sqm	133.7sqm	2 bedroom + study; 1 bathroom	30
D	Single storey, 2 bedroom with open carport to side, skillion roofs	Open carport to side, total area 21.6sqm	115.2sqm	2 bedroom; 1 bathroom	15
E	Single storey, 2 bedroom with open carport to side, skillion roofs	Open carport to side, total area 19.4sqm	122.4sqm	2 bedrooms + study; 1 bathroom	27
F	Single storey, 2 bedroom with open carport to side, skillion roofs (corner lots only)	Open carport to side, total area 19.4sqm	142.5sqm	2 bedroom + study; 1 bathroom	10
				TOTAL	**214**

Dwelling types

Alterations and additions to existing dwelling 'Stratford House'

'Stratford House' is a heritage listed property and includes a large, two (2) storey building and separate single storey building known as the 'Pool Pavilion' as shown in below.

Heritage item ‘Stratford House’

The proposed alterations and additions to the heritage item includes internal works to the two storey dwelling (‘Stratford House’), large addition to the south west of the existing dwelling, internal works and minor additions to the south west of the ‘Pool Pavilion’.

Specifically the works are identified within the SEE as including:

- *An additional wing is proposed to be added to the existing building, which will accommodate a lift, servery WCs, an indoor dining area for up to 72 diners at a time, as well as an outdoor dining area on a covered verandah area.*
- *The use of the rooms comprising the ground floor and first floor of the existing dwelling are proposed to be changed, as detailed on plans TP.104 and TP.105 of the architectural plan set. Consent is sought for the existing residential use to be changed to an administrative, recreational and dining room use.*
- *A small extension is proposed to the existing pool pavilion to provide improved amenities areas for the occupants. In addition, the existing spaces within the pool pavilion building will change, as detailed on plan TP.104 of the architectural plan set.*
- *The existing double garage will be converted to a gymnasium and the courtyard area will be developed as detailed.*

Installation of temporary onsite effluent disposal system

An onsite effluent disposal system is proposed as an interim solution until connection to Sydney Water’s reticulated sewerage system is possible. The proposed onsite effluent disposal system has been designed to accommodate dwellings and the Stratford House expansion up to and including stage 5.

The proposed irrigation area occupies the location of proposed stages 6, 7A, 7B, 8 and 9, as detailed on the effluent disposal report by Martens and Associates.

Once the Sydney Water connection becomes available, the village will be connected and the onsite effluent system will be decommissioned and removed. Allowing stages 6 through 9 to be completed.

Civil works

Proposed civil works include all internal roads and installation of stormwater structures, which are conceptually detailed on the plan set by Martens and Associates.

A footpath is proposed for the full frontage of Rockford Road and Remembrance Driveway and other footpath works may be required in order to ensure satisfactory pedestrian and mobility access.

The proposed roundabout at the intersection of Remembrance Driveway and Rockford Road is planned for construction of Stage 4B and its completion is intended to coincide with the completion of dwelling construction at that stage.

Bus shelters are proposed to be constructed, along with any necessary civil works and signage, for Stage 1 of the development.

Installation of landscaping

The landscaping will be installed as required, as relevant for each stage of the proposed development.

Waste management

It is proposed to contract with a private waste collection service for waste collection, for both the residential dwellings and the administration and dining operations of the Stratford House building.

REFERRALS

External and Internal Referrals

The subject DA was referred to a number of public agencies and their responses are summarised in **Attachment 18**.

In addition, the DA was referred to a number of internal officers and their responses are also summarised in **Attachment 18**.

5. ASSESSMENT

An assessment against 4.15 of the Environmental Planning and Assessment Act 1979 is provided below.

Environmental Planning and Assessment Act 1979 – Section 4.15

In determining a DA, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the DA on the subject property.

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2000*
- *Coal Mine Subsidence Compensation Act 2017*
- *Roads Act 1993*
- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy N0 44 – Koala Habitat Protection*
- *State Environmental Planning Policy No 55 – Remediation of Land*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*
- *Sydney Regional Environmental Planning Policy No 20 – Hawkesbury-Nepean River*
- *Wollondilly Local Environmental Plan 2011*

An assessment of the DA against the above instruments is detailed below.

Environmental Planning and Assessment Act 1979 (EP&A Act)

Section 4.46 of the EP&A Act defines integrated development as development that requires development consent and one or more approvals under other State Government Acts. In relation to the subject application the following Acts apply:

- *Coal Mines Subsidence Compensation Act (2017)* – land identified as within a Mine Subsidence District; and

Additionally, Transport for NSW advised that contrary to comments made in the submitted Statement of Environmental Effects (refer to Page 9) the DA does not meet the requirements of integrated in accordance with the requirements of Clause 3 of Section 4.46 of the *Environmental Planning and Assessment Act 1979*

(EP&A Act). Clause 3 of Section 4.46 excludes from the integrated development regime, developments requiring consent under Section 138 of the *Roads Act 1993* if both development consent of Council and approval of the same Council as the roads authority is required. In this case, Council is both the consent authority and the approving (road) authority under Section 138 for any works within Remembrance Driveway.

The submitted SEE also identifies the proposal being nominated integrated development under section 91 of the Water Management Act 2000, despite a mapped drainage line being located on the subject sites, it is not considered to be a water course and as such the proposal does not meet the requirements for integrated development under the Water Management Act 2000.

The application was referred to the following State Government Agencies and their comments are summarised below and further included in Attachment 18:

- Subsidence Advisory NSW;
- Sydney Water:
- Transport for NSW (TfNSW);
- Tharawal Local Aboriginal Land Council; and
- Cubbitch Barta Native Title Claimants Aboriginal Corp.

Referral	**Comment**
Dept of Planning & Environment (general referral)	A Referral was sent to Department of Planning and Environment, Council received a response in support of the proposal.
RMS (now Transport for NSW)	Transport for NSW provided comments with regards to the proposed development on the 3rd of January 2020. TfNSW requested additional information be submitted and considered by Council's engineers. This has been assessed and Council's engineers are satisfied with the amended plans and additional information submitted as a result of the TfNSW referral comments.
Sydney Water	A referral was sent to Sydney Water for comments with regards to the wastewater servicing of the proposed development application. Sydney Water provided the following comments: ***Zoning and location of the development*** • *It is our understanding that a significant proportion of the development falls outside the boundary of the Picton wastewater scheme and as such is not in an area we can service. It is also our understanding that a significant portion of the proposed development is currently zoned as RU4 (under the Wollondilly LEP 2011).* ***Water Servicing*** • *There is limited capacity within the existing water system. The development falls within Thirlmere Reduced 2 system. The proposed development is likely to cause pressure issues to other customers further downstream. Therefore, the proponent may be required to supply a new PRV and a new PRV zone connecting to the trunk system, at their cost, if the development proceeds. Further information will be provided at section 73.* ***Wastewater Servicing*** • *As the proponent is advocating an alternative on-site wastewater servicing solution, at the proponent's cost and for an indefinite period of time, Sydney Water has no objections to a temporary on-site effluent system. This system will be assessed as standard as part of the S73 process.* ***Should the alternative on site wastewater system not progress, Sydney Water notes that:***

	• *Currently there are no sewer reticulations close to the proposed development.* • *Sydney Water will not be able to provide a wastewater connection for any proposed development or partial development outside of the existing Picton Wastewater scheme boundary until such time as Sydney Water has implemented its effluent management strategy to expand the scheme.* • *Most of the above proposed development falls outside of the Picton Wastewater Scheme, with a small portion (six lots only) on the north-east corner falling within the Picton wastewater catchment.* • *This means that Sydney Water cannot service the development as is proposed under DA/2019/719/1 and notes that we will not accept a wastewater servicing application via Lots 1, 2, 3, 35, 36 and 37 on Deposited Plan 12096 for services for the total site.* In addition to the comments proposed above, Sydney Water require appropriate conditions of consent for both a Section 73 and Sydney Water tap in. This referral is important as it identifies that capacity to connect at the current time is not available and this will be further investigated at the time of Stage 4B. Stage 5 includes the decommissioning of the onsite effluent disposal system and connection to Sydney water sewerage scheme, it has been made known to the proponent that no works are to proceed into stage 5 until such time as the proponent demonstrates Sydney Water sewerage connection approval.
Tharawal LALC	Referrals were sent to both Cubbitch Barta Native Title Claimants Aboriginal Corp and Tharawal Local Aboriginal Land Council. No comments were received as such Council assumes no objections or concerns from either stakeholder.
Cubbitch Barta Native Title Claimants	

Environmental Planning and Assessment (EP&A) Regulation 2000

In accordance with Cl.50(2A) *Environmental Planning & Assessment Regulation 2000,* a valid Site Compatibility Certificate ('SCC') has been submitted with the development application.

Coal Mine Subsidence Compensation Act 2017

In accordance with Section 22 of the *Coal Mine Compensation Act 2017*, an application for approval to alter or erect improvements, or to subdivide land, within a mine subsidence district is to be made to Subsidence Advisory NSW. The site is located within the Wilton Mine Subsidence District.

The application was referred to the Subsidence Advisory NSW who granted approval of the development on 5 February 2020 subject to conditions provided in the recommended conditions of consent attached to this report.

Roads Act 1993

Section 138 of the *Roads Act 1993* states consent must be obtained from the relevant roads' authority to:

- Erect a structure or carry out work in, on or over a public road, or
- Dig up or disturb the surface of a public road, or
- Remove or interfere with a structure, work or tree on a public road, or
- Pump water into a public road from any land adjoining the road, or
- Connect a road (whether public or private) to a classified road

The proposed development proposes an intersection upgrade to Remembrance Drive which is a local classified road. The application was referred to Transport for NSW (TfNSW) who completed an assessment of the DA, based on the information provided and focusing on the impact to the state road network. TfNSW have raised minor concerns with the road works proposed with additional information requested and points of concern raised to be addressed and submitted for assessment by Council's Engineers.

State Environmental Planning Policy (State and Regional Development) 2011

In accordance with Schedule 7 Regionally significant development of the SEPP, the proposed development constitutes 'Regional Development' as it has a Capital Investment Value (CIV) of $35,063,478 which exceeds the $30 million threshold. While Council is responsible for the assessment of the Development Application, determination of the Application will be made by the Sydney Western City Central Planning Panel.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

In accordance with Clause 104 of ISEPP, the proposed development has been referred to Transport for NSW for review and comment. Schedule 3 of SEPP (Infrastructure) 2007 states that subdivision of land creating 200 or more allotments is considered traffic generating development to be referred to the RMS. Although the proposal is not creating separate allotments, there will be more than 200 dwellings included as part of the self-care housing and as such considered to be traffic generating development.

Transport for NSW initially raised minor concerns with the road works proposed and requested that the additional information and any required amendments be resolved to the satisfaction of Council's engineers. After consultation with the applicant, Council's engineers have raised no issues subject to the appropriate conditions that have been included in this report.

State Environmental Planning Policy No 44—Koala Habitat Protection

The aim of this policy is to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.

State Environmental Planning Policy No 44 - Koala Habitat Protection (SEPP 44) applies to the whole of the Wollondilly Local Government Area. Part 2 of SEPP 44 applies to the proposed development.

In accordance with Clause 7 and Clause 8 of the SEPP, Council must be satisfied that land is not considered a potential habitat and whether or not the land is a core koala habitat before granting any consent.

The application is supported by a Biodiversity Assessment Report (BDAR) prepared by Land Eco Consulting and a SEPP 44 Core Koala Habitat investigation is included.

The BDAR states: *State Environmental Planning Policy No 44 has been assessed and the subject land does not contain 'potential' or 'core' habitat. Therefore, there is no need for a Koala plan of Management.*

Based upon the information provided by the applicant, the land is not considered to be core koala habitat and the consent authority may determine the development application without further assessment. This has been supported by Council's Environment Officer.

State Environmental Planning Policy No. 55 - Remediation of Land;

The SEPP requires Council to be satisfied that the site is suitable for its intended use (in terms of contamination) prior to granting consent.

In particular, SEPP 55 contains a number of objectives that aim to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health and the environment:

a) By specifying when consent is required, and when it is not required, for a remediation work; and
b) By specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular; and
c) By requiring that a remediation work meet certain standards and notification requirements

Subject to Clause 7 of SEPP 55, a consent authority must not consent to the carrying out of development on land unless it has considered whether the land is contaminated.

The application is supported by a Preliminary Site investigation prepared by Martens and a Detailed Site investigation (DSI) prepared by Martens. The DSI concludes that 'the site is considered to have a low risk to human and environmental receptors from the proposed development. The submitted DSI is considered to satisfy the requirements of SEPP55.

Sydney Regional Environmental Planning Policy No 20 – Hawkesbury-Nepean River (No 2 – 1997)

The aim of Sydney Regional Environmental Planning Policy No 20 – Hawkesbury-Nepean River (SREP) is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. The SREP applies to the subject site.

The proposed development is in accordance with the general planning considerations set out in Clause 5 of the REP and the relevant specific planning policies and strategies set out in Clause 6. Provision will be made for adequate erosion and sediment control measures to ensure sediment because of the development is not deposited in the Hawkesbury Nepean River via the stormwater system.

Council's Development Engineers reviewed the proposed development regarding stormwater drainage and are satisfied with the proposed stormwater drainage system in relation to the SREP.

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

BASIX certificates confirm that each of the proposed dwellings will comply with the provisions of the SEPP. An appropriate condition of consent is included to ensure compliance with the commitments.

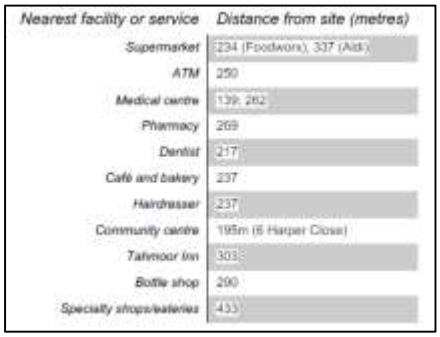
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The proposal compares to the requirements of the SEPP in the following manner:

Clause	Requirement	Proposal	Complies
Clause 10	Seniors housing In this Policy, seniors housing is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of: (a) a residential care facility, or (b) a hostel, or (c) a group of self-contained dwellings, or (d) a combination of these, but does not include a hospital.	The proposal satisfies the definition of seniors housing contains a group of self-contained dwellings.	Yes
Clause 13	(1) **General term: "self-contained dwelling"** In this Policy, a ***self-contained dwelling*** is a dwelling or	The proposed development is for 214 self-contained dwellings, the proposal	Yes

	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.	complies with the definition of self-contained dwellings.	
Chapter 3 Development for seniors housing			
Part 1 General			
Clause 15	This Chapter 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.	Clause 15 of the SEPP states that development on land that adjoins land zoned primarily for urban purposes for the purposes of any form of seniors housing is permitted despite the provisions of any other environmental planning instrument if the development is carried out in accordance with the SEPP. In accordance with clause 15, the proposal is permissible development as the site is located on land that is adjoining lands zoned primarily for urban purposes and development for the purpose of dwelling houses is permitted on the site.	Yes
Clause 16	Development Consent required: Development allowed by this Chapter may be carried out only with the consent of the relevant consent authority unless another environmental planning instrument allows that development without consent.	The application seeks consent under the *State Environmental Planning Policy (Housing For Seniors Or People with a Disability) 2004.*	Yes
Clause 17	Development on land adjoining land zoned primarily for urban purposes (1) Subject to subclause (2), a consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land that adjoins land zoned primarily for urban purposes unless the proposed development is for the purpose of any of the following: (a) a hostel, (b) a residential care facility, (c) serviced self-care housing.	The application is for serviced self-care housing and in the form of a Retirement Village as per the below definition from *Retirement Villages Act 1999.* (1) For the purposes of this Act, a retirement village is a complex containing residential premises that are— (a) predominantly or exclusively occupied, or intended to be predominantly or exclusively occupied, by retired persons who have entered into village contracts with an operator of the complex, or	Yes

	(2) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purposes of serviced self-care housing on land that adjoins land zoned primarily for urban purposes unless the consent authority is satisfied that the housing will be provided: (a) for people with a disability, or (b) in combination with a residential care facility, or (c) as a retirement village (within the meaning of the Retirement Villages Act 1999).	(b) prescribed by the regulations for the purposes of this definition. Additionally this application makes reference to a future Residential Care Facility to be built fronting Stratford Road.	
Clause 18	Restrictions on occupation of seniors housing allowed under this Chapter Consent must not be granted to a development application unless a condition reinforcing the above through a requirement to register a restriction to user on the property title has been imposed.	Appropriate nominated conditions are included in the development consent to assure the development is for the purpose of seniors or people who have a disability.	Yes, subject to conditions
Clause 22 Fire sprinkler systems	Development for the purpose of the installation of a fire sprinkler system in a residential care facility for seniors may be carried out with development consent.	Fire/access report is provided	Yes, subject to conditions
Part 1A Site compatibility certificates			
Clause 24	(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) if— (a) the development is proposed to be carried out on any of the following land to which this Policy applies— (i) land that adjoins land zoned primarily for urban purposes, (2) A consent authority must not consent to a development application to which this clause applies unless the consent authority is satisfied that the relevant panel has certified in a current site compatibility certificate that, in the relevant panel's opinion— (a) the site of the proposed development is suitable for more intensive development, and	The proposed development is proposed on lands that adjoins land zoned primarily for urban purposes. A 'Site Compatibility Certificate' ('SCC') was issued by the Sydney Western City Planning Panel. The SCC was issued on 22 March 2019. The proposed development is considered to be located on lands which is suitable for more intensive development, whilst also being compatible with the existing surrounding environment through appropriate design.	Yes Yes

	(b) development for the purposes of seniors housing of the kind proposed in the development application is compatible with the surrounding environment having regard to (at least) the criteria specified in clause 25 (5) (b).	On 29 July 2020, the Seniors SEPP was amended by State Environmental Planning Policy (Housing for Seniors or People with a Disability) Amendment (Metropolitan Rural Areas Exemption) 2020 to prevent new proposals for seniors housing on land within the Metropolitan Rural Area of Greater Sydney. However, the amendment contains a savings provision and therefore the SEPP continues to apply to this development application.	
Clause 25	(1) An application for a site compatibility certificate for the purposes of clause 24 may be lodged with the Department— (a) by the owner of the land on which the development is proposed to be carried out, or (b) by any other person, with the consent of the owner of that land.	Noted – A 'Site Compatibility Certificate' ('SCC') was issued by the Sydney Western City Planning Panel on 22 March 2019. Schedule 2 of the SCC requires that the DA Must be compatible with the surrounding land uses, an assessment against the requirements of schedule 2 is undertaken at the end of this table.	
Part 2 Site-related Requirements			
Clause 26	Location and access to facilities Distance to shops, banks, other retail and commercial services, community services, recreation facilities and the practice of a general medical practitioner is not to exceed 400m. (a) Average gradient for distance of suitable accessible pathway to above services is not to exceed 1 in 14, although following gradients are acceptable along pathway: i) No more than 1:12 for maximum 15m at a time ii) No more than 1:10 for maximum 5m at a time iii) No more than 1:8 for maximum 1.5m at a time, or (b) in the case of a proposed development on land in a local government area within the Greater Sydney 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	Cl.26(2)(a) specifies that access complies if the services are within 400 metres of the site, with an appropriate continuous path of travel. The subject site is located within the ***Greater Sydney (Greater Capital City Statistical Area)*** and so cl.26(2)(b) applies in the event the subject site does not comply with any of the components contained within cl.26(2)(a)(i), (ii) or (iii). The below table taken from the applicants SEE shows compliance against Clause 26 of the SEPP:  Table 4: Access compliance. Additionally the amended plans submitted to Council in July 2020	Yes

	(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).	depict a indicative location for a bus shelter adjacent to the subject site in Remembrance Driveway, as well as in Rockford Road.	
Clause 27	Bush Fire Prone Land	The site is not located in a bushfire prone area.	Yes
Clause 28	Water and sewer Clause 28 of SEPP (Housing for Seniors or People with a Disabilities) states that Council must not consent to a development application unless satisfied by written evidence that the housing will be connected to a reticulated water system and will have adequate facilities for the removal or disposal of sewerage.	Council has assessed that the proposal will have adequate connection to reticulated water and appropriate facilities for the disposal of sewerage. As proposed the application include waste water treatment onsite until such time as the development can be serviced by Sydney Water. The expectation is that Sydney Water will provide a connection prior to 2022, this will be consistent with the staging of the development. The proposed development will not progress pass stage 5 until Sydney Water connection is demonstrated. Additionally Sydney Water has issued a feasibility letter in relation to the proposed development. The feasibility letter indicates that reticulated water can be made available to the proposed development. However, reticulated sewer facilities will not be available, due to capacity issues, until approximately 2021/2022. The proposed wastewater system has been designed to achieve all relevant Council and health regulations, this is supported by Council's Environmental Health Officer.	Yes

Clause 29	(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) if Clause 24 does not apply.	Clause 24 is considered to apply and is assessed accordingly above.	Yes
Part 3 Design Requirements			
Clause 30	Site analysis Consent is not granted unless a consent authority is satisfied that the applicant has taken into account a site analysis plan prepared by the applicant in accordance with this clause.	A site analysis plan has been prepared in order to comply with the requirements of cl.30. A written statement to accompany the site analysis plan was submitted by the applicant with the development application.	Yes
Clause 31	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.	Noted, the *Seniors Living Policy: Urban Design Guideline for Infill Development* has been considered.	Yes
Clause 32	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.	Noted, each clause identified in Division 2 has been considered below.	Yes
Clause 33	**Neighbourhood Amenity and Streetscape** The proposed development should— (a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and (b) retain, complement and sensitively harmonise with any	The proposed development is considered to have the potential to positively impact to the character of the local area. The site is located in close proximity to Tahmoor Town Centre, which is an area undergoing a transition. The transition includes a large new shopping complex to the north west of the subject sites. The proposed heritage alterations, dwellings and other buildings are seen to positively contribute to the quality and identity of the area.	Yes

	heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and (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 (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 (e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and (f) retain, wherever reasonable, major existing trees, and (g) be designed so that no building is constructed in a riparian zone.	The proposed development has considered the significant heritage values of Stratford House and due consideration has been given to design the clubhouse and pool house with a focus on maintaining the extensive gardens and viewing opportunities to and from the heritage item. It is noted that the RU4 zoned land is largely undeveloped and any development will alter the character of the area, however the extensive landscape buffer will create a sympathetic transition from the proposal to the rural lands to the south. All proposed dwellings are single storey, which is consistent with surrounding development. It is proposed to construct a footpath along the shoulder of Rockford Road to the intersection with Remembrance Driveway.	
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	Council's Environmental Health Officer has assessed the acoustic impacts and determined that the proposal is appropriate in both design and amenity. Therefore the proposal complies with the requirements of Clause 34.	Yes

	driveways, parking areas and paths.		
Clause 35	**Solar Access and Design for Climate** The proposed development should— (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and (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.	Shadow plans have been provided, demonstrating solar access between 9am and 3pm for minimum 70% of dwellings. The solar access plans demonstrate that a minimum of 152 dwellings (71%) are compliant with the aforementioned solar access requirements. The internal road orientation and the landscaping buffers contribute to satisfactory solar access.	Yes
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 (b) include, where practical, on-site stormwater detention or re-use for second quality water uses.	Council's engineers have assessed the storm water disposal to be appropriate with minimal impact in existing flows. Requirements have also been put into place for onsite reuse including individual rainwater tanks. Therefore the proposal complies with the requirements of Clause 36.	Yes
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 (b) where shared entries are required, providing shared entries that serve a small number of	A Crime Prevention Report was prepared by a CPTED consultant at the initial design stage with the recommendations of the report being adopted. The proposal is consistent with the requirements of Clause 37.	Yes

	dwellings and that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.		
Clause 38	**Accessibility** The proposed development should— (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.	The amended plans submitted to Council in July 2020 nominate a potential location for bus shelters in Remembrance Driveway and Rockford Road, both immediately in front of the subject site. The proposed development is considered appropriate regarding access. Appropriate parking practices will be developed and managed by the village management to ensure the safety of residents (cl.38(b)).	Yes
Clause 39	**Waste management** The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	A private contractor will be contracted to provide garbage collection services, as detailed in the Waste Management Plan.	Yes
Part 4 Development standards to be complied with			
Division 1 Clause 40 provides that a consent authority must not consent to a development application unless the development complies with the standards specified in this clause.			
Clause 40 (2)	**Site size** The size of the site must be at least 1,000 square metres.	The site in total is 14.244 Ha.	Yes
Clause 40 (3)	**Site frontage** The site frontage must be at least 20 metres wide measured at the building line.	The site has four street frontages all greater than 20m.	Yes
Clause 40 (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 **Note.** Development consent for development for the purposes of seniors housing cannot be refused on the ground of the height of the housing if all of the proposed buildings are 8 metres or less in height. See clauses 48 (a), 49 (a) and 50 (a).	The subject site is split zoned with the R2 zoned portion having a maximum height control of 9m whilst the RU4 zoned portion has no maximum height control under the WLEP 2011. Cl.40(4)(a) specifies that in zones where ***residential flat buildings*** are not permitted, the maximum height of building is 8 metres. Within the Wollondilly LEP 2011, Although the highest element of the proposed extensions is the lift-well, which is approximately 6.6 metres. 'Stratford house' (Heritage item – I235) exceeds the permitted height limit. Stratford house is 9.58m tall. A	No – See Clause 4.6 Assessment below.

	(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. (c) a building located in the rear 25% area of the site must not exceed 1 storey in height.	Clause 4.6 variation to a development standard has been provided by the applicant in line with legal advice provided to Council. This has been assessed in the report below. Cl.40(4)(b) all dwellings located adjacent to the sites boundary are one storey in design. cl.40(4)(c) all buildings located in the rear 25% of the site are one storey in design.	
Division 3 Hostels and self-contained dwellings—standards concerning accessibility and useability			
Clause 41	**Standards for hostels and self-contained dwellings** (1) 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 was submitted in conjunction with the proposal it identifies that the proposed development is compliant with regards to access standards within the Seniors SEPP, and both AS 1428 and 4299. This has been supported by internal Council Referrals.	Yes
Part 5 Development on land adjoining land zoned primarily for urban purposes			
Clause 42	**Serviced self-care housing** (1) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purpose of serviced self-care housing on land that adjoins land zoned primarily for urban purposes unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have reasonable access to— (a) home delivered meals, and (b) personal care and home nursing, and (c) assistance with housework.	The applicant has provided written evidence that adequate arrangements are being made to satisfied Cl.42. The applicant engaged in Dr Care Solutions a consulting firm which assists the proponent in finding three providers who would quote services including but not limited to; (a) home delivered meals, and (b) personal care and home nursing, and (c) assistance with housework. Therefore Council is satisfied that the application complies with Clause 42.	Yes
Clause 43	**Transport services to local centres** (1) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purpose of serviced self-care housing on land that adjoins land zoned primarily for urban purposes unless the consent authority is	Within the applicant submitted SEE it is identified that *'The proposed development will include, either owned or contracted, a community bus dedicated to transporting residents as specified.'* The proposed development is considered to be appropriate as a condition of consent will be imposed	Yes

	satisfied that a bus capable of carrying at least 10 passengers will be provided to the residents of the proposed development— (a) that will drop off and pick up passengers at a local centre that provides residents with access to the following— (i) shops, bank service providers and other retail and commercial services that residents may reasonably require, (ii) community services and recreation facilities, (iii) the practice of a general medical practitioner, and (b) that is available both to and from the proposed development to any such local centre at least once between 8am and 12pm each day and at least once between 12pm and 6pm each day.	requiring the availability of the identified transport.	
Clause 44	**Availability of facilities and services** A consent authority must be satisfied that any facility or service provided as a part of a proposed development to be carried out on land that adjoins land zoned primarily for urban purposes will be available to residents when the housing is ready for occupation. In the case of a staged development, the facilities or services may be provided proportionately according to the number of residents in each stage.	The submitted SEE identifies that the appropriate facilities and services will become available when each stage becomes online. This will assist in providing appropriate assistance when the development is ready for occupation.	Yes
Part 7 Development standards that cannot be used as grounds to refuse consent			
Division 4 Self-contained Dwellings			
Clause 50	A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a self-contained dwelling (including in-fill self-care housing and serviced self-care housing) on any of the following grounds— (a) **building height** (b) **density and scale** (c) **landscaped area** (d) **Deep soil zones**	Noted	Noted

	(e) **solar access** (f) **private open space self-care housing** (g) (Repealed) (h) **parking**		

Assessment of the Schedule 2 Requirements within Site Compatibility Certificate

Requirements	**Assessment**
1. *Consultation with the Subsidence Advisory NSW during the preparation of concept plans prior to the lodgement of any development application with Wollondilly Shire Council.*	Subsidence Advisory NSW was consulted prior to the submission of plans to Council as evident in the submitted SEE (Annexure B), Additionally General Terms of Approval were received as part of the Integrated Development requirements under Section 22 Coal Mine Subsidence Compensation Act 2017 ('CMSC Act').
2. *Consultation with Sydney Water during the preparation of concept plans prior to the lodgement of any development application with Council.*	Sydney Water was consulted prior to the submission of plans to Council as evident in the submitted SEE (Annexure C). A Feasibility Letter was obtained and subsequent to lodgement of the DA, satisfactory arrangements were made to service the site in a staged approach.
3. *The final layout, building construction and on-site facilities accompanying any development application is to be subject to satisfactory resolution of issues relating to:* • *A heritage impact statement to address heritage impacts on Stratford House (Heritage Item 1235 under schedule 5 of the Wollondilly Local Environmental Plan 2011), including the visual character of and views to Stratford House from key points in the vicinity;* • *A flora and fauna assessment to examine significant and endangered vegetation communities identified on the site and whether the concept should be amended to reduce the need for avoidable removal of vegetation even where it may reduce the total yield of the development below the approved maximums;* • *An acoustic report to assess any potential noise impacts of the nearby Ingham's processing plant and Tahmoor Inn on the development proposal, including potential traffic movements to and from the processing plant;* • *An odour assessment to assess any potential odour impacts of the nearby Ingham's processing plant on the development proposal, including the appropriateness of residential dwellings along Rockford Rd;* • *Infrastructure requirements generated by the development on Rockford, Stratford and Remembrance Driveway, eg. Pedestrian connectivity to the town and train station,*	All considerations identified within requirement 3 have adequately been addressed, either by submitted supporting information or with the SEE: a. Heritage Impact Statement prepared by Phillips Weir Heritage and Planning dated December 2019; b. Biodiversity Development Assessment Report prepared by Land Eco Consulting dated December 2019, Amended January 2020; c. Acoustic Report prepared Marshall Day Acoustics dated 11 December 2019 d. Air Quality Assessment prepared by Todoroski Air Sciences Pty Ltd dated 6 December 2019 e. Traffic impact Statement prepared by Martens Consulting Engineers dated December 2019, Amended July 2020 f. An assessment addressing Council's Open Space, Recreation and Community Facilities Strategy (2014), Annexure D within the submitted SEE prepared by Precise Planning dated 2019 and amended July 2020 g. An Access to Services/Facilities Plan, Annexure E within the submitted SEE prepared by Precise Planning dated 2019 and amended July 2020 h. Landscape Plan prepared by Nicolas Bray Landscape dated 10 December 2019 i. Stormwater Management Plan prepared by Martens Consulting Engineers Consultants dated 11 December 2019

including pathways and crossings including potentially pedestrian connectivity through the site; • *An assessment addressing Council's Open Space, Recreation and Community Facilities Strategy (2014) to respond to the need for private open space;* • *Built form arrangements and interfaces between the 3 storey element of the development and neighbouring properties;* • *Provision of higher levels of care being sequenced in early stages of the development, to cater to the full range of resident needs;* • *Subdivision design and landscaping and building form of the development to remain consistent with the character of Tahmoor village and its rural edge; and* • *Stormwater management treatment, including impacts on the Bargo River catchment.*	A number of reports were updated during the assessment of the development application to reflect Council's and/or external advice. All reports are considered to adequately address potential issues and Schedule 2 of the SCC is considered to be satisfied,

Wollondilly Local Environmental Plan 2011

Characterisation:

Seniors housing *means a building or place that is—*

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

and that is, or is intended to be, used permanently for—

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

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

Zone of land:

• Lots 1, 2, 3, 4, 5, 6, 7, 35, 36 and 37 DP 12096 – ***R2 Low Density Residential***
• Lots 22, 23, 27, 28, 29, 30, 31 and 32 DP 12096 – ***RU4 Primary Production Small Lots***
• Lots 2 and 3 DP 236262 – ***RU4 Primary Production Small Lots***
• Lot 11 DP 739884 ***– RU4 primary Production Small Lots***

Permissibility:

Seniors Housing is a permitted land use within the R2 low density residential zoned allotments.
Seniors Housing is a permitted for the subject allotments zoned RU4 pursuant to *State Environmental Planning Policy* (Housing for Seniors or People with a Disability) 2004 and the site compatibility certificate (SCC) issued by the Sydney Western City Planning Panel on 22 March 2019.

LEP Clauses

	Clause	Comment
Part 2 Permitted or prohibited development		
2.3	Zone objectives and land Use Table	The proposed development is largely consistent with the zone objectives.
2.4	Unzoned land	N/A – land is zoned.
2.5	Additional permitted uses for particular land	N/A – no additional uses.
2.6	Subdivision—consent requirements	N/A – no subdivision proposed.
2.7	Demolition requires consent	Complies – minor demolition of a heritage item and removal of a small animal shelter is proposed.
2.8	Temporary use of land	N/A – application is not for temporary use of land.
Part 4 Principal development standards		
4.1	Minimum subdivision lot size	N/A – no subdivision proposed.
4.1AA	Minimum subdivision lot size for community title schemes	N/A – proposal is not considered a community title scheme.
4.1A	Minimum lot size for dual occupancies in residential zones	N/A – no dual occupancies proposed.
4.1B	Subdivision of certain land in Zone E4 Environmental Living	N/A – site is not zoned E4.
4.2	Rural subdivision	N/A – no subdivision proposed.
4.2A	Erection of dwelling houses on land in certain residential, rural and environmental protection zones	N/A – proposal is not for the erection of a single dwelling house.
4.2B	Boundary adjustments of land in certain rural, residential and environmental protection zones	N/A – this DA does not include Boundary adjustment. A separate development application lodged 17/12/2019 for the boundary adjustment of the lots fronting Stratford Road.
4.3	Height of buildings	Complies – all development on the subject site are not greater than 9m in height.
4.4	Floor space ratio	N/A - Not Adopted by LEP2011
4.5	Calculation of floor space ratio and site area	N/A - Not Adopted by LEP2011
4.6	Exceptions to development standards	A written Cl.4.6 request (**Annexure F within Attachment 8**) has been submitted as per legal advice received from BAL lawyers on the 1st July 2020 (**Attachment 13**), as requested by Council, the legal advice was in relation to Clause 40 (4) of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.* Cl.4.6 written request is supported as it accurately demonstrates compliance with the standard is unreasonable or unnecessary in this instance. It is important to note the numerical non-compliance is due to an existing part of Stratford House (Local Heritage item – I235).

	Clause	Comment
		The applicant within the written request Cl.4.6 variation request identifies the following: *Strict compliance with the 8 metre standard is both unreasonable and unnecessary in this circumstance, for the following reasons.* ***A. Unreasonable*** • *Strict compliance is unreasonable in this circumstance, because the only action that could be taken to force compliance is the demolition of the upper floor of the building. Given that the building is part of a WLEP listing as an item of local heritage significance, such action is unreasonable and a poor planning outcome and is not supported on heritage grounds.* • *Strict compliance is unreasonable in this circumstance, because the proposed adaptive re-use of the heritage building will further prolong its useful life and the potential removal of its upper floor would result in a greater footprint having to be constructed within its curtilage. This would not only have heritage impact implications but is also simply a waste of money.* • *Strict compliance is unreasonable in this circumstance, because, in terms of balance, the existing building is the only height non-compliance. The proposed alterations and additions are compliant, as are the proposed 214 dwellings.* • *Strict compliance is unreasonable in this circumstance, because the subject land (RU4 zoned area) has no height limit under the WLEP and even the conventional residential areas of Tahmoor have a 9 metre maximum height limit. The land immediately opposite the subject land has a 12 metre height limit. The noncompliance of the existing building is not peculiar or out-of-character with the height limits of land in the immediate vicinity of the site.* • *Strict compliance is unreasonable in this circumstance, because the non-compliance occurs only in relation to the pitched roof of the building. The walls of the building are lower than 8 metres and the height of 9.58 metres from existing ground level is measured to the ridge line of the pitched roof. The non-compliant section of the building, therefore, does not create any excessive bulk, scale, overshadowing or privacy impacts.* • *Strict compliance is unreasonable in this circumstance, because the building is located approximately 100m from the nearest dwellings to the east and approximately 150m from the nearest dwelling to the southwest. The non-compliance results in no impacts to these residential properties.* • *Strict compliance is unreasonable in this circumstance, because the building is located approximately 80m from the Tahmoor Inn, which is a commercial building. The non-compliance results in no impacts to this commercial property.*

	Clause	Comment
		B. Unnecessary • *Strict compliance is unnecessary in this circumstance, because the non-compliance has been in existence without causing offense for many years. The building in its current form creates no visual or streetscape impacts. There is no environmental planning justification for forced compliance.* • *Strict compliance is unnecessary in this circumstance, because the building is shrouded by comprehensive mature landscaping and cannot be seen from any public vantage points (refer to Figure 1 below)* • *Strict compliance is unnecessary in this circumstance, because the "Note" which forms part of cl.40(4)(a) Seniors SEPP prevents a consent authority refusing a development application for Seniors Housing on the ground of the height of the housing if all of the proposed buildings are 8 metres or less in height. In this circumstance, whilst the* ***existing building*** *exceeds 8 metres in height, the* ***'proposed'*** *buildings are all 8 metres or less in height.* • *Strict compliance is unnecessary in this circumstance, because the adopted underlying objectives of the standard are achieved, notwithstanding the noncompliance with the standard (refer to Part 5.4 of this variation request)* The Cl4.6 continues on to address Environmental Planning Ground, Public Interest Grounds and the Objectives of both the development standard and the zone. **Planner assessment:** **Whether the proposed development is consistent with the objectives of the particular standard** Objectives are not specifically identified within Clause 40 of the SEPP (Seniors) however the proposed non-compliance is located on an existing building on the subject site, the specific building being identified as locally heritage significance and altering or demolition would be considered inappropriate. **Whether the proposed development is consistent with the objectives for development within the zone** The proposed development is consistent with the objectives of the SCC which grants permissibility to the proposed seniors living development. The subject allotment which the specific non-compliance is located is zoned RU4 – Primary Production Small Lots. The development application is not inconsistent with the objectives of this zone, with careful consideration in the design to ensure a sympathetic transition to the surrounding rurally zoned lands.

	Clause	Comment
		Whether compliance with the development standard unreasonable or unnecessary in the circumstances of the case Compliance with the development standard identified within Clause 40 of the SEPP (Seniors) is considered unreasonable and unnecessary as the existing structure is a listed heritage item and is being maintained to contribute positively to the fabric of the shire, any demolition or alteration works to make the structure compliant would detrimentally impact the heritage significance of the structure, thus being unacceptable. As such it is unreasonable to enforce strict compliance of the 8m height limit. **Whether there are sufficient environmental planning grounds to justify contravening the development standard** The proposal is considered to be permissible within an issued SCC, it is supported by a fully compliant design with regards to all other SEPP design Requirements. The information and justification by the applicant has demonstrated that there is significant environmental planning grounds to justify contravening the development standard. **Whether the proposed development is in the public interest.** The proposed variation is seen to be within the public interest as it is maintaining a heritage item, of local significance. The heritage item 'Stratford House' is a positive part of the Tahmoor heritage and any alterations would damage that significance. It is also noted the height variation is located well within the proposed allotments, with no potential for overlooking form the tallest accessible point. As such, the specific variation to the development standard is not considered to be detrimental to the public interest. **Whether the proposed development is consistent with objectives of clause 4.6, being, whether by allowing flexibility in the particular circumstances a better outcome for and from the development is achieved.** The proposal is demonstrated to be sympathetic to the existing heritage item, it is acknowledged that the variation requested to the development standard is located on the existing item on the subject allotment. As identified above strict compliance would be unnecessary and unreasonable. The proposal is not anticipated to have any adverse impacts from the proposed variation and maintaining the existing structure contributes positively to maintain a locally significant heritage item in its original form. **Concurrence of the Director General**

	Clause	Comment
		The proposed development does not require concurrence from the Director General. **Any State or regional significant planning matters raised by contravening the standard** No **The public benefit of maintaining the standard** It is considered that the reasons addressed by the applicant within the Cl.4.6 request are valid, due to the importance of the existing dwelling (Stratford House) it is essential the façade and heritage element are maintained for public benefit, thus leaving the development unable to reasonably comply. It is also important to note that 6.6m is the maximum proposed height for any additions or alterations works on the heritage building and across the subject site. The public benefit is maintained despite the variation to the development standard. Based on the assessment above and the written variation request submitted, it is considered to be of minimal impact to the overall development and recommended for support.
Part 5 Miscellaneous provisions		
5.1	Relevant acquisition authority	N/A – no reserved acquisition.
5.1A	Development on land intended to be acquired for public purposes	N/A – no reserved acquisition.
5.2	Classification and reclassification of public land	N/A – no public land.
5.3	Development near zone boundaries	N/A – as per Cl.5.3(3)(ab) the clause does not apply to land in Zone RU4 Primary Production or R2 Low Density Residential.
5.4	Controls relating to miscellaneous permissible uses	N/A – no miscellaneous permissible uses proposed.
5.5	Development within the coastal zone	N/A - Repealed
5.6	Architectural roof features	N/A – height is compliant with cl.4.3.
5.7	Development below mean high water mark	N/A
5.8	Conversion of fire alarms	N/A – no conversion of fire alarm system proposed, considerations have been made by Councils' Fire Safety Officer via internal referral.
5.9	Preservation of trees or vegetation	N/A - Repealed
5.9AA	Trees or vegetation not prescribed by Development Control Plan	N/A - Repealed
5.10	Heritage conservation	The proposed development is located on a site which houses a Local Heritage item 'Stratford House' (Local Heritage item – I235).

	Clause	Comment
		Consent is appropriately sought for alterations and adaptive re-use to the heritage item. A Heritage Impact Statement was prepared by Weird Phillips Heritage and Planning dated December 2019. The Heritage Impact Statement concludes that: '*This report has assessed and confirmed the heritage significance of Stratford House, at no. 20 Rockford Road, Tahmoor. There are no listed heritage items considered to be in the vicinity of the site.* *The proposed works will have an impact on the significance, settings and views of Stratford House. However, by retaining, conserving and reusing the item; by preserving and improving its landscaped setting within the existing lot boundary of the subject site; and by sympathetically designing and sensitively constructing the works around Stratford House, the principal sources of the house's significance may be retained.* *Views to and from Stratford House may also be improved as a result of the works, allowing Stratford House to re-establish historic visual connections lost in recent decades.*' The proposed development was referred to Council's Heritage Advisor who has assessed the impacts of the proposal and raised no significant concerns.
5.11	Bush fire hazard reduction	N/A
5.12	Infrastructure development and use of existing buildings of the Crown	N/A
5.13	Eco Tourist Facilities	N/A
5.14	Siding Spring Observatory – maintaining dark sky	N/A - Not Adopted by LEP2011
5.15	Defence communications facility	N/A - Not Adopted by LEP2011
5.16	Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones	N/A
5.17	Artificial waterbodies in environmentally sensitive areas in areas of operation of irrigation corporations	N/A
5.18	Intensive livestock agriculture	N/A
5.19	Pond-based, tank-based and oyster aquaculture	N/A
Part 6 Urban release areas		
6.1	Arrangements for designated State public infrastructure	N/A – the subject site is not mapped as being located within an urban release area.
6.2	Public utility infrastructure	

	Clause	Comment
6.3	Development control plan	
6.4	Relationship between Part and remainder of Plan	
Part 7 Additional local provisions		
7.1	Essential services	All essential services are available at the site.
7.2	Biodiversity protection	N/A – the site is not 'sensitive land' on NRB or NRW maps.
7.3	Water protection	
7.4	Flood planning	N/A – site is not at/below flood planning level.
7.5	Earthworks	Complies – minimal appropriate earthworks involved with construction works.
7.6	Development within a designated buffer area	N/A
7.7	Development near coal seam gas well at Menangle	N/A

(a)(ii) The Provision of any Draft Environmental Planning Instrument (that is or has been the subject of public consultation under this Act and that has been notified to the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There is no draft Environmental Planning Instrument applicable to the proposed modifications.

(a)(iii) The Provisions of any Development Control Plan

Wollondilly Development Control Plan (DCP)

Wollondilly Development Control Plan 2016 does not specifically address Seniors Living or seniors developments as such the applicable volume is Volume 1 – General only, an assessment is undertaken below:

Volume 1 – General		
Relevant Provisions		**Comment**
Part 1 - Preliminary		
1.2 Objectives of the Plan		
1	To assist in the realisation of the aims of Wollondilly Local Environmental Plan, 2011.	The proposed development is consistent with the aims and objectives of the WLEP 2011.
2	The specific controls and volumes of this plan each have objectives as detailed throughout this plan.	Noted
1.4	Application of the volumes of this plan If there is an inconsistency between the volumes of this plan then the earlier volume shall prevail over the later volume. For example, if there is an inconsistency between Volumes 2 and 5, Volume 2 would prevail because it is found earlier in this plan.	Noted
Part 2 - General considerations for all development		
2.2 Controls		
1	The consent authority shall consider the following safety and human health risks in assessing a development application under this volume:	
a)	Road and traffic hazards;	The proposed development includes upgrades to the Rockford Road/Remembrance Drive intersection.

Volume 1 – General		
Relevant Provisions		**Comment**
		Council's Engineers and the applicant have consulted with regards to the requirement surrounding the road network upgrades and amended plans submitted. No engineering issues were raised with regards to the amended plans. Appropriate conditions have been recommended to ensure compliance with Council's Design and Construction Specifications.
b)	Bushfire threat;	The subject site is not identified as bushfire prone land.
c)	Flood risk;	The subject site is not identified as flood liable land.
d)	Noise, vibration, pollution, odour, radiation or waste from surrounding land uses;	N/A – no surrounding land uses are expected to affect proposal.
e)	Exposure to electricity transmission systems;	N/A – no nearby systems.
f)	Exposure to radiation from telecommunications infrastructure;	N/A – no nearby infrastructure.
g)	Potential exposure to children of material (including signage) from any nearby restricted premises and/or sex services premises;	N/A – no potential for exposure.
h)	Hazards from vehicles within car parking areas; and	No hazards are expected; the proposed development is appropriately designed with considerations made to both internal traffic and parking.
i)	Hazard from potential contamination of the land.	The subject site is not considered to hold potentially harmful contaminants, this is supported by a Preliminary Site Investigation.
Part 3 - Variation		
3.1 Controls		
1.	In cases where a variation to a control in this plan is sought, the applicant (or person acting on behalf of the applicant) must include in the development application a written request for Council to consider a variation to that control.	N/A – the proposed development does not request any variations to the WDCP 2016.
	Part 4 – Community Engagement	
4.4 Development applications to be advertised		
	This clause contains a list of development types that are advertised development for the purposes of Clause 5 of the EP&A Regulation 2000.	The proposed development is considered integrated development and as such requires advertising.
4.5 Requirements for advertising		

Volume 1 – General		
Relevant Provisions		**Comment**
	This clause requires that advertising under this plan shall be in accordance with the requirements of Part 6 Division 7 of the EP&A Regulation 2000.	The proposed development was place on advertising as per the requirements of Part 6 Division 7 of the EP&A Regulation 2000.
Part 5 - Colonial Heritage		
5.2 General Controls (refer to DCP for further details of controls)		
1.	Development of heritage items and development on land within heritage conservation areas shall demonstrate consistency with the NSW Guidelines for Development in Conservation Areas 'Design in Context'. In particular the impact of the following aspects of a development should be considered:	The proposed development was referred to Council's Heritage Advisor for comments with regards to the alterations and adaptive reuse of Local Heritage item 'Stratford House (I235). Height and scale, View corridors, Architectural style and form, Materials, detailing and colour schemes, Siting and Cumulative impact were all considered during the assessment of the proposed development.
5.3 Controls for particular development types (refer to DCP for further details of controls)		
1.	Advertising and Signage	N/A
2.	Additions, Alterations and Ancillary Development	The proposed alterations and addition have been carefully assessed with consideration given to the significant heritage value 'Stratford house' holds within the Tahmoor area. This is supported by Council's Heritage Advisor.
3.	Demolition of Heritage Items	N/A – demolition is only partial to incorporate new additions to the heritage item.
4.	Subdivision of land containing a heritage item and/or land within a heritage conservation area	N/A
5.	Colours and built form on sites containing heritage items and within heritage conservation areas	The proposed self-contained dwellings are considered appropriate based on the significant buffers of landscaping proposed. This is supported by Council's Heritage Advisor.
5.4 Adaptive reuse proposals for Heritage items (refer to DCP for further details of controls)		
1.	Any proposal involving the adaptive reuse of a heritage item must demonstrate that:	The proposed adaptive reuse of 'Stratford house' is appropriate given the sympathetic design used to highlight the heritage features. The change of use from a dwelling to a clubhouse for the Seniors living development is considered appropriate as it places the heritage item at the centre of the development. This is supported by Council's Heritage Advisor.
Part 6 - Heritage (Specific Locations)		
6.2 Application (refer to DCP for further details of controls)		
	These controls apply in addition to the controls contained in Part 6 of this volume. Where there is an inconsistency between Parts 5 and 6 of this volume Part 6 shall prevail to the extent of the inconsistency.	N/A – the subject site is not located in any of the identified heritage conservation locations.
Part 7 – Aboriginal Heritage		

Volume 1 – General		
Relevant Provisions		**Comment**
7.2 Controls		
1.	There is impact or disturbance to the content, or within the immediate vicinity (100 metres) of a known Aboriginal object or Aboriginal place of heritage significance;	There is no 'known' significant Aboriginal heritage within 100m of the proposed development.
2.	There is impact or disturbance to, or within the immediate vicinity (100 metres) of a previously recorded or known Aboriginal object or Aboriginal place of heritage significance and can include a cultural landscape, an existing or former ceremonial ground, a burial ground or cemetery, a story place or mythological site, a former Aboriginal reserve or historic encampment, or an archaeological site of high significance;	
3.	A proposal (including subdivision) which affects primarily undeveloped land (irrespective of land size) and has the following site features: ▪ river frontage ▪ creek line ▪ sandstone exposures at ground level larger than 5m² ▪ sandstone cliff line or isolated boulder higher than 2m ▪ disturbance to the roots, trunk, branches, of old growth trees, which are native to the Wollondilly Shire and greater than 150 years of age.	The proposed development located on subject sites which are largely cleared for farming purposes, it is not anticipated to find any significant aboriginal heritage items on the subject sites.
4.	Ensure that all works cease in the vicinity of any previously unidentified Aboriginal objects or places identified during excavation and construction and that the following be notified:	
a)	The Office of Environment and Heritage NSW (OEH)	Noted.
b)	A qualified archaeologist	Noted.
c)	Aboriginal stakeholders.	Noted.
5.	Ensure that should human skeletal remains be discovered that the following process will be undertaken:	
a)	The remains will be reported to the police and the state coroner.	Noted.
b)	Wollondilly Shire Council and the land owner will be notified of the find.	Noted.
c)	Aboriginal stakeholders will be notified of the find.	Noted.
d)	OEH NSW will be notified.	Noted.
6.	If the skeletal remains are of Aboriginal ancestral origin an appropriate management strategy will be developed in consultation with the Aboriginal stakeholders.	Noted.
7.	The find will be recorded in accordance with the National Parks and Wildlife Act 1974 (NSW) and the NSW NPWS Aboriginal Cultural Heritage Standards and Guidelines Kit.	Noted.

Volume 1 – General		
Relevant Provisions		**Comment**
8.	The findings will be incorporated into any proposed Aboriginal Heritage Plan's management regime.	Noted.
Part 8 – Flooding		
8.2 Controls (refer to DCP for further details of controls)		
	There are a number of areas in Wollondilly Shire which are subject to inundation by flooding or overland stormwater flows. If Council has any doubts as to whether an area is flood prone or subject to stormwater inundation it will require a report as to the extent of flooding from a suitably qualified Engineer or Surveyor. Controls for flood affected land are identified in Table C and applied based on the combination of land use category (refer to Table A) and flood risk precinct for the site (refer table B or further information may be available from Council via an application for flood information). Table C and the associated Key provides development controls which apply to flood affected land including overland flow flooding unless a Current Floodplain Risk Management Plan provides site specific controls.	N/A – the subject site is not mapped as being affected by flood prone lands.
Part 9 – Environmental protection		
9.3 Controls		
1.	Development carried out on areas mapped as 'sensitive land' on the Natural Resources – Biodiversity Map and the Natural Resources Water Map under Wollondilly Local Environmental Plan, 2011 shall occur so as to either avoid, minimise or mitigate any adverse impact as detailed in Clause 7.2 and 7.3 of Wollondilly Local Environmental Plan 2011.	N/A – the proposed development is not located on subject sites which are mapped as sensitive land under the Wollondilly Local Environmental Plan 2011.
2.	If a development is not able to avoid, minimise or mitigate an adverse impact on sensitive land mapped on the Natural Resources Biodiversity Map, the vegetation shall not be cleared or otherwise disturbed unless the impacts are offset through biobanking or a similar conservation arrangement.	
3.	The consent authority shall not grant consent to any development that would result in the clearing or other disturbance of an environmental asset unless it is satisfied that any adverse impacts will be offset through bio banking or a similar environmental conservation arrangement.	
4.	Any development application on a site that includes sensitive land mapped on the Natural Resources – Water map under Wollondilly Local Environmental Plan, 2011 with a riparian buffer distance, must include an accurate survey of riparian buffer distances to determine the exact location of the buffer which is to be measured from the top of bank of each side of the watercourse. It should be noted that the LEP maps are indicative and based on watercourse	

Volume 1 – General		
Relevant Provisions		**Comment**
	centre lines. These maps do not identify the location of the top of banks of watercourses as it is not the intent of the map to show this and the position of watercourse centre lines shown is only approximate. The map seeks to identify what buffer distance is to be applied to each watercourse and not the extent of that buffer on the ground.	
5.	All stormwater generated from any development shall be treated to an acceptable standard to maintain water quality. In determining the "acceptable standard" the consent authority shall be mindful of the relevant guidelines of the State and Federal Governments. This treatment must be undertaken outside any areas mapped as sensitive land in the Natural Resources – Water map under Wollondilly Local Environmental Plan, 2011.	
6.	Nothing in this section prevents minor works on environmental land for the purposes of providing infrastructure.	
7.	Where a development is proposed on sites which do not contain areas mapped on the Natural Resources Water or Natural Resources Biodiversity maps and contain native vegetation, the development shall be located in accordance with the following (in order of preference):	
i)	on cleared parts of the site wherever possible; or	N/A – the proposed development is not located on subject sites which are mapped as sensitive land under the Wollondilly Local Environmental Plan 2011.
ii)	in locations where the least amount of vegetation removal would be required (e.g. close to roads) if the development is not able to be located wholly in a cleared area; or	
iii)	If the development is not able to be located wholly in a cleared area, then the development should be located on parts of the site in which the vegetation is determined as being of the least significance and recovery potential.	
	This includes consideration of vegetation removal for any main buildings, ancillary buildings, asset protection zones, effluent disposal areas and access driveways that may be required for the development.	
8.	In cases where native vegetation removal is required a flora and fauna report from an appropriately qualified ecologist may be required to satisfy compliance with any of the controls listed above.	The applicant submitted the following documents in order to demonstrate compliance with the above: • Biodiversity Development Assessment Report (BDAR) • Watercourse Assessment • The Aquatic Ecology Dam Dewatering Report The identified documents have been prepared by suitably qualified persons.
Part 10 – Tree Removal		
10.5 Trees/other native vegetation that may be removed only with development consent (refer to DCP for further details of controls)		

Volume 1 – General		
	Relevant Provisions	**Comment**
	This clause provides that any tree or native vegetation removal which cannot be carried out as exempt development under clause 10.3 of this volume or by obtaining a permit under clause 10.4 of this volume may only be removed with development consent.	Consent is sought for the removal of trees, this is supported by a BDAR.
Part 11 – Landscaping		
11.2 Recommended Species (refer to DCP for further details of controls)		
	This clause contains a list of recommended plant species for the various localities in the Shire.	Noted
11.3 Banned Species		
	The following species are not to be used in landscaping within Wollondilly: ▪ Conifers, ▪ Species specified in Clause 10.3(1)(a) of this volume, ▪ Species identified as Noxious Weeds under the Noxious Weeds Act, ▪ Species identified as a weed under any adopted policy of Council.	Noted
11.4 Street Trees		
	Street tree planting must comply with the Council's Tree Risk Management Plan.	Noted
Part 12 – Signage		
12.2 Signage as exempt development		
1.	To be an exempt advertising structures under Schedule 2 of Wollondilly Local Environmental Plan, 2011, the structure must:	
a)	Not be located within a road reserve; and	No Signage has been proposed as part of this development application.
b)	Be a fixed sign; and	
c)	In the case of a sign attached to a building have no part of the sign higher than the part of the building on which it is attached; and	
d)	Not be located within 100m of a heritage item or a heritage conservation area	
e)	No be located within 100m of a classified road; and	
f)	Be designed and installed in accordance with the requirements of a professional engineer; and	
g)	Not be used for the promotion or advertising of any product or business other than a business operation from the site on which the structure is located; and	
h)	Not be used for the promotion or advertising of any sex services premises, brothel or restricted premises; and	
i)	Must not be illuminated; and	
j)	Be the one and only advertising structure on the lot constructed as exempt development under this schedule.	

(a)(iiia) Any planning agreement that has been entered into under Section 7.4, or any draft planning agreement that a developer has offered to enter into under Section 7.4.

No planning agreement have been entered into nor is one in draft form.

(a)(iv) The Regulations

The Regulations do not prescribe any additional matters that are relevant to the proposed DA.

(1)(b) The likely impacts of the proposed development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Key matters for consideration when considering the development's potential impact on the natural and built environment are deemed to be as follows:

Context and Setting

The development proposal is located on land that is both rural and residential zone and as such was previously used for residential/agricultural/rural related purposes. On 22 March 2019, a Site Compatibility Certificate was issued for the rurally zoned lands.

As part of Schedule 1 of the SCC, the Sydney Western City Panel determined that the site was suitable for "*a (maximum 120-bed residential care facility and (maximum) 220 serviced and self-care units with a maximum floor space ratio of 0.2:1 and a maximum building height of 9m (two storeys)"*. This development application is only for 214 serviced and self-care units.

A landscape masterplan has been created for the site which seeks to aid in the softening of the proposed development along sensitive boundaries, create a variety of green open spaces in key locations all linked by pedestrian paths and provide street tree network that uses a range of native plants to create sensitive transition between the Town Centre and to adjoining rural residential developments.

It is noted that the proposed development is located within close proximity to Tahmoor Inn Hotel, as such acoustic measures are proposed to implement which will provide appropriate acoustic barriers to prevent adverse impacts to residents from noise. The acoustic report has been endorsed by Councils Environmental Health Officer accordingly.

Therefore, it can be concluded that the proposal is consistent with the emerging context and setting of the site in that it has been designed with a sensitive interface to the existing surrounding community and that the proposal incorporates features of a garden setting to ensure a high-quality landscape outcome for the site.

Access and Traffic Impacts

The proposed internal road network is appropriate with regards to internal access which has also considered both Garbage trucks and Emergency Response Vehicles (including fire trucks).

The proposal includes appropriate local roads upgrades and intersection treatments that accommodate future traffic generated by the development. TfNSW have reviewed the proposed road network and raised no objections subject to satisfactory arrangements agreed to by Council's Engineers. The design of internal roads complies with Council's engineering specifications.

The development delivers pedestrian pathways to the Tahmoor Town Centre and through the development.

Construction vehicle access will be managed through a Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control to be submitted and approved prior to the issue of a Construction Certificate for each stage.

Social and Economic Impacts

It is anticipated that the development will contribute to the wider choice of housing available in the Wollondilly Local Government Area and would provide a tangible social benefit. The scale and density of the development respects the identified desired planning outcome as detailed in the staging plan and completion, the development will provide:

- 214 self-contained dwellings – restricted for residents 55 years and older;
- Clubhouse for residents;
- Pool House for residents;
- Intersection upgrades between Rockford Road and Remembrance Drive; and
- Bus Shelters (One on Rockford Road and One on Remembrance Drive);

Consultation with relevant infrastructure service providers during the assessment has ensured that the required infrastructure can be made available to service the proposed development.

The development is therefore considered to present positive social and economic impacts to meet the needs of its future residents.

(1)(c) The suitability of the site

The proposed development has adequately addressed the key concerns including traffic, waste water, tree removal/landscaping and accessibility. In addition, the layout of the proposed Seniors Living development and its location are within proximity of the existing local centre amenities of Tahmoor. The proposed development is considered compatible with surrounding and adjoining land uses and the site is suitable for the proposed development.

(1)(d) Any submissions made in accordance with this Act or the Regulations.

The Development Application was advertised for a period of 30 days from 23 January 2020 to 21 February 2020. One (1) submission was received.

Issued Raised	Comment
Dam Dewatering *The loss of the dam means the loss of habitat for Long-Necked Tortoises, Native Birds, Insects, Crustaceans, Kangaroos, Wallabies, Possums, Gliders and Bats. Additionally The loss of the dam removes the emergency water source for fire fighting and emergency safety place for Humans and Wildlife during fires.*	An investigation into the Dam in the south-east corner of the subject sites has been submitted, Council's Environment Officer supported the report and an appropriate condition of consent will be imposed. This has been considered as part of the assessment.
Bargo River National Park *This development is very close to the proposed Bargo River National Park. The temporary on-site effluent system though better than not having one*	All waste water management will be serviced on site for stage 1 – 4B with connection to Sydney Water sewerage system for stage 5-9. Council's Environmental Health Officer raised no concerns in this regard. It is noted that the Bargo River National Park is located approximately 1250m to the south, 900m to the east and 800m to the west.

maybe a risk during floods, torrential rain and fires to the Bargo River.	The subject sites are not mapped as being Flood affected land or Bushfire prone land.
Density *The density of the development is out of character with the surrounding properties.*	The proposed development is an increase in density however the Sydney Western City Planning Panel issued a SCC for the subject allotment and considered the increased density appropriate.
Tree Removal / Flora and Fauna *The removal of native trees and vegetation from the site will damage the recovery of Fauna and Flora trying to recover from the Green Wattle Creek fire.* *The removal of the trees from the site will increase the heat for the area and for Residents thus effecting their health and welfare.*	The site has been historically cleared and where canopy remnants remain, most of this has been under scrubbed. A substantial area located in the north-east is planted with ornamental trees, shrubs and groundcovers. The remainder of the site comprises historically cleared native grassland. A significant portion of this area is recognised as being vegetation with poor structure and condition. The Biodiversity Impact Report has been submitted with the application, this has been supported by Council's Environmental Officer. Significant street trees and generous landscaping is proposed in an attempt to replace some of the removed trees.
Infrastructure Concerns. *With the rain, the water levels have risen in the catchment. But with the endless developments how long will the water last?* *With the number of developments coming in where is the infrastructure and services to cope? Where is the Hospital? Our Ambulance service is the same as it was twenty years ago. Where are the Medical services? We have a shortage of Doctors.* *How quickly can this development evacuate in an emergency? This development is very close to a recent fire. With endless developments it will take longer and longer for people to evacuate.* *Our Council cannot afford the on-going future costs of road*	The proposed development includes adaptive reuse of rainwater, through the capturing of rain water in tanks connected to each individual dwelling. The rainwater tanks are considered to meet Basix requirements. A number of Doctors are located within 400m of the subject sites, Services include: • Tahmoor Medical Centre • Tahmoor Family Medical Practice • Wollondilly Specialist Medical Centre • Wollondilly Total Care • Tahmoor Medical Imaging • National Hearing Care Tahmoor (Hearing aid store) • Connect Hearing • Hearing Australia Tahmoor • Gentle Dental Care Tahmoor • Cartwright Podiatry In addition to the above, more services are available approximately 600m from the subject sites, which will be accessed via a supplied private bus. The proposal is not located on bushfire prone land and will have evacuation guidelines in the proposed Management plan will be available, additionally NSW Fire and Rescue guidelines have been met

repairs and road replacements with endless developments. *The increased traffic.*	Council receives contributions from large scale developments such as these, the proposed development will have developer contributions levied to assist in Council's management of roads and services. The proposed development includes upgrades to the existing road network to manage any increases in traffic flows. This has been considered as part of the assessment conducted by Council's Engineers and Transport for NSW.

(1)(e) The public Interest

The public interest is served through the detailed assessment of this DA under *the Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2000*, Environmental Planning Instruments, Development Control Plan and policies.

That assessment has demonstrated that the proposed development has addressed the requirements of the relevant planning instruments and development controls including the objectives of the zone.

The proposed development has also demonstrated that the site is suitable for the development and that the proposal is in the interest of the public.

6. CONCLUSION

The proposed development has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments, plans and policies. It is recommended the Clause 4.6 variation should be supported because it demonstrates that the strict compliance with the 8 metre standard is both unreasonable and unnecessary in this circumstance.

7. RECOMMENDATION

It is recommended that the Panel, as the consent authority, grant development consent to DA/2019/719/1 for the staged development of a Seniors Living Development comprising 214 self-contained dwellings and associated works pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979 subject to the conditions contained in Attachment 19 of this report.