

## COUNCIL ASSESSMENT REPORT

### WESTERN REGIONAL PLANNING PANEL

<b>PANEL REFERENCE AND DA NUMBER</b>	PPSWES-211 – DA157/23
<b>PROPOSAL</b>	Group Home (Transitional) with associated community facilities
<b>ADDRESS</b>	Lot 26 & 27 DP 1022160, 4-6 Hepburn Street LITHGOW NSW 2790
<b>APPLICANT</b>	Housing Plus Pty Ltd
<b>OWNER</b>	Housing Plus Pty Ltd
<b>DA LODGEMENT DATE</b>	5 October 2023
<b>APPLICATION TYPE</b>	Integrated Development Application
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Clause 5(b) of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as: Group Home and Community Facility
<b>CIV</b>	\$5, 235, 000.00 (excluding GST)
<b>CLAUSE 4.6 REQUESTS</b>	N/A.
<b>KEY SEPP/LEP</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Planning Systems) 2021,</li> <li>• State Environmental Planning Policy (Biodiversity &amp; Conservation) 2021,</li> <li>• State Environmental Planning Policy (Planning Systems) 2021,</li> <li>• State Environmental Planning Policy (Resilience &amp; Hazards) 2021,</li> <li>• State Environmental Planning Policy (Housing) 2021;</li> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021,</li> <li>• Lithgow Local Environmental Plan 2014 (LLEP2014) and</li> <li>• The Lithgow Development Control Plan 2021.</li> </ul>
<b>TOTAL AND UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS</b>	The development was publicly notified in accordance with the Lithgow Community Participation Plan 2020 (CPP) and the provisions of Environmental Planning and Assessment Regulations 2021 (EP&A Regulation). The notification period was for a minimum of 28 days from 28 October 2023 to 24 November 2023 and re-notified for an additional 18 days duration from 6 June 2024 to 24 June 2024 due to a redesign of the development.

	<p>During the notification period Seven (7) submissions by way of objection were received.</p> <p>The key issues involve:</p> <ul style="list-style-type: none"> <li>• Safety,</li> <li>• Noise,</li> <li>• Setback requirements,</li> <li>• Privacy and verlooking Impacts,</li> <li>• Private open space area and location,</li> <li>• Car and bicycle parking,</li> <li>• Building size and layout,</li> <li>• Building height,</li> <li>• Bushfire protection,</li> <li>• Traffic impacts,</li> <li>• Property values,</li> <li>• Light pollution,</li> <li>• Scale and character,</li> <li>• Incompatible use,</li> <li>• Waste management,</li> <li>• Fencing and easement impacts.</li> </ul>
<b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>	<ul style="list-style-type: none"> <li>• Architectural Plans; Housing Plus, dated 23/05/2024, Rev I,</li> <li>• Bushfire Report; Statewide Bushfire Consulting, dated 21/08/2023, vers 1.1,</li> <li>• Civil Engineering Plans; Barnson PTY LTD, dated 13/05/2024, Rev D,</li> </ul> <p>Report on Mine Subsidence Investigation, Regional Douglas Partners, 5/08/2024</p>
<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)</b>	The site is not located in an area that Special Infrastructure Contributions (SIC) apply.
<b>RECOMMENDATION</b>	Approval subject to conditions on the consent
<b>DRAFT CONDITIONS TO APPLICANT</b>	Yes
<b>SCHEDULED MEETING DATE</b>	24 September 2024
<b>PREPARED BY</b>	Lauren Stevens-Development Planner; Lithgow Council
<b>DATE OF REPORT</b>	11 September 2024

## EXECUTIVE SUMMARY

Housing Plus Pty Ltd (the Applicant) has lodged an application under DA157/23 for the development of a group home (transitional) with associated community facilities on land known as Lots 26 and 27 DP 1022160, 4-6 Hepburn Street, Lithgow.

The purpose of the application is to provide a safe haven for women and children escaping and recovering from domestic violence.

The development involves two (2) separate buildings; a single storey building and a two storey building.

The single storey building comprises a reception and waiting area, two consulting rooms, accessible bathroom, conference room and staff room.

The two storey building contains a communal space at the ground floor including communal living and dining space, kitchen, bathroom, storage, children's play area and a study nook. The ground floor also contains two independent living units, being a two bedroom unit (identified as Unit 5 on the floor plan) and a one bedroom unit (identified as Unit 6 on the floor plan). The second storey contains an additional four (4) independent living units, units identified as Units 1 and 4 on the floor plans are to contain two (2) bedrooms each and units identified as Units 2 and 3 on the floor plans are proposed to contain one (1) bedroom each.

Vehicular access is to be provided via a driveway from Hepburn Street, turning north-east into a parking area accommodating parking for six (6) vehicles including one accessible space. A ramp and stairway from the parking area is proposed to provide access to the communal area that includes landscaped areas, children's playground, BBQ facilities and access to the two buildings.

All of the units are proposed to have a north-west facing private open space area to facilitate casual surveillance of the site, as well as south-east-facing windows that enable views towards Lithgow and the hills beyond.

The site is made up of two battleaxe lots with a total area of 2,627m<sup>2</sup> and a combined frontage of 8 metres to Hepburn Street to the west. It is presently vacant with exception of some scattered vegetation.

Surrounding developments predominantly consists of single dwellings with a multi-dwelling development consisting of four (4) units to the south that has recently been constructed and additional multi dwellings adjoins the site to the north.

The development is located towards the south end of Hepburn Street that consists of a cul-de-sac at the end.

The site slopes down from Hepburn Street to the south-eastern corner and contains three metre-wide easements (water, sewer, drainage) along the eastern and southern boundaries.

The site is located in the R1 – General Residential zone pursuant to Clause 2.2 of the *Lithgow Local Environmental Plan 2014* (LEP 2014). Group homes and community facilities are permissible with consent in the R1 zone.

The principal planning controls relevant to the proposal include the State Environmental Planning Policy (Housing) 2021, the Lithgow Local environmental Plan 2014 and the Lithgow development Control Plan 2021.

The development is defined as being ‘integrated development’ under Section 4.46 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and pursuant to Section 100B of the *Rural Fires Act 1997* and Section 22 of the *Coal Mine Subsidence Compensation Act 2017*. The development was further referred to WaterNSW as a concurrence authority as per Section 4.13 of the EP&A Act and Endeavour Energy under Section 2.48 – *State Environmental Planning Policy (Transport and Infrastructure) 2021* as the development is near electrical infrastructure.

The development is defined as being ‘Regional Development’ as per Clause 5(b) Schedule 6 of the *State Environmental Planning Policy (Planning Systems) 2021* (PS SEPP) – Private infrastructure and community facilities over \$5 million. As such, the Central West Regional Planning Panel (the Panel) is the consent authority for the application.

The main planning instruments, approvals and guidelines that are relevant to the proposal include:

- State Environmental Planning Policy (Biodiversity & Conservation) 2021,
- State Environmental Planning Policy (Planning Systems) 2021,
- State Environmental Planning Policy (Resilience & Hazards) 2021,
- State Environmental Planning Policy (Housing) 2021,
- State Environmental Planning Policy (Transport and Infrastructure) 2021,
- Lithgow Local Environmental Plan 2014 (LLEP2014) and
- The Lithgow Development Control Plan 2021.

Several pre-conditions/jurisdictional prerequisites are required to be satisfied before the granting of consent. These are listed in the following table and are considered to have been satisfactorily addressed by the documentation submitted.

State Environmental Planning Policy (Biodiversity & Conservation) 2021	<p>Chapter 2 Vegetation in non-rural areas</p> <ul style="list-style-type: none"> <li>• <b>Clause 2.6</b> - Clearing that requires a permit or approval states:  <i>(1) a person must not clear vegetation in any non-rural area of the State without the authority confirmed by a permit granted by the council.</i></li> </ul> <p>Chapter 6: Water Catchments</p> <ul style="list-style-type: none"> <li>• <b>Clause 6.64</b> - provides that the concurrence of the Regulatory Authority is required.</li> </ul>
State Environmental Planning Policy (Planning Systems) 2021	<p>Schedule 6: Regionally Significant Development</p> <ul style="list-style-type: none"> <li>• <b>Clause 5:</b> Private infrastructure and community facilities over \$5 million</li> </ul>
State Environmental Planning Policy (Resilience & Hazards) 2021	<p>Chapter 4: Remediation of Land</p> <ul style="list-style-type: none"> <li>• <b>Clause 4.6</b> - Contamination and remediation to be considered in determining development applications</li> </ul>
State Environmental Planning Policy (Housing) 2021	<p>Chapter 3: Diverse Housing</p> <p>Part 2 – Group Homes - Subsection 61(1) provides that development for the purposes of a group home may be carried out without consent if it does not contain more than ten bedrooms within one or more group homes on a site and if it is carried out by or on behalf of a public authority. Otherwise, it requires consent.</p>

State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2: Infrastructure <ul style="list-style-type: none"> <li>• <b>Clause 2.48(2)</b> - (Determination of development applications - other development) – electricity transmission</li> </ul>
Lithgow Local Environmental Plan 2012 (LLEP2014)	<ul style="list-style-type: none"> <li>• <b>Clause 2.3</b> – Zone Objectives and Land Use Table</li> <li>• <b>Clause 7.1</b> – Consideration of earthworks</li> <li>• <b>Clause 7.3</b> – Stormwater management</li> <li>• <b>Clause 7.10</b> Essential services</li> </ul>
The Lithgow Development Control Plan 2021 (LDGP2021)	<ul style="list-style-type: none"> <li>• <b>Chapter 2</b> – Site Requirements</li> <li>• <b>Chapter 3</b> – Environment and Hazards</li> <li>• <b>Chapter 6</b> – Residential</li> </ul>

The application was placed on public exhibition from 28 October 2023 to 24 November 2023 and re-notified for an additional 18 day duration from 6 June 2024 to 24 June 2024 due to a redesign of the development. During the first notification period seven (7) submissions by way of objection were received, with four (4) submissions received from within the original objectors during the second notification period.

The submissions over both notification periods raised the following issues:

- Safety,
- Noise,
- Setback requirements,
- Privacy and overlooking impacts,
- Private open space area and location,
- Car and bicycle parking,
- Building size and layout,
- Building height,
- Bushfire protection,
- Traffic impacts,
- Property values,
- Light pollution,
- Scale and character,
- Incompatible use,
- Waste management,
- Fencing and easement impacts.

These issues are considered further in this report.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(b) of the *EP&A Act*, DA157/23 is recommended for approval subject to conditions contained at Attachment A of this report.

## 1. THE SITE AND LOCALITY

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### 1.1 The Site

The subject property is Lot 26 & 27 DP 1022160, 4-6 Hepburn Street, Lithgow.



**Figure 1: Aerial Image of the development site, 2024**

The subject site comprises two (2) battle-axe lots with a total area of 2,627 metre square. The site has a single street frontage of eight (8) metres to Hepburn Street to the west, leading to a 48 metre long east-west access handle situated between 2 Hepburn Street on the southern side and 8 Hepburn Street on the northern side of the handle.

The southern part of the property (adjoining the proposed driveway) is shared with the rear of 2 Hepburn Street, occupied by a recently constructed multi dwelling housing development comprising of four units approved under DA096/2020. The northern part is shared with the rear of 8 and 10 Hepburn Street, both of which are occupied by detached, single storey dwelling houses.

The northern side boundary is shared with 10 Wilton Close, occupied by a recently constructed multi dwelling housing development comprising five dwellings within a battle-axe lot.

The southern side boundary (of the built development site) adjoins a vacant lot, with the exception of the south-western corner that is occupied by the Lithgow & District Community Nursery.

The eastern, rear boundary is shared with the rear of 8 and a minor portion of 9 Wilton Close. The site slopes down from its Hepburn Street to the south-eastern corner. It is presently grassed, contains a small number of shrubs/trees and does not contain any built form. Three metre-wide easements (water, sewer, drainage) run along the site's eastern and southern boundaries.



**Figure 2:** *Photo of the property from Hepburn Street showing the driveway access and adjoining developments, 7 August 2024*



**Figure 3:** *Photo of the building site from the driveway facing East, 7 August 2024*



**Figure 4:** *Photo of the building development site from the driveway to the North East (proposed carpark location), 7 August 2024*



**Figure 5:** *Photo of the driveway location from the development site to the West towards Hepburn Street, 7 August 2024*

## 1.2 The Locality

The site's local context is defined by Ivatt Street and Sandford Avenue to the east, Coalbrook Street to the south, densely vegetated hills leading up to Marrangaroo to the west and north. Lithgow Main Street is located within close proximity to the south-east of the site, being approximately 900 metres.

Development within the locality is predominately characterised by single storey dwelling houses on lots of varying size. Higher density forms of housing include a pair of semi-detached dwellings within a battle-axe lot at 14A and 14 Wilton Close, multi-dwelling housing comprising five (5) units at 10 Wilton Close and multi-dwelling housing comprising four (4) units at 2 Hepburn Street.

Dwelling houses in the locality are characterised by single storey brick construction with pitched, tiled or metal roofs. The more recently constructed multi dwelling housing developments are of a single storey (10 Wilton Close) and two storeys (2 Hepburn Street), have concrete construction and skillion metal roofs.



**Figure 6:** *Photo of the adjoining multi dwelling housing development at 2 Hepburn Street, 7 August 2024*

## 2. THE PROPOSAL AND BACKGROUND

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### 2.1 The Proposal

The application is seeking consent for the development of a group home with associated community facilities.

The purpose of the application is to provide a safe haven for women and children escaping and recovering from domestic violence.

The development involves two (2) separate buildings; a single storey building and a two storey building.

The single storey building comprises a reception and waiting area, two consulting rooms, accessible bathroom, conference room and staff room.

The two storey building contains a communal space at the ground floor including communal living and dining space, kitchen, bathroom, storage, children's play area and a study nook. The ground floor also contains two independent living units, being a two bedroom unit (identified as Unit 5 on the floor plan) and a one bedroom unit (identified as Unit 6 on the floor plan). The second storey contains an additional four (4) independent living units, units identified as Units 1 and 4 on the floor plans are to contain two (2) bedrooms each and units identified as Units 2 and 3 on the floor plans are proposed to contain one (1) bedroom each.

Vehicular access is to be provided via a driveway from Hepburn Street, turning north-east into a parking area accommodating parking for six (6) vehicles including one accessible space. A ramp and stairway from the parking area is proposed to provide access to the communal area that includes landscaped areas, children's playground, BBQ facilities and access to the two buildings.

All of the units are proposed to have a north-west facing private open space area to facilitate casual surveillance of the site, as well as south-east-facing windows that enable views towards Lithgow and the hills beyond.

**Table 1: Development Data**

Control	Proposal
Site area	Lot 26- 1383m <sup>2</sup> , Lot 27- 1242m <sup>2</sup> . Overall total area: 2625m <sup>2</sup> .
GFA	•Communal Internal Area – 141.05m <sup>2</sup> , •Core Internal Area – 112.85m <sup>2</sup> , •Storage Internal Area – 17.27m <sup>2</sup> , •U1-Internal Area – 83.69m <sup>2</sup> , •U2-Internal Area – 62.88m <sup>2</sup> , •U3-Internal Area – 62.88m <sup>2</sup> , •U4-Internal Area – 83.69m <sup>2</sup> , •U5-Internal Area – 73.80m <sup>2</sup> , •U6-Internal Area – 52.99m <sup>2</sup> .  Total Internal Area – 691.10m <sup>2</sup> .

FSR (retail/residential)	Internal communal and storage areas – 271.17m <sup>2</sup> , Internal residential area – 419.93m <sup>2</sup> .
Clause 4.6 Requests	N/A.
No of units	Six (6)
Max Height	Double storey Building – 7.95m Single storey building – 4.2m
Landscaped area	<ul style="list-style-type: none"> <li>• Residue Landscape Area – 922.08m<sup>2</sup>,</li> <li>• Soft Landscape Area – 125.48m<sup>2</sup>,</li> <li>• Yarning Circle – 62.64m<sup>2</sup>.</li> </ul> <p>Total Landscaped Areas – 1,110.20m<sup>2</sup> (42.3%).</p>
Car Parking spaces	6 Vehicle spaces including 1 accessible space
Setbacks	<ul style="list-style-type: none"> <li>• Driveway – approximately 50m in length from Hepburn Street,</li> <li>• Carpark &amp; Retaining Wall- 1m from side north-western and north-eastern boundaries,</li> <li>• Rear eastern Setback- 3.3m from single storey building corner.</li> </ul>
Material	<ul style="list-style-type: none"> <li>• First floor and single storey building – brick walls,</li> <li>• Second Storey – Avon cladding,</li> <li>• Roof – Colourbond.</li> </ul>

Council raised concerns with the applicant regarding the original architectural plans submitted 10 September 2023, and subsequently amended 20 October 2023 and 24 May 2024.

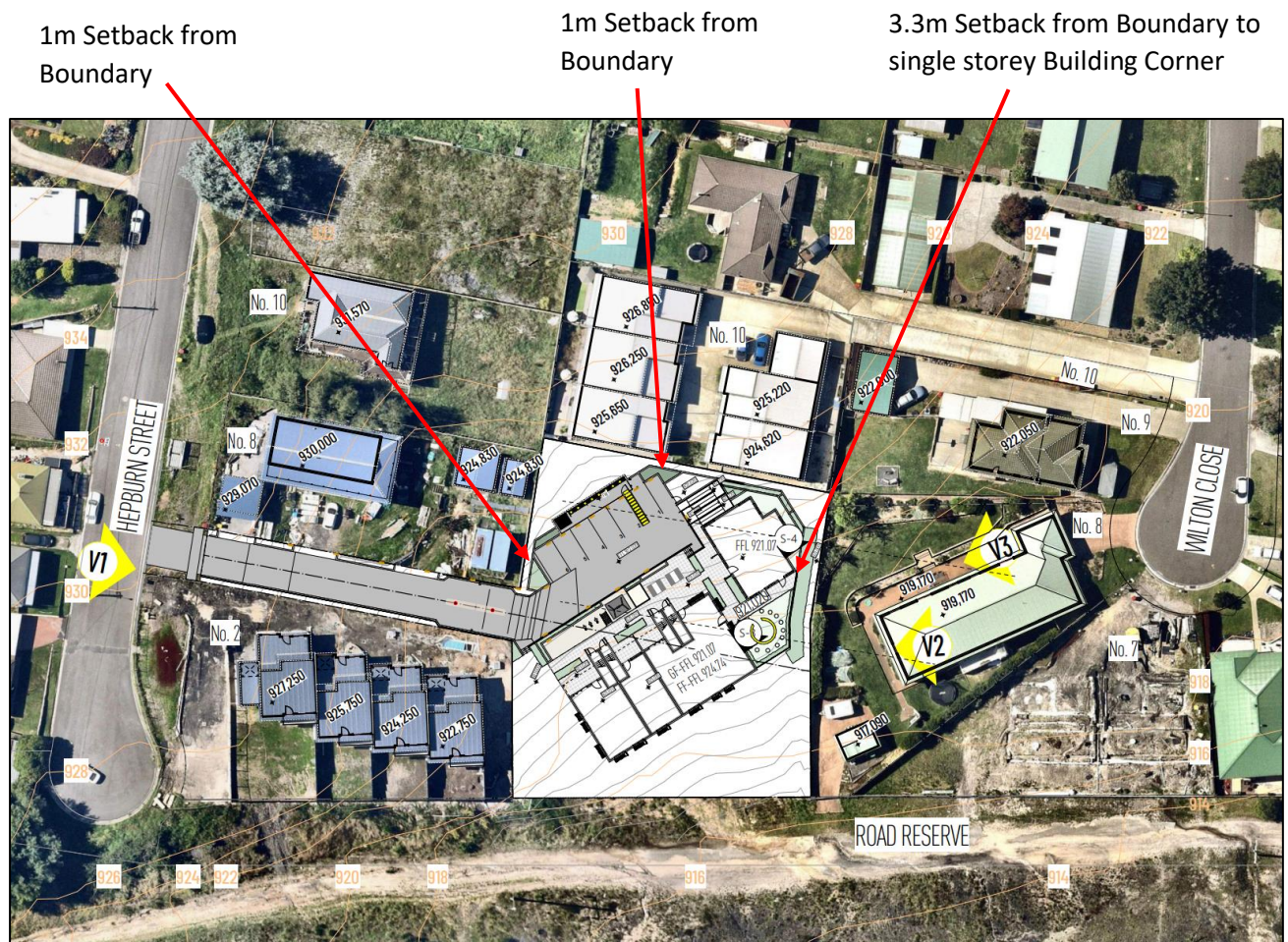
The concerns raised included:

- Building height,
- Setbacks,
- Size and layout,
- Private open space areas,
- Storage and
- Bicycle parking,

Plans were submitted by the applicant, dated 24 May 2024, showing the window sizes to be reduced in scale, relocation of garbage bin location, additional landscaping and vegetation, modification to the driveway for fire truck access, louvre screening on windows, window sills reduced in size, bicycle parking and storage area.

The most recent plans dated 27 August 2024, shows colorbond fencing around the boundary and privacy screen around the “yarning circle”.

A briefing meeting was held with the Western Region Planning Panel on 27 August 2024, with a recommendation for a full report at the determination meeting.



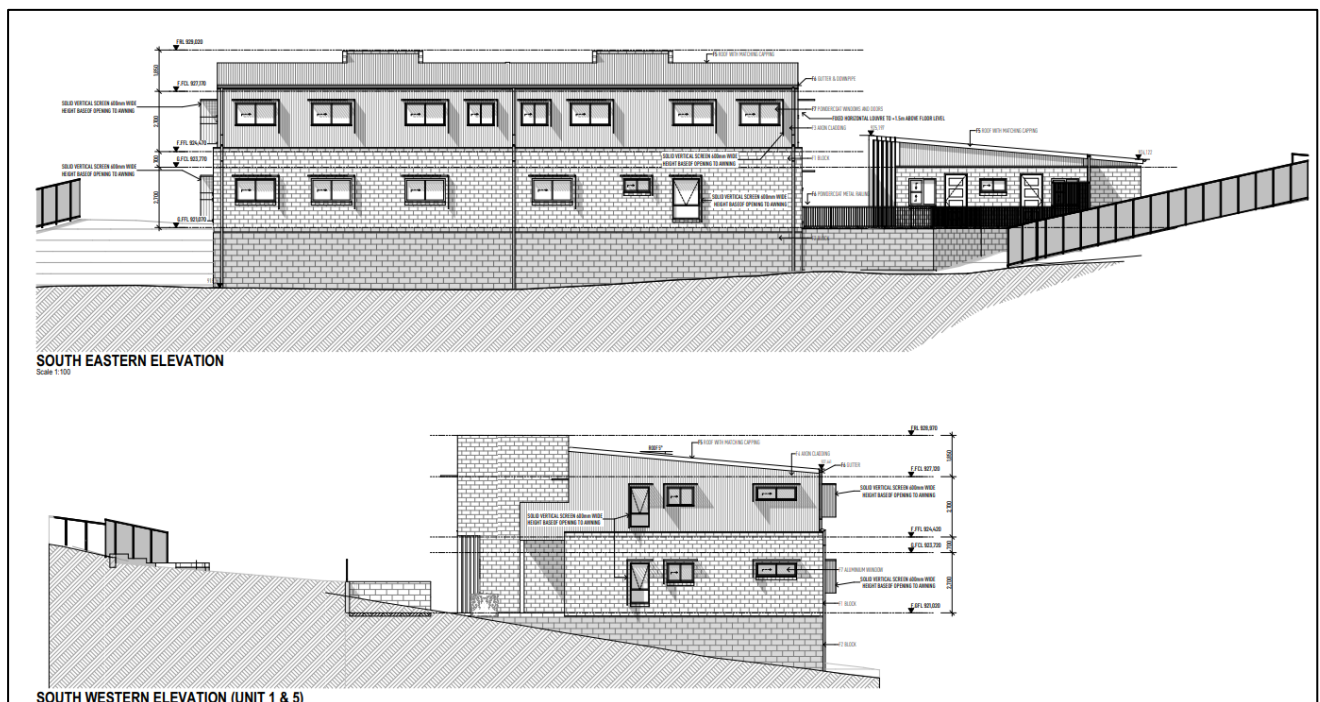
Plan 1: Site Plan showing the setbacks from boundaries, 23 May 2024



Plan 2: Elevation Plan of the development, 23 May 2024



Plan 3: Elevation Plan of the development, 23 May 2024



Plan 4: Elevation Plan of the development, 23 May 2024

## 2.2 Background

A pre-lodgement meeting, with a preliminary design of the development was held prior to the lodgement of the application on 12 May 2023 where various issues were discussed. A summary of the key issues is outlined below:

- Characterisation of the development,
- Access requirements,
- Stormwater,
- Construction certificate requirements,
- Documents to be submitted with the development application,
- Waste management of the site,
- Lighting,
- Bushfire,
- Lot consolidation,
- Compliance with the Development Control Plan 2021.

The development application was lodged on 5 October 2023. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

**Table 2: Chronology of the DA**

<b>Date</b>	<b>Event</b>
<b>5 October 2023</b>	DA lodged
<b>6 October 2023</b>	Request for Information from Council to the applicant for a copy of the Statement of Environmental Effects.
<b>10 October 2023</b>	Request for Information from Council to the applicant for a copy of the Statement of Environmental Effects.
<b>16 October 2023</b>	Request for Information from Council to the applicant for a copy of the Statement of Environmental Effects, re-upload driveway/access plan.
<b>20 October 2023</b>	Statement of Environmental Effects uploaded into the Planning Portal by the applicant.
<b>20 October 2023</b>	Amended Plans received from the applicant addressing: 1) Amended Architectural Design Plans, 2) Statement of Environmental Effects,
<b>25 October 2023</b>	Exhibition of the application to surrounding properties and to External Government Authorities.
<b>26 October 2023</b>	MUSIC Model and Driveway/Access Plan uploaded into the Planning Portal by the applicant.
<b>26 October 2023</b>	Amended Plans received from the applicant addressing: 1) Civil Design Plans
<b>21 November 2023</b>	Request for Information from Subsidence Advisory to the applicant for a Geotechnical Investigation to be undertaken.

<b>22 November 2023</b>	Request for Information from Council to the applicant relating to Subsidence Advisory information.
<b>5 December 2023</b>	WaterNSW Concurrence received.
<b>18 December 2023</b>	Request for Information from Council to the applicant addressing: 1) Characterisation of the development, 2) Requirements of the Lithgow Development Control Plan 2021, 3) Operational Plan of Management, 4) Waste Management Plan, 5) Lot Consolidation, 6) Site Survey Plan, 7) Site Plan, 8) Overlooking/Privacy Impact, 9) Fencing, 10) Submissions, 11) Subsidence Advisory Requirements,
<b>19 December 2023</b>	NSW Rural Fire Service Integrated Development received.
<b>14 February 2024</b>	Request for Information from Council to the applicant due to incorrect plans/documentation previously being uploaded.
<b>14 February 2024</b>	Amended Plans received from the applicant addressing: 1) Amended Architectural Design Plans, 2) Flood Impact Assessment, 3) Landscape Plan, 4) Structural Engineering Plans for slab and driveway
<b>24 May 2024</b>	Amended Plans received from the applicant addressing: 1) Amended Architectural Design Plans detailing- <ul style="list-style-type: none"> <li>• Community concerns ie. landscaping and privacy,</li> <li>• Engineering details,</li> <li>• Minor window design change,</li> </ul> 2) Coal Mining Investigation Report, 3) Operations Manual for the facility, 4) Site Survey Plans, 5) Waste Management Plan, 6) Response to Council's Information Letter dated 18 December 2023,
<b>6 June 2024</b>	Re-referred to NSW Subsidence Advisory Board and second exhibition of amended plans.
<b>18 June 2024</b>	Request for Information from Subsidence Advisory to the applicant for an amended Geotechnical Investigation to be undertaken.

<b>3 July 2024</b>	Additional submissions emailed to applicant from Council's GIPA Officer.
<b>16 July 2024</b>	Request for Information from Council to the applicant relating to an amended Geotechnical Investigation for Subsidence Advisory information.
<b>30 July 2024</b>	Amended Civil Engineering Plans submitted by the applicant.
<b>5 August 2024</b>	Mine Subsidence Report submitted by the applicant.
<b>21 August 2024</b>	Request for Information from Council to the applicant relating to classification on amended plans to address the second round of community concerns and community contribution.
<b>27 August 2024</b>	Panel Briefing.
<b>29 August 2024</b>	Amended plans lodged by the applicant showing community concerns being addressed.

### 2.3 Site History

The property was subdivided for residential purposes as per DA200/93, subdivision plan registered in 1997.

The site has since been vacant with no building structures.

## 3. STATUTORY CONSIDERATIONS

### 3.1 Relevant Commonwealth Legislation

Environment Protection and Biodiversity Conservation Act 1999	No referral was necessary under the Environment Protection and Biodiversity Act 1999 (EPBC Act) as the proposal does not constitute a controlled action.
Native Title Act 1993	The subject site is not affected by any native title or Indigenous Land Use agreements under the provisions of the <i>Native Title Act 1993</i> (NT Act) and its associated registers (The National Native Title Register, the Register of Native Title Claims and the Register of Indigenous Land Use Agreements).

### 3.2 Relevant State (NSW) Legislation

In addition to the Environmental Planning and Assessment Act 1979, the following State (NSW) legislations have been considered. Where relevant, further detailed assessment of the proposed development against the various Acts have been included throughout this report.

Biodiversity Conservation Act 2016 (BCAct)	Whilst the site contains some scattered vegetation, it does not form part of a biodiversity corridor and is located in a
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	highly disturbed urban context. Accordingly, removal of the existing vegetation is unlikely to affect threatened species or ecological communities or their habitats according to the test in Section 7.3 and a BDAR is not required.
National Park and Wildlife Act 1974 (NP&WAct)	An AHIMS search did not identify any places of Aboriginal significance on the site or associated with the site.
Roads Act 1993 (Roads Act)	<p>The development does not require road work on Hepburn Street (Council Road), except for the opening of the driveway.</p> <p>The development is not located within proximity to any Highways, Regional or State Roads. As such referral to Transport for NSW is not required.</p>
Contaminated Land Management Act 1997 (CLMAAct)	Council is satisfied that the land is not contaminated as the property has been utilised as vacant land with residential purposes surrounding the property. The location of the development has not previously, and is not currently, being used by any activities as specified under Table 1 of the contaminated land planning guidelines.
Protection of the Environment Operations Act 1997 (POEOAct)	The proposal does not trigger the requirement for an Environmental Protection Licence under the POEO Act.
Crown Land Management Act 2016 (CLMAAct)	The proposal does not impact any Crown Land.
Water Management Act 2000 (WMAAct)	Water NSW has provided concurrence to the development subject to conditions of consent.
Biosecurity Act 2015 (Biosecurity Act)	The development is located within an urban area and therefore does not trigger the Biosecurity Act.
Conveyancing Act 1919	<p>The property contains easements and restrictions on the title as per the Act.</p> <p>The easements show a right of carriageway (burdens and benefits Lots 26 and 27) that will be abolished as part of the application. The water, sewer and drainage easement along the southern boundary will not be impacted by the development. The easement along the rear is 3m wide with the single storey building to be setback 3.3m from the boundary. As such the easements will not be impacted upon.</p>

### 3.3 Part 4 Environmental Planning and Assessment Act, 1979

#### **Matters for Consideration – General (Section 4.15)**

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
  - (i) *any environmental planning instrument, and*
  - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
  - (iii) *any development control plan, and*
  - (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, and*
  - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
- (b) *that apply to the land to which the development application relates, the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

#### **Integrated Development (Section 4.46)**

The development is identified to be integrated development with regard to Section 4.46 -Rural Fires Act 1997.

#### **Local Infrastructure Contributions (Sections 7.12)**

Section 7.12 of the Act states:

##### ***7.12 Fixed development consent levies***

*(1) A consent authority may impose, as a condition of development consent, a requirement that the applicant pay a levy of the percentage, authorised by a contributions plan, of the proposed cost of carrying out the development.*

Council's Section 7.12 Development Contributions Plan 2015 applies to this development given it is for group home development at an estimated cost of \$5,235,000.00.

Estimated cost of development	Levy applicable
\$0 to \$100,000	0%
\$100,001 to \$200,000	0.5%
\$200,001 and over	1%

As such, the following condition shall form part of the Development Consent:

*Prior to the issue of a Construction Certificate the applicant shall pay to Council a Section 7.12 contribution of **\$52,350.00** in accordance with the Lithgow City Council Section 94A (Section 7.12) Development Contribution Plan 2015. It is advised that the level of contribution in this plan may be adjusted at the time of actual payment, in accordance with the provisions of the Lithgow City Council Section 94A Development Contribution Plan 2015.*

### **3.4 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations**

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

#### **(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

- State Environmental Planning Policy (Biodiversity & Conservation) 2021,
- State Environmental Planning Policy (Planning Systems) 2021,
- State Environmental Planning Policy (Resilience & Hazards) 2021,
- State Environmental Planning Policy (Housing) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021,
- Lithgow Local Environmental Plan 2014 (LLEP2014) and
- The Lithgow Development Control Plan 2021.

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

**Table 3: Summary of Applicable Environmental Planning Instruments**

<b>EPI</b>	<b>Matters for Consideration</b>	<b>Comply (Y/N)</b>
State Environmental Planning Policy (Biodiversity & Conservation) 2021	<u>Chapter 6: Water Catchments</u> The development site is located within the Sydney Drinking Water Catchment (SDWC). The development was referred to the Water NSW with a satisfactory response received.	Yes
State Environmental Planning Policy (Planning Systems) 2021	<u>Chapter 2: State and Regional Development</u> Section 2.19(1) declares the proposal to be regionally significant development under Clause 5 of Schedule 6.  <i>Clause 5: Private infrastructure and community facilities over \$5 million</i>  <i>(b) affordable housing, child care centres, community facilities, correctional centres, educational establishments,</i>	Yes

	<b>group homes, health services facilities or places of public worship.</b>	
State Environmental Planning Policy (Housing) 2021	Chapter 3: Diverse Housing Part 2 – Group Homes - Subsection 61(1) provides that development for the purposes of a group home may be carried out without consent if it does not contain more than ten bedrooms within one or more group homes on a site and if it is carried out by or on behalf of a public authority. Otherwise, it requires consent.	Yes
SEPP (Resilience & Hazards)	Council is satisfied that the land is not contaminated under Chapter 4 as the property has been utilises as vacant land with residential purposes surrounding the property. The location of the development has not previously or is currently being used by any activities as specified under Table 1 of the contaminated land planning guidelines.	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	<u>Chapter 2: Infrastructure</u> • Section 2.48(2) (Determination of development applications—other development) – electricity transmission - the proposal satisfies this section, subject to recommended conditions.	Yes
Lithgow Local Environment Plan 2014 (LLEP2014)	<ul style="list-style-type: none"> <li>• <b>Clause 2.3</b> – Zone Objectives and Land Use Table</li> <li>• <b>Clause 7.1</b> – Consideration of earthworks</li> <li>• <b>Clause 7.3</b> – Stormwater management</li> <li>• <b>Clause 7.10</b> Essential services</li> </ul>	Yes
Lithgow Development Control Plan 2021 (LDCP2021)	<ul style="list-style-type: none"> <li>• <b>Chapter 2</b> – Site Requirements</li> <li>• <b>Chapter 3</b> – Environment and Hazards</li> <li>• <b>Chapter 6</b> – Residential</li> </ul>	No.

Further considerations of the relevant SEPPs are outlined in more detail below:

### State Environmental Planning Policy (Biodiversity and Conservation) 2021

#### Chapter 6: Water Catchments

Chapter Six – Water Catchments of the B&C SEPP applies to the development pursuant to Clause 6.1, as the development is located within the Sydney Drinking Water Catchment (SDWC).

Part 6.2 of Chapter Six lists several controls that development within a regulated catchment must consider when determining to grant consent. As such, the development was referred to Water NSW. Water NSW provided that the following comments:

*‘The subject property, which has been inspected by Water NSW, is located within the Warragamba catchment which forms part of Sydney's water supply.*

*Water NSW considered the following documents in its assessment of the application:*

- *Statement of Environmental Effects prepared by Premise (dated 20 October 2023)*
- *Architectural Plans prepared by Housing Plus (dated 08/09/2023), and*

- *Water Sensitive Urban Design-MUSIC Model Report and Civil Design Documentation both prepared by Barnson Pty Ltd (both dated 12/10/2023).*

*Water NSW notes Council recently lodged a further request for information on subsidence risk from historic underground coal workings on 21 November 2023. If this information affects the assessment of the development and Water NSW's concurrence conditions, Water NSW should be advised to reconsider the concurrence conditions below.*

*Water NSW identified the following issues during the assessment:*

- *The site has a steep slope (over 15%) and is located downstream of the existing development of Hepburn Street Catchment. Therefore, Water NSW considers the lots (particularly, Lots 24 and 25 DP 1022160) located upslope of the subject property should have an appropriate easement to divert concentrated flow away from the current development and the proposed bioretention basin not to overload and damage the stormwater structure.*
- *All table drains along the driveway and the site are situated on steep slopes. Therefore, Water NSW considers that they should be fully stabilised to prevent scouring and erosion.*
- *The access to the bioretention basin is not defined. Therefore, an adequate access should be provided to ensure the proposed bioretention basin and easement pits and pipes are maintained.*

The above matters are addressed in conditions on the consent.

*Based on the site inspection and the information provided, Water NSW considers that the proposed development can achieve a neutral or beneficial effect (NorBE) on water quality provided appropriate conditions are included in any development consent and are subsequently implemented.*

*Water NSW concurs with Council granting consent to the application subject to conditions.*

## **State Environmental Planning Policy (Planning Systems) 2021 ('Planning Systems SEPP')**

### Chapter 2: State and Regional Development

The proposal is defined as a '*regionally significant development*' pursuant to Section 2.19(1) as it satisfies the criteria in Clause 5 of Schedule 6 of the Planning Systems SEPP, that being the proposed development capital investment value of more than \$5 million and that the development being *private infrastructure and community facilities*. Accordingly, the Western Regional Panel is the consent authority for the application. The proposal is therefore consistent with this Policy.

## **State Environmental Planning Policy (Resilience and Hazards) 2021**

### Chapter 4: Remediation of Land

Council is satisfied that the land is not contaminated under Chapter 4 as the property has been utilised as vacant land with residential purposes surrounding the property. The location of the development has not previously or is currently being used by any activities as specified under Table 1 of the contaminated land planning guidelines.

# State Environmental Planning Policy (Housing) 2021

## Chapter 3: Diverse Housing

Part 2 – Group Homes - Subsection 61(1) provides that development for the purposes of a group home may be carried out without consent if it does not contain more than ten bedrooms within one or more group homes on a site and if it is carried out by or on behalf of a public authority. Otherwise, it requires consent.

There are no specific design controls in the housing SEPP 2021 for group homes relating to development applications. As a guide, the development was assessed against Schedule 2 Complying development – group homes under the housing SEPP 2021. An assessment is detailed in the table below:

### Schedule 2 Complying development—group homes

Clause and Requirements	Development	Comply
<b>2. Site Requirements</b> <i>Development may only be carried out on a site that—</i> (a) <i>has an area of at least 450m<sup>2</sup>, excluding the area of the access laneway if it is a battle-axe lot, and</i> (b) <i>has a boundary with, or lawful access to, a public road, and</i> (c) <i>if it is not a battle-axe lot, has a boundary with a primary road of at least 12m, and</i> (d) <i>if it is a battle-axe lot, has an access laneway of at least 3m in width, and</i> (e) <i>has at least one area on the site that measures at least 12m by 12m, excluding the access laneway if it is a battle-axe lot.</i>	The property (Lots 26 & 27) contains a combined area of 2,625m <sup>2</sup> including the access. As such, excluding the access, the development will have an area well above 450m <sup>2</sup> . The development contains a lawful access to Hepburn Street. The property contains a battle-axe lot, with an access of approximately 8m wide. The property contains a width of more than 12m x 12m.	Yes
<b>3 Site requirements for group homes in certain zones</b> (1) <i>Development that is the erection of a group home may be carried out on a lot—</i> (a) <i>in Zone R5 Large Lot Residential, or</i> (b) <i>if the lot has an area of at least 4,000m<sup>2</sup>—in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots or Zone RU6 Transition.</i>  (2) <i>A group home must not be erected on a lot if the size of the lot is less than the minimum lot size for the erection of a dwelling house under an environmental planning instrument applying to the lot.</i>	N/A. The minimum allotment size on the property for a dwelling is 600m <sup>2</sup> . As such the development complies with the LEP 2014.	Yes
<b>4 Maximum site coverage of all development</b>	The site plan shows a residue landscape area of 922.08m <sup>2</sup> . This equates to 35% of landscaped areas.	Yes

<p>(1) <i>The group home and all ancillary structures must not cover more than 70% of the site area.</i></p> <p>(2) <i>For the purposes of calculating the site coverage in subsection (1), the area of the following is not included—</i></p> <p>(a) <i>an access ramp,</i></p> <p>(b) <i>part of an awning, blind or canopy outside the outer wall of a building,</i></p> <p>(c) <i>a balcony, deck, patio, pergola, terrace or verandah attached to the group home and not enclosed by a wall higher than 1.4m above the floor level,</i></p> <p>(d) <i>an eave,</i></p> <p>(e) <i>a driveway,</i></p> <p>(f) <i>a fence or screen,</i></p> <p>(g) <i>a pathway or paving,</i></p> <p>(h) <i>a rainwater tank attached to the group home,</i></p> <p>(i) <i>a swimming pool or spa pool.</i></p>		
<p><b>5 Building height</b></p> <p><i>Development for the purposes of a group home or an ancillary structure must not result in a new building or a new part of an existing building having a building height of more than 8.5m above ground level (existing).</i></p>	<p>The development proposes Double storey Building – 7.95m Single storey building – 4.2m</p>	<p>Yes</p>
<p><b>6 Setbacks from roads other than classified roads</b></p> <p>(1) <i>A group home and all ancillary structures on a site must have a setback from the boundary with a primary road that is not a classified road of at least—</i></p> <p>(a) <i>the average distance of the setbacks of the 2 nearest group homes or dwelling houses on the same side of the primary road and located within 40m of the site on which the group home is erected, or</i></p> <p>(b) <i>if 2 group homes or dwelling houses are not located within 40m of the site—4.5m.</i></p> <p>(2) <i>A group home and all ancillary structures on a site must have a setback from the boundary with a secondary road that is not a classified road of at least 2m.</i></p> <p>(3) <i>A group home and all ancillary structures on a site must have a setback from a boundary with a parallel road that is not a classified road of at least—</i></p> <p>(a) <i>the average distance of the setbacks of the 2 nearest group homes or</i></p>	<p>The property is a battle-axe allotment with the proposed building site to be located approximately 49m from the street. The proposed building structures is located within 40m from the building structures on the adjoining properties.</p> <p>No secondary roads exist for the property.</p>	<p>Yes</p>

<p><i>dwelling houses on the same side of the parallel road and located within 40m of the site on which the group home is erected, or</i></p> <p><i>(b) if 2 group homes or dwelling houses are not located within 40m of the site—4.5m.</i></p>		
<b>7 Setbacks from classified roads</b>	N/A- The property does not adjoining any classified roads	N/A
<p><b>8 Building articulation</b></p> <p><i>A group home, other than a group home on a battle-axe lot, must have—</i></p> <p><i>(a) a front door and a window to a habitable room in a building wall that faces, and is visible from, any primary road, and</i></p> <p><i>(b) a window to a habitable room in a building wall that faces, and is visible from, any parallel road, and</i></p> <p><i>(c) a window, with an area of at least 1m<sup>2</sup>, to a habitable room in a building wall that faces, and is visible from, any secondary road.</i></p>	The development is located on a battle-axe lot.	N/A
<p><b>9 Articulation zones</b></p> <p><i>(1) If a group home has a setback from a primary road of at least 3m, an articulation zone may extend up to a distance of 1.5m from the building line into the setback.</i></p> <p><i>(2) The following building elements are permitted in an articulation zone—</i></p> <p><i>(a) an entry feature or portico,</i></p> <p><i>(b) a balcony, deck, patio, pergola, terrace or verandah,</i></p> <p><i>(c) a window box,</i></p> <p><i>(d) a bay window or similar feature,</i></p> <p><i>(e) an awning or other feature over a window,</i></p> <p><i>(f) a sun shading feature.</i></p> <p><i>(3) A building element must not extend above the eave gutter line, other than a pitched roof to an entry feature or portico that has the same pitch as the roof on the group home.</i></p> <p><i>(4) The maximum total area of all building elements within the articulation zone, other than a building element listed in subsection (2)(e) or (f), must be no more than 25% of the area of the articulation zone.</i></p>	The development contains an articulation zone consisting of a carparking area, and an outdoor front space area.	Yes
<p><b>10 Side and rear boundary setbacks</b></p> <p><i>(1) A group home and all ancillary structures on a site must have a setback</i></p>	The height of the building is above 3.8m (25% of 4.2m = 1.05m). Therefore, the buildings are to have a setback of approximately 4.85m to	No.

<p><i>from the side boundary of at least the following—</i></p> <p><i>(a) in relation to a group home with a building height of up to 3.8m—0.9m,</i></p> <p><i>(b) in relation to a group home with a building height greater than 3.8m—0.9m plus 25% of the additional building height above 3.8m.</i></p> <p><i>(2) A group home and all ancillary structures on a site must have a setback from the rear boundary of at least the following—</i></p> <p><i>(a) in relation to a group home or an ancillary structure with a building height of up to 3.8m—0.9m,</i></p> <p><i>(b) in relation to a group home or an ancillary structure with a building height greater than 3.8m—3m plus an amount that is 3 times the additional building height above 3.8m, up to a maximum setback of 8m.</i></p>	<p>comply with the CDC side setback requirements.</p> <p>The development as such proposes:</p> <ul style="list-style-type: none"> <li>• Carpark &amp; Retaining Wall- 1m from side boundaries,</li> <li>• Rear Setback- 3.3m from single storey building corner.</li> </ul> <p>Given the orientation of the property and the topography of the land, ancillary works such as the retaining walls are located within proximity to the boundary.</p> <p>The design of the development, with the location of the windows and balconies, specifically for the 2 storey building contains a greater setback from the boundaries with a orientation to the south. This overlooks the open space area on the site.</p> <p>Landscaping is proposed around the boundaries with a retaining wall to be constructed to help minimise visual and noise impacts to adjoining properties.</p> <p>Refer to clause below.</p>	
<p><b>11 Calculating setbacks</b></p> <p><i>(1) For the purposes of determining the nearest 2 dwelling houses in this Schedule, section 6, a dwelling house or group home located on a battle-axe lot must be disregarded.</i></p> <p><i>(2) For the purposes of calculating the setback of the 2 nearest dwelling houses in this Schedule, section 6—</i></p> <p><i>(a) an ancillary structure must not be included, and</i></p> <p><i>(b) a building element within the articulation zone must not be included.</i></p> <p><i>(3) For the purposes of calculating setbacks for a battle-axe lot, the setback on the opposite side of the lot to the rear setback is taken to be a side setback.</i></p> <p><i>(4) For the purposes of calculating a side or rear setback, the maximum building height of a group home on a sloping site must be used.</i></p> <p><i>(5) A setback must be calculated at the closest point to the boundary from the building line.</i></p>	<p>The development complies with section 6 as stated above.</p> <p>Refer to above comments relating to topography of the land.</p>	<p>Yes</p>

<p>(6) For the purposes of calculating the setback from a road, a reference to an ancillary structure does not include the following—</p> <ul style="list-style-type: none"> <li>(a) a driveway, pathway or paving,</li> <li>(b) an eave,</li> <li>(c) a fence or screen,</li> <li>(d) a retaining wall,</li> <li>(e) an ancillary structure that is a building element permitted in the articulation zone.</li> </ul>		
<p><b>12 Exceptions to setbacks</b></p> <p>(1) A group home or an attached ancillary structure must have a setback of at least 3m from a boundary with a public reserve.</p> <p>(2) Side and rear setbacks do not apply to the following—</p> <ul style="list-style-type: none"> <li>(a) an aerial, antenna, awning, eave,</li> <li>(b) a flue, chimney, pipe or cooling or heating appliance,</li> <li>(c) a rainwater tank with a height of more than 1.8m,</li> <li>(d) another structure associated with the provision of a utility service if it is located at least 450mm from the relevant boundary,</li> <li>(e) a fence, fascia, gutter, downpipe, light fitting, an electricity or gas meter, a driveway, pathway or paving if it is located within a required setback area to the relevant boundary.</li> </ul> <p>(3) The setback from a road does not apply to—</p> <ul style="list-style-type: none"> <li>(a) a driveway, fence, pathway, paving or retaining wall, or</li> <li>(b) the articulation zone and a building element permitted within the zone.</li> </ul> <p>(4) The setback from a rear boundary required by Schedule 2, section 10 of this Part does not apply to a lot that has only 3 boundaries, disregarding the boundary of an access lane if the lot is a battle-axe lot.</p>	<p>The development adjoins a public reserve to the south of the property and contains a setback greater than 3m.</p>	<p>Yes</p>
<p><b>13 Building separation</b></p> <p>The distance between buildings that are used for the purposes of group homes on a site must be at least 1.8m.</p>	<p>The setback between the two buildings on the site is proposed to be 1.9m wide.</p>	<p>Yes</p>
<p><b>14 Privacy</b></p> <p>(1) A window in a new group home, or a new window in any alteration or addition to an existing group home, must have a privacy screen for a part of the window less than 1.5m above the finished floor level if—</p>	<p>Louvre screening is proposed around the windows to minimise visual and privacy impacts to the adjoining properties.</p> <p>All residential units and windows are to be located more than 3m from the boundaries.</p>	<p>Yes</p>

<p>(a) the window—</p> <p>(i) is in a habitable room that has a finished floor level of more than 1m above ground level (existing), and</p> <p>(ii) has a sill height less than 1.5m above that floor level, and</p> <p>(iii) faces a side or rear boundary and is less than 3m from that boundary, or</p> <p>(b) the window—</p> <p>(i) is in a habitable room that has a finished floor level of more than 3m above ground level (existing), and</p> <p>(ii) has a sill height less than 1.5m above that floor level, and</p> <p>(iii) faces a side or rear boundary and is at least 3m, but no more than 6m, from that boundary.</p> <p>(2) Subsection (1) does not apply to a window located in a bedroom if the window has an area of no more than 2m<sup>2</sup>.</p> <p>(3) A new balcony, deck, patio, terrace or verandah for the purposes of a new group home and any alteration to an existing balcony, deck, patio, terrace or verandah of a group home that has a floor area of more than 3m<sup>2</sup> must have a privacy screen if the balcony, deck, patio, terrace or verandah is—</p> <p>(a) within 3m of a side or rear boundary and has a floor level of more than 1m above ground level (existing), or</p> <p>(b) between 3m and 6m of a side or rear boundary and has a floor level of more than 2m above ground level (existing).</p>	<p>Windows within the second storey are proposed to be no less than 2m<sup>2</sup>. All balcony's will be located more than 3m from all setbacks as they are to be located to the south.</p>	
<p><b>15 Landscaped area</b></p> <p>(1) At least 20% of the site area on which the erection of, or alterations or additions to, a group home or an ancillary structure is carried out must be a landscaped area.</p> <p>(2) At least 50% of the landscaped area must be located behind the building line to the primary road boundary.</p> <p>(3) The minimum dimensions of the landscaped area must be more than 2.5m.</p>	<p>Approximately 35% of the area is proposed to be landscaped and located behind/around the building.</p>	<p>Yes</p>
<p><b>16 Principal private open space</b></p> <p>A site on which a group home is erected must have more than 24m<sup>2</sup> of principal private open space that—</p> <p>(a) has an area at ground level (existing) directly accessible from, and adjacent to, a habitable room, other than a bedroom, and</p> <p>(b) is at least 4m wide, and</p>	<p>The development contains more than 24m<sup>2</sup> of private open space (refer to the site plan), habitable from ground level and more than 4m wide.</p>	<p>Yes</p>

<i>(c) has a gradient no steeper than 1:50.</i>		
<b>17 Requirement to provide car parking</b> <i>(1) At least 2 off-street car parking spaces must be provided on the site on which a group home is erected.</i> <i>(2) At least 2 off-street car parking spaces must be retained on a site on which alterations or additions to an existing off-street car parking space are carried out.</i> <i>(3) A car parking space under this section may be an open hard stand space or a carport or garage, whether attached or detached from the group home.</i>	Six (6) Off street car parking spaces are to be provided for the development and is to be concreted.	Yes
<b>18 Garage, carport and parking spaces</b> <i>(1) A garage, carport or car parking space must be no more than 1m forward of the front building setback.</i> <i>(2) The total width of all door openings facing a primary road, a secondary road or a parallel road on a garage must—</i> <i>(a) be no more than 6m, and</i> <i>(b) be no more than 50% of the width of the building, measured at the building line to the relevant property boundary.</i> <i>(3) An open hard stand car parking space must measure at least 2.6m wide by 5.4m long.</i>	The carparking area is located to the side of the building line, given the orientation of the allotment. Each parking space is measured in accordance with Council's Engineering Guidelines and the CDC requirements.	Yes
<b>19 Vehicle access</b> <i>The design and construction of the vehicular access to a site must comply with Australian Standard AS/NZS 2890.6.</i>	The vehicle access has been assessed by Council's Engineers and is considered to comply with the Australian Standards.	Yes
<b>20 Earthworks, retaining walls and structural support</b> <i>(1) Excavation must—</i> <i>(a) not be deeper than a maximum depth measured from ground level (existing) of—</i> <i>(i) if located within 1m of a boundary—1m, or</i> <i>(ii) if located more than 1m, but not more than 1.5m, from a boundary—2m, or</i> <i>(iii) if located more than 1.5m from a boundary—3m, and</i> <i>(b) if the land is identified as Class 3 or 4 on an Acid Sulfate Soils Map or is within 40m of a waterbody (natural)—be no more than 1m below ground level (existing).</i> <i>(2) Fill must—</i> <i>(a) not have a height of more than 1m above ground level (existing), and</i> <i>(b) be contained in accordance with subsections (4) and (5) by—</i>	<p>The development proposes a maximum of approximately 2m of fill (majority to be located towards the south of the development project area) and approximately 3m of cut around the north eastern section of the development. The driveway will contain both a minimum amount of cut and fill. The maximum excavation works will be more then 1m from the boundaries and not be more then 1m deep.</p> <p>The proposed fill as such is above 1m and therefore does not comply with the CDC requirements.</p> <p>Block retaining walls are proposed to be constructed around the bottom of the building floor levels for containment of soils.</p>	No

<p><i>(i) a retaining wall or other form of structural support that does not extend more than 1.5m from an external wall of the dwelling, or</i></p> <p><i>(ii) an unprotected sloping embankment or batter—</i></p> <p><i>(A) that does not extend from the group home by more than 3m, and</i></p> <p><i>(B) with a toe more than 1m from a side or rear boundary.</i></p> <p><i>(3) The final ground level (finished) of fill placed on a site must not be used for the purposes of measuring the height of development carried out under Chapter 3, Part 2.</i></p> <p><i>(4) Support for earthworks that are more than 600mm above or below ground level (existing) and within 1m of any boundary, or more than 1m above or below ground level (existing) in any other location, must take the form of a retaining wall or other form of structural support that—</i></p> <p><i>(a) has been certified by a professional engineer, and</i></p> <p><i>(b) has adequate drainage lines connected to the existing stormwater drainage system for the site, and</i></p> <p><i>(c) does not result in any retaining wall or structural support with a total height measured vertically from the base of the retaining wall or structural support to its uppermost portion that is—</i></p> <p><i>(i) more than 1m in height and within 1m from a side or rear boundary, or</i></p> <p><i>(ii) more than 3m in height in any other location.</i></p> <p><i>(5) Excavation or fill that is more than 600mm above or below ground level (existing) requires a retaining wall or structural support that must be—</i></p> <p><i>(a) constructed in accordance with subsection (4), and</i></p> <p><i>(b) designed so as not to redirect the flow of any surface water or ground water, or cause sediment to be transported, onto an adjoining property, and</i></p> <p><i>(c) separated from any retaining wall or other structural support on the site by at least 2m, measured horizontally, and</i></p> <p><i>(d) installed in accordance with the manufacturer's specification.</i></p>	<p>The proposed development will have minimal impacts on drainage patterns and soil stability in the locality through construction in accordance with the stormwater management plan.</p> <p>Conditions of consent have been imposed to ensure dust, noise and erosion impacts are minimised during works and in perpetuity as a result of the earthworks.</p>	
<p><b>21 Fill of sloping sites</b></p>	<p>Refer to above comments.</p>	<p>No</p>

<p>(1) Fill associated with the erection of, or alterations or additions to, a group home or an ancillary structure must—</p> <p>(a) be no more than 1m above ground level (existing), and</p> <p>(b) be contained wholly within the external walls of the group home or an ancillary structure.</p> <p>(2) Exposed fill may be constructed using an unprotected embankment if—</p> <p>(a) the group home or an ancillary structure has a setback of more than 2m from a side or rear boundary, and</p> <p>(b) the fill is no more than 0.6m above ground level (existing), and</p> <p>(c) the fill, but not the embankment, does not extend more than 1 metre beyond an external wall of the group home or detached ancillary structure, and</p> <p>(d) the toe of the unprotected embankment has a setback of at least 0.4m from a side or rear boundary.</p>		
<p><b>22 Drainage</b></p> <p>(1) All stormwater collecting as a result of the erection of, or alterations or additions to, a group home or an ancillary structure must be conveyed by a gravity fed or charged system to—</p> <p>(a) a street drainage system under the control of the relevant public authority, or</p> <p>(b) an inter-allotment drainage system, or</p> <p>(c) if the site is unsewered—an on-site disposal system approved under the Local Government Act 1993, section 68.</p> <p>(2) All surface water run-off emanating from a sloping site as a result of the erection of, or alterations or additions to, a group home or an ancillary structure must be collected and conveyed to a drainage system listed in subsection (1).</p>	<p>A stormwater management plan was submitted with the application and demonstrates swales, rainwater tanks and a bio-retention system to be utilised for the development.</p> <p>The stormwater management has been assessed against the WaterNSW water quality guidelines and Norbe Assessment.</p> <p>The development was referred to WaterNSW who has given concurrence subject to conditions on the consent.</p> <p>The development was also assessed by Council's Engineers who considers the development to have adequate drainage.</p>	Yes
<p><b>23 Swimming pools</b></p>	<p>N/A, no swimming pools are proposed as part of this application.</p>	N/A
<p><b>24 Fences</b></p> <p>(1) A fence must be constructed so as not to prevent natural flow of stormwater drainage or run-off.</p> <p>(2) The height of a boundary fence in a residential zone must not be more than—</p> <p>(a) for development within the boundaries of an existing group home—2.1m above ground level (existing) if the fence is behind the front building line and 1.2m</p>	<p>A 1.8m high colourbond fence is proposed to be constructed around the boundaries of the allotment.</p> <p>The fence will not obstruct water flow or impact stormwater drainage as all stormwater will be adequately disposed of into a stormwater management system.</p>	Yes

<p><i>above ground level (existing) if the fence is on or forward of the line, and</i></p> <p><i>(b) otherwise—1.8m above ground level (existing) if the fence is behind the front building line and 1.2m above ground level (existing) if the fence is on or forward of the line.</i></p> <p><i>(3) A fence must not include masonry construction to a height of more than 0.9m above ground level (existing).</i></p>		
<p><b>25 Access ramps</b></p> <p><i>(1) The gradient of an access ramp must not be steeper than 1:14.</i></p> <p><i>(2) An access ramp must be constructed so as to comply with AS 1428.1.</i></p> <p><i>(3) An access ramp must not create a traffic or pedestrian hazard.</i></p>	<p>The access ramp has been assessed by Council's Building Officer and is determined to be adequate for the development.</p>	<p>Yes</p>

## **State Environmental Planning Policy (Transport and Infrastructure) 2021**

### Chapter 2: Infrastructure

Section 2.48(2) (Determination of development applications—other development) – electricity transmission - the proposal satisfies this section, subject to recommended conditions.

The development was referred to Endeavour Energy who has no objection to the application to conditions placed on the consent.

### **Lithgow Local Environmental Plan 2014**

The relevant local environmental plan applying to the site is the *Lithgow Local Environmental Plan 2014* ('the LEP'). The aims of the LEP include:

*(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*

*(a) to encourage sustainable and planned development that complements the unique character and amenity of Lithgow and enhances its towns, villages and rural areas,*

*(b) to provide for a range of development opportunities that contribute to the social, economic and environmental resources of Lithgow in a way that allows the needs of present and future generations to be met by implementing the principles of ecologically sustainable development,*

*(c) to manage, facilitate and encourage sustainable growth and development that—*

*(i) promotes the efficient and effective delivery of utilities, infrastructure and service and minimises long-term costs to government, authorities and the community, and*

*(ii) protects, enhances and conserves mineral and extractive resources lands, forests and agricultural lands and the contributions they make to the local, regional and State economy, and*

*(iii) allows for the orderly growth of land uses while minimising conflict between land uses in a zone and land uses in adjoining zones, and*

*(iv) encourages a range of housing choices in planned urban and rural locations to meet population growth and the diverse needs of the community, and*

*(v) preserves and protects land that has been identified for future long-term urban development from inappropriate fragmentation and development, and*

*(vi) protects and enhances environmentally sensitive areas, ecological systems, areas of high scenic, recreational, landscape or conservation value and areas that have the potential to contribute to improved environmental outcomes, and*

*(vii) protects and enhances places and items of environmental, archaeological, cultural or heritage significance, including Aboriginal relics and places, and*

*(viii) avoids or minimises the impact of development on drinking and environmental water catchments to protect and enhance water availability and safety for human consumption and the maintenance of environmental and recreational values, and*

*(ix) strengthens and promotes employment land opportunities and appropriate tourism development and growth, and*

*(x) creates resilience to natural hazards through local land use planning.*

The proposal is consistent with these aims as the proposal will contribute to the economic well-being of the community, in a socially and environmentally responsible manner and strengthen the position of Lithgow by encouraging employment and economic growth.

#### Zoning and Permissibility

The proposal is located within the R1 General Residential land use zones under Clause 2.3 of the Lithgow Local Environmental Plan 2014 (LLEP2014).

The development is defined as being a group home (transitional) with associated community facilities under the Lithgow LEP 2014.

#### Definition

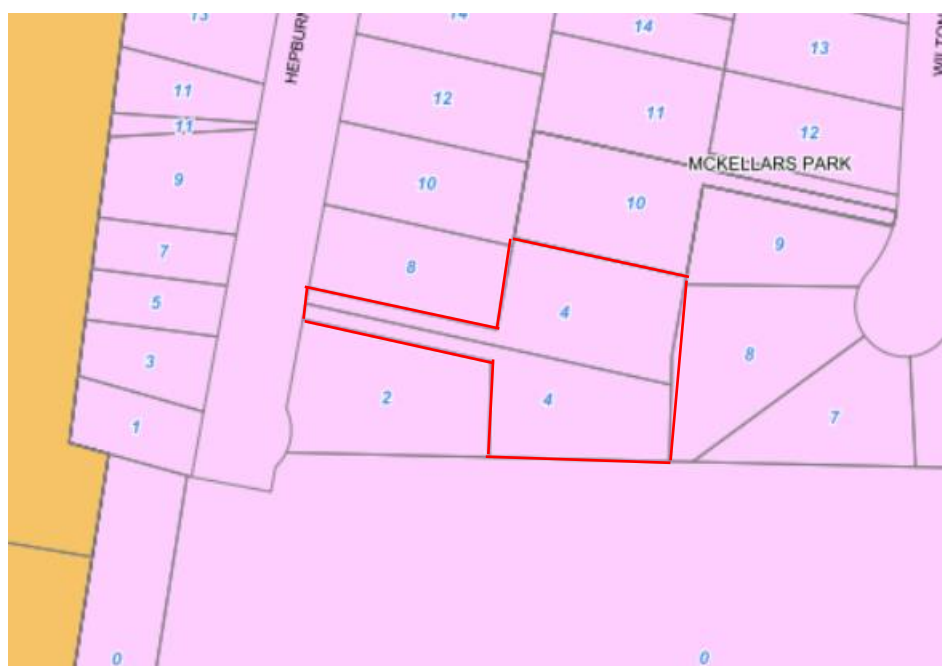
**group home (transitional) or transitional group home** means a dwelling—

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

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

*but does not include development to which State Environmental Planning Policy (Housing) 2021, Chapter 3, Part 5 applies. (This being Housing for seniors and people with a disability)*

**Figure 5** below shows the LLEP2014 zoning map of the property:



Plan 5: Zoning map (LLEP2014)

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

Zone	Objectives of zone
R1 – General Residential	<ul style="list-style-type: none"> <li>• To provide for the housing needs of the community.</li> <li>• To provide for a variety of housing types and densities.</li> <li>• To enable other land uses that provide facilities or services to meet the day-to-day needs of residents.</li> <li>• To maintain or improve the water quality of receiving water catchments.</li> </ul>

The development is considered to be consistent with the zone objectives as:

- The proposed development provides for the housing needs of the community by providing six dwellings (units) and associated facilities.
- The proposed development provides a variety of housing types and densities through providing a mixture of one bedroom and two bedroom dwellings/units.
- The development is located within an existing residential built area and as such all services are existing. The development is not expected to impact the services as company/private vehicles would be utilised were possible for safety purposes.
- The development has been adequately designed with stormwater models and infrastructure. This has been assessed by WaterNSW and is found to be satisfactory.

#### General Controls and Development Standards (Part 2 and 7)

The LEP 2014 contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered below.

Control	Requirement	Proposal	Comply
Earthworks (CI 7.1)	<p><i>In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—</i></p> <ul style="list-style-type: none"> <li><i>a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</i></li> <li><i>b) the effect of the development on the likely future use or redevelopment of the land,</i></li> <li><i>c) the quality of the fill or the soil to be excavated, or both,</i></li> <li><i>d) the effect of the development on the existing and likely amenity of adjoining properties,</i></li> <li><i>e) the source of any fill material and the destination of any excavated material,</i></li> <li><i>f) the likelihood of disturbing relics,</i></li> <li><i>g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</i></li> <li><i>h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,</i></li> <li><i>i) the proximity to, and potential for adverse impacts on, any heritage item, archaeological site or heritage conservation area.</i></li> </ul>	<p>The proposed development will have no significant impact on soils. There is no reason to believe the site would be affected by contamination. Conditions of consent will be imposed to control erosion and sedimentation impacts on the site and therefore it is considered there will be minimal impacts on soils.</p> <p>The development proposes a maximum of approximately 2m of fill (majority to be located towards the south of the development project area) and approximately 3m of cut around the north eastern section of the development. The driveway will contain both a minimum amount of cut and fill.</p> <p>Block retaining walls are proposed to be constructed around the bottom of the building floor levels for containment of soils.</p> <p>The proposed development will have minimal impacts on drainage patterns and soil stability in the locality through construction in accordance with the stormwater management plan.</p> <p>Conditions of consent have been imposed to ensure dust, noise and erosion impacts are minimised during works and in perpetuity as a result of the earthworks.</p>	Yes

Stormwater Management (CI 7.3)	<p><i>In deciding whether to grant development consent for stormwater management, the consent authority must consider the following matters—</i></p> <p><i>a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</i></p> <p><i>b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and</i></p> <p><i>c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.</i></p>	<p>A stormwater management plan was submitted with the application and demonstrates swales, rainwater tanks and a bio-retention system to be utilised for the development.</p> <p>The stormwater management has been assessed against the WaterNSW water quality guidelines and Norbe Assessment.</p> <p>The development was referred to WaterNSW who has given concurrence subject to conditions on the consent.</p> <p>The development was also assessed by Council's Engineers who considers the development to have adequate drainage.</p>	Yes
Essential Services (CI 7.10)	<p><i>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—</i></p> <p><i>(a) the supply of water,</i></p> <p><i>(b) the supply of electricity,</i></p> <p><i>(c) the disposal and management of sewage,</i></p> <p><i>(d) stormwater drainage or on-site conservation,</i></p>	<p>Vehicular access to the site will be provided via the existing driveway from Hepburn Street, upgraded in accordance with Council's Engineering requirements. The development will be connected to water, electricity and sewer. Stormwater will discharge to via drainage pit in the southeast corner of the site.</p> <p>As such, the development will have all essential services as required and complies with CI 7.10.</p>	Yes

	(e) <i>suitable vehicular access.</i>		
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The proposal is considered to be generally consistent with the LEP.

**(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments**

There are several proposed instruments which have been the subject of public consultation under the EP&A Act. Those relevant to the proposal, include the following:

- Draft Remediation of Land SEPP

A proposed Remediation of Land State Environmental Planning Policy ('Remediation of land SEPP'), that was exhibited from 31 January to 13 April 2018, is currently under consideration by the NSW Department of Planning. The proposed Remediation of Land SEPP is intended to repeal and replace the provisions of SEPP 55 (now Chapter 4 of SEPP (Resilience and Hazards) 2021) and Contaminated Land Planning Guidelines. The SEPP seeks to provide a state-wide planning framework to guide the remediation of land, including; outlining provisions that require consent authorities to consider the potential for land to be contaminated when determining development applications; clearly list remediation works that require development consent; and introducing certification and operational requirements for remediation works that may be carried out without development consent.

The Remediation of Land SEPP is aimed at improving the assessment and management of land contamination and its associated remediation practices. The proposal is consistent with the draft provisions and is considered to be acceptable subject to conditions of consent having been assessed in detail against the current provisions of SEPP (Resilience and Hazards) 2021.

The proposal therefore is generally consistent with the proposed instrument.


**(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

Section 4.15(1)(a)(iii) of the EP&A Act requires Council to consider the provisions of any development control plans.

The development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the Lithgow Development Control Plan 2021 (LDGP2021).

*Lithgow Development Control Plan 2021*

<b>LDGP2021 Clause</b>	<b>Requirement</b>	<b>Assessment Comments</b>	<b>Compliance</b>
<b>Chapter 2 – Site Requirements</b>	<i>Site Analysis demonstrates that the design of the proposed development has responded to an analysis of the site and its relevant context.</i>	The development complies with the land use zone and its objectives.	Yes
2.2 Site Analysis, Local Character and Context		The development has been designed (positioned perpendicular to the slope)	

<p>2.2.2 Site Analysis &amp; Development Response</p>		<p>to minimise potential impacts to surrounding land uses where possible, specifically in relation to setback, visual, overshadowing, privacy, traffic, noise and to minimise potential earthworks.</p> <p>Surrounding development consists of a mixture of multi-dwellings, individual dwellings. Given that the surrounding development consists of a mixture of residential types and the main purpose of the development is for a group home, defined as being a type of residential development under the Lithgow LEP 2014.</p> <p>The size of the development is considered to be suitable for the land size.</p> <p>The property will contain safe access to and from the site from Hepburn Street (that ends in a cul-de-sac).</p>  <p>There are no heritage items located within the vicinity of the site. The development further has been assessed in accordance to bushfire and subsidence requirements.</p> <p>A site analysis plan was submitted with the</p>	
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		application and found to adequately address the site topography, natural hazards and surrounding built form.	
2.2.3 Local Character & Context	<i>Character: All applications demonstrate that the proposed development has considered the local existing and desired future character of the area and that the proposed development is consistent with and/or integrates with this character.</i>	<p>The development is for a type of residential accommodation use within the R1 General Residential Zoning area under the Lithgow LEP 2014.</p> <p>The design and citing of the development has been created to reduce potential impacts through the main building setback being located further from the boundaries, within a battle-axe lot.</p> <p>The property consists of a current vacant allotment and therefore the development would provide additional housing to support the needs of the community.</p>	Yes
2.2.4 Visually Prominent Sites	<i>Development on a visually prominent site, particularly in rural and/or environmental zones or in heritage conservation areas, is sited and designed to minimise visual and environmental impact.</i>	<p>The development site is not located on a visually prominent site. The development is located beneath the former coal mine hill located beyond the adjacent dwellings.</p> <p>The buildings are proposed to be separate to minimise the visual cluster from Hepburn Street, that being located on a higher elevation.</p> <p>The proposed development is articulated through:</p> <ul style="list-style-type: none"> <li>• Brick finish at the ground floor of both the single storey and two storey buildings and metal finish for the capping over the single storey building and</li> </ul>	Yes

		<p>the second storey of the two storey building, ensuring a light-weight appearance of the upper elements of the development; and</p> <ul style="list-style-type: none"> <li>• Windows, doors and balconies in all elevations to ensure the visual interest of the development from all viewpoints.</li> </ul>	
2.3 Slope Response, Earthworks & Retaining Walls	1) <i>Description:</i> All development that involves any significant earthworks provides a plan and/or description of the location, extent and depth of earthworks that forms part of the application.	The applicant has demonstrated through design plans, how the proposed development complies with the earthwork requirements including the need for potential retaining walls.	Yes
2.3.1 Earthworks			
2.3.2 Retaining Walls	<p>2) <i>LLEP2014:</i> All development that involves any significant earthworks addresses Clause 7.1 - Earthworks of LLEP2014.</p> <p>3) <i>Design:</i> Developments on sloping sites are sited, designed and use construction techniques that respond to the topographical (slope) &amp; hydrological (water) features of the site. Alternatives to slab on ground construction should be utilised where, due to gradient and characteristics of the site, such form of construction is inappropriate.</p> <p>4) <i>Impact:</i> Depending on the likelihood and significance of impact of any proposed earthworks on the matters raised in the objectives of this Section, Council may require justification for the need for those earthworks AND additional plans/reports/certificatio</p>	<p>The proposed development will have no significant impact on soils. There is no reason to believe the site would be affected by contamination. Conditions of consent will be imposed to control erosion and sedimentation impacts on the site and therefore it is considered there will be minimal impacts on soils.</p> <p>The development proposes a maximum of approximately 2m of fill (majority to be located towards the south of the development project area) and approximately 3m cut around the north eastern section of the development. The driveway will contain both a minimum amount of cut and fill.</p>	

	<p><i>n to demonstrate that the impacts can be avoided, mitigated or minimised (for examples, see table below).</i></p> <p>5) <i>Drainage: Disturbance to natural drainage patterns is minimised and addresses Section 2.5 Stormwater Management of this DCP.</i></p> <p>6) <i>Batters:</i></p> <p>a) <i>Cut and fill batters do not exceed a slope of 1V:2H (vertical to horizontal) depending on soil classification or Council is satisfied of sufficient site stability by a Geo-technical and/or Structural Report; and</i></p> <p>b) <i>All batters are to be provided with both short and long-term stabilisation to prevent soil erosion and do not extend onto public or adjoining land without permission.</i></p>	<p>Block retaining walls are proposed to be constructed around the bottom of the building floor levels for containment of soils.</p> <p>The proposed development will have minimal impacts on drainage patterns and soil stability in the locality through construction in accordance with the stormwater management plan.</p> <p>Conditions of consent have been imposed to ensure dust, noise and erosion impacts are minimised during works and in perpetuity as a result of the earthworks</p>	
2.4 Stormwater Management	<p>1) <i>Application: Development applications (in accordance with Council's DA Guide) may need to provide a Stormwater Drainage (Concept) Plan (SDCP) and/or Soil and Water Management Plan (SWMP) addressing stormwater management on the Site.</i></p> <p>2) <i>Guidelines: All Stormwater drainage is designed to comply with Council's Engineering Guidelines – Section 3 – Stormwater Drainage.</i></p>	<p>A stormwater management plan was submitted with the application and demonstrates swales, rainwater tanks and a bio-retention system to be utilised for the development.</p> <p>The stormwater management has been assessed against the WaterNSW water quality guidelines and Norbe Assessment.</p> <p>The development was referred to WaterNSW who has given concurrence</p>	Yes


	<p>3) <i>Drinking Catchment: Unless there is 'no identifiable potential impact', all development within the Sydney Drinking Water Catchment demonstrates a neutral or beneficial effect upon water quality in accordance with the requirements of SEPP (Sydney Water Drinking Catchment) 2011.</i></p>	<p>subject to conditions on the consent.</p> <p>The development was also assessed by Council's Engineers who considers the development to have adequate drainage.</p>	
2.5 Vehicle Access and Parking	<p><i>All development is e.g., designed to be consistent with (as amended):</i></p> <p>1) <i>Council's Guidelines for Civil Engineering Design and Construction for Development (2012) ('Engineering Guidelines').</i></p> <p>2) <i>RTA (now Transport for NSW) (2002) Guide to Traffic Generating Developments; and</i></p> <p>3) <i>Relevant Australian Standards including but not limited to (as amended):</i></p> <p>a) <i>AS2890 – Parking facilities including:</i></p> <p>i. <i>AS2890.1 (2004) – Off-street car parking.</i></p> <p>ii. <i>AS2890.2 (2018) – Off-street commercial vehicle facilities.</i></p> <p>iii. <i>AS2890.3 (2015) – Bicycle parking facilities.</i></p> <p>iv. <i>AS2890.6 (2009) – Off-street parking</i></p>	<p>Vehicle access is proposed to be via the existing battle-axe driveway from Hepburn Street. This access is considered to be satisfactory for the development in terms of site safety.</p> <p>The driveway has been designed to respond to the topography of the land with minimal earthworks proposed to be undertaken.</p> <p>The access has been undertaken in accordance with Council's Engineering Guidelines.</p> <p>The slope of the driveway contains a maximum 16.6% grade. This is below the 25% grade as stated in the DCP.</p> <p>The total width of the driveway is approximately 8m carriageway width (2 way access). This complies with the minimum carriageway width, however, does not allow for landscaping to be undertaken along the driveway corridor.</p>	No

	<p><i>for people with disabilities</i></p> <p><i>b) AS1428 – Design for Access and Mobility.</i></p> <p><i>4) Relevant Austroads Guidelines; and</i></p> <p><i>5) Relevant Council Policies.</i></p>	<p>A landscaping plan was submitted with the application and shows landscaping to be proposed around the carpark area and building site.</p> <p>Given that the width of the street frontage is only 8m and is a battle-axe allotment, the access is considered suitable.</p>	
2.5.4 Parking Location, Design & Circulation	<p>1) <i>Parking Location,</i>  2) <i>Parking Design,</i>  3) <i>Accessible Parking,</i>  4) <i>Safety,</i>  5) <i>Sealed Vehicle Areas,</i>  6) <i>Stormwater,</i>  7) <i>Vehicle Sizes,</i>  8) <i>Operating Hours,</i>  9) <i>Basement Parking,</i>  10) <i>Stacked Parking,</i>  11) <i>Circulation,</i>  12) <i>Parking Navigation,</i>  13) <i>Lighting,</i>  14) <i>Visual Impact</i></p>	<p>Parking is located in front of the front entrance of the buildings and is adequate setback from the streetscape (approximately 50m). Screening via landscaping and retaining walls surround the carpark to minimise potential impact to adjoining property owners. The location of the carparking area further requires minimal earthworks and provides adequate drainage.</p> <p>Parking design complies with Council's Engineering Guidelines.</p> <p>One (1) accessible parking space is to be provided for the development. This complies with the National Construction Code and Australian Standards.</p> <p>The carparking layout has been designed to minimise potential safety impacts around the site and enable adequate manoeuvring for all vehicles to leave the site in a forward direction.</p> <p>Conditions would be applied to the consent to ensure the access to be sealed in accordance with</p>	Yes

		<p>Council's Engineering Guidelines.</p> <p>It is expected that the vehicle sizes to the site will be standard car sizes once operational.</p> <p>The hours of operation for vehicles will majority be during daylight hours due to the nature of the development.</p>	
2.5.5 On-Site Parking Numbers	There are no specific controls under the DCP for group homes.	<p>Six (6) parking spaces are proposed to be provided for the development.</p> <p>Given that the development is defined as being a group home (transitional), the development is not expected to have a high volume of traffic and vehicles.</p> <p>As such, the number of car parking spaces to be provided for the development is considered satisfactory.</p>	Yes
2.5.7 Bicycle Parking	There are no specific controls under the DCP for group homes.	Three (3) bicycle racks are provided for the development. This is considered satisfactory.	Yes
2.6 Pedestrian Access, Mobility & Safety	<p>Accessibility</p> <ol style="list-style-type: none"> <li>1) Access to Premises Standards,</li> <li>2) National Construction Code,</li> <li>3) Australian Standards.</li> </ol> <p>Pedestrians</p> <ol style="list-style-type: none"> <li>1) Separation,</li> <li>2) Entrances,</li> <li>3) Mixed-Use Buildings,</li> <li>4) Access Ramps,</li> <li>5) Lighting.</li> </ol>	<p>The development was assessed by Council's Building Officer and found to be satisfactory for the development subject to conditions on the consent.</p> <p>Pedestrian access to the development is accessible via the carparking area, with adequate lighting around the building and communal areas.</p>	Yes
2.7 Designing for Crime Prevention	<i>Crime Risk Assessment Objective 1</i>	The development will contain a 1.8m high colourbond fence around	Yes

	<p><i>To ensure that new larger developments and subdivisions (see table below), and/or significant alterations and additions to existing larger developments (see table below) has:</i></p> <p><i>a) Considered how it may improve safety and reduce the facilitation of criminal activity.</i></p> <p><i>b) Demonstrated how the design has responded to the four (4) main principles of crime prevention including: territorial re-enforcement, surveillance, access control and space/activity management to create the perception or reality of reduced opportunity for crime or inappropriate behaviour.</i></p> <p><i>c) Provided appropriate lighting that enhances safety and security whilst minimising impacts from light-spill or inappropriate lighting on neighbouring properties.</i></p>	<p>the site with security gates proposed for the driveway.</p> <p>The design and orientation of the building will further allow natural surveillance from the windows and balconies.</p>	
2.8 Utilities, Easements & Infrastructure	<p>2.8.1 – Connections Utilities</p> <p>2.8.2 – Building Near Utilities/Easements/Drainage Lines</p> <p>2.8.6 – Water Supply</p>	<p>The development is proposed to be connected to Council's water and sewer services.</p> <p>The application has been assessed by Council's Water and Wastewater Officer and is found to be suitable for the development subject to conditions on the consent.</p> <p>Electricity, telecommunications and gas will also be connected</p>	Yes

		<p>to the development from Hepburn Street.</p> <p>The development will not be built over any easements with adequate setbacks.</p>	
2.9 Solid Waste Management	Waster Storage and Collection – Larger Developments	<p>It is anticipated that waste generated during construction can be managed through standard construction measures. Once operational, the proposed development will generate minimal waste, limited to office waste and residential waste equivalent to a small multi dwelling housing development.</p> <p>The bin storage will be readily accessible to all residents from the parking area in the proposed development.</p> <p>Council's waste Officer advised that a minimum of 6 bins (red, yellow and green), totally 18 bins is required for the development.</p> <p>Given the type of development and usage, it is anticipated that not all of these bins would be located within Hepburn Street on bin collection days at any one given time.</p>	Yes
<b>Chapter 3 – Natural Environment and Hazards</b>  3.2 Bush Fire Prone Land	Where a proposed development is on land identified as bush fire prone on the Bush Fire Prone Land Map, the design and management of any proposed development on that bush fire prone land complies with the following:	<p>Part of the property is mapped as being bushfire prone land.</p> <p>Group Homes are defined as being 'integrated development' under S4.46 of the EP&amp;A Act, therefore, the application was referred to the NSW Rural Fire Service for comment.</p>	Yes

	<p>1) <i>Rural Fire Act 1997 (NSW) &amp; the associated Rural Fires Regulation 2013 (as amended); and</i></p> <p>2) <i>NSW Rural Fire Service (2019) Planning for Bush Fire Protection (Bush Fire Guidelines).</i></p> <p>3) <i>Any development application involving the erection of a dwelling house or alterations and additions to an existing dwelling house on bush fire prone land addresses the requirements contained in:</i></p> <p>a) <i>The NSW Rural Fire Service (RFS) publication titled "Building in Bush Fire Prone Areas Single Dwelling Applicants Kit" found on the RFS website (www.rfs.nsw.gov.au ); and</i></p> <p>b) <i>Australian Standard AS3959 – 2009 Construction of Buildings in Bush Fire Prone Areas (for any Construction Certificate application). A suitably qualified person may need to provide a schedule of compliance with the applicable construction standards. This schedule will form part of the approval documentation and the applicant will be required to comply with it during the</i></p>	<p>The NSW Rural Fire Service and Council consideration was assessed against the submitted Bushfire Assessment prepared by Statewide Bushfire Consulting; dated 21 August 2023.</p> <p>The NSW RFS considered the information submitted and provided General Terms of Approval, under Division 4.8 of the Environmental Planning and Assessment Act 1979, and under section 100B of the Rural Fires Act 1997.</p> <p>Conditions have been included for consent in this regard.</p> 	
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	<p>course of construction; and</p> <p>4) National Construction Code (NCC) may specify additional controls for the construction of buildings on bushfire-prone lands.</p>		
3.3 Vegetation Management and Biodiversity		The property is not located within the Biodiversity mapped prone area.	N/A
3.4 Land and Soils	<p><i>In order to satisfy the requirements of Clause 7.7 - Sensitive Lands, particularly subclause (4) that:</i></p> <p>a) <i>The development is designed, sited and will be managed to avoid significant adverse environmental impact, or</i></p> <p>b) <i>If that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or</i></p> <p>c) <i>If that impact cannot be minimised—the development will be managed to mitigate that impact</i></p>	<p>The property is not located in the sensitive land area under the Lithgow LEP 2014.</p> <p>The proposed development will have no significant impact on soils. There is no reason to believe the site would be affected by contamination. Conditions of consent will be imposed to control erosion and sedimentation impacts on the site and therefore it is considered there will be minimal impacts on soils.</p>	Yes
3.4.1 Contaminated Land			
3.4.2 Sensitive Lands			
3.4.3 Erosion & Sedimentation			
3.6 Ground & Surface Water Protection		The property is not located within the Groundwater Overlay mapped prone area.	N/A
3.7 Mine Subsidence Risk		The property is located within the subsidence advisory area and as such was referred to the NSW Subsidence Advisory. General Terms of Approval, under Division 4.8 of the Environmental Planning and Assessment Act 1979, and under Clause 22 of the Coal Mine Compensation Act 2017 has been granted.	Yes



Chapter 6 – Residential Development			
6.2.1 Site Analysis and Potential Land Use Conflict	<p><i>Objectives</i></p> <p>a) <i>Complies with the Site Analysis requirements in DCP Chapter 2 – Site Requirements (including any other relevant chapters in this DCP &amp; the DA Guide); and</i></p> <p>b) <i>Has responded to the Site Analysis to produce a high-quality design that minimises the potential for land use conflict and integrates with the surrounding site context.</i></p>	<p>The development complies with the objectives of the zone under the Lithgow LEP 2014 and as detailed earlier in this report.</p> <p>The development is considered to respond to the land with appropriate earthworks, retaining walls, stormwater management and associated infrastructure to be undertaken.</p> <p>As such, the proposed development has been adequately sited and assessed to comply with the DCP requirements relating to site analysis and land use.</p>	Yes
6.2.2 Site Suitability	<p><i>Objectives</i></p> <p>a) <i>To meet the objectives of the relevant land use zone;</i></p> <p>b) <i>To cater for slope and minimise cut, fill and retaining (see Chapter 2 – Site Requirements);</i></p> <p>c) <i>To provide suitable areas (in accordance with this Chapter) of deep soil landscaped area and private open space areas for each dwelling with orientation for solar access and minimise the amount of site covered by buildings or impermeable/hardstand areas.</i></p> <p>d) <i>To provide a reasonable standard of amenity and functionality consistent with the area character.</i></p>	<p>The development plans include sediment control measures that were considered by Council’s Development Engineer as being satisfactory. Conditions are included in the consent in this regard.</p>	Yes


<p>6.2.3 Landscaping &amp; Tree Protection</p>	<p><i>Objectives</i></p> <p><b>01. Retention:</b> <i>To encourage the retention of trees and other significant vegetation and integration of these features into the design of buildings and open spaces, particularly where vegetation is outside the proposed building footprint and is of ecological, aesthetic or cultural significance.</i></p> <p><b>02. Context:</b> <i>To provide landscaping that responds to the context and character of the area, the land use zone, view lines and land-marks, any existing street or locality planting scheme, the local climate, and the site characteristics.</i></p> <p><b>03. Amenity:</b> <i>To integrate landscaping with site and building design so it enhances amenity, privacy, screening and solar access/shading (as required) outcomes for the site and adjoining sites and responds to the layout and scale of the proposed built form.</i></p> <p><b>04. Arterial Roads:</b> <i>To ensure development fronting an arterial road (especially highways and regional roads) is suitably landscaped to soften the visual impact of development when viewed from these key transport routes.</i></p> <p><b>05. Screening:</b> <i>To use landscaping to soften the visual impact of larger buildings, large hardstand/ car parking areas, or screen</i></p>	<p>The property is currently vacant of landscaping and significant vegetation.</p> <p>A landscaping plan has been submitted with the application. The plan shows landscaping to be located around the boundaries of the property. This will help to minimise impacts to adjoining property owners, specifically in terms of visual, noise and privacy impacts.</p> <p>The species proposed for the landscape plan is considered adequate for the development.</p>	<p>Yes</p>
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	<p>service and storage areas from public view.</p> <p><b>06. Safety:</b> To consider how landscaping is integrated with built form to address principles in DCP Section 2.7 – Designing for Crime Prevention.</p> <p><b>07. Stormwater:</b> To minimise stormwater run-off and hard paved areas and maximise water infiltration and deep soil landscaped area in accordance with Stormwater Management controls in this DCP.</p> <p><b>08. Bushfire:</b> To manage landscaping so that it enhances environmental connectivity but does not increase the bush fire risk to properties.</p> <p><b>09. Stability:</b> To use landscape to stabilise steeper slopes, earth mounds, and areas with erosion potential.</p> <p><b>010. Suitability:</b> To encourage landscaping and species selection that is native and non-invasive, low-maintenance, robust, suited to local soil and climatic conditions, and minimises water consumption.</p> <p><b>011. Longevity:</b> To ensure that development considers the long-term protection, maintenance, irrigation, and longevity of landscape to maximise chances of achieving the original design outcomes.</p> <p><b>012. Utilities:</b> To avoid planting locations and</p>		
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	<p><i>species that may impact on underground or aboveground utilities or buildings, including but not limited to: excavation, root penetration, water damage or ground-heave from irrigation or moisture levels, mature-height of species interfering with overhead power-lines, etc.</i></p> <p><b>013. Fencing:</b> <i>To integrate fencing with landscape design.</i></p> <p><b>014. Biodiversity:</b> <i>To consider how retention and enhancement of landscape can address the biodiversity policies of the NSW Government and Council and encourage sustainable development.</i></p> <p><b>015. Temperature:</b> <i>To utilise landscaping to mitigate the increases in temperature associated with the 'heat island effect' of buildings and hard surfaces, particularly in denser urban areas.</i></p>		
6.2.4 Fencing	<p><i>Objectives</i></p> <p><i>O1. To be consistent with the existing (or desired future) character of the relevant land use zone and street, taking into account the prevailing fence types, solidity, and heights in the locality;</i></p> <p><i>O2. If it is on, or in proximity to, a heritage item or in a heritage conservation area, to address any additional relevant requirements in DCP Chapter 4 Heritage &amp; Cultural Conservation;</i></p> <p><i>O3. To meet the security and privacy needs of a</i></p>	<p>The development is consistent with the objectives of the zone and development standards of the LLEP2014 relating to lot sizes (refer to considerations under the LLEP2014).</p> <p>The development proposes a colourbond fence to be located around the perimeter of the property. This is satisfactory for the development.</p>	Yes

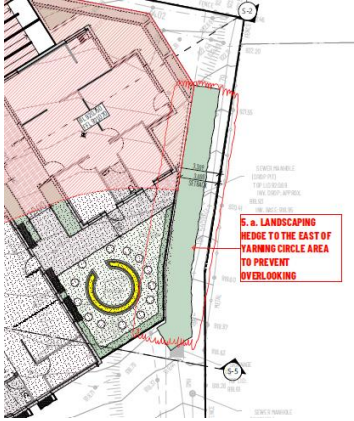
	<p><i>development whilst avoiding fencing that dominates the street or impacts significantly on casual surveillance to/from the street from building(s) on the lot;</i></p> <p><i>O4. To ensure fencing provides adequate sight-lines for vehicle and pedestrian safety.</i></p>		
6.2.5 Sustainable Design	<p><i>Residential development should seek to promote sustainable development that maximises residential amenity whilst minimising material, water and energy consumption. A BASIX Certificate may be required for certain development under SEPP (BASIX) 2004 and is a starting point for sustainable development.</i></p>	<p>The residential component of the development has been development to minimise material, water and energy consumption.</p> <p>A BASIX Certificate as such is not required for group homes.</p>	Yes
<p>6.5 Medium to Higher Density Housing</p> <p><b>Note that the DCP does not specifically detail controls for Group Homes. As such, Clause 6.5 has been utilised as a guidance</b></p>	<p>O1. To ensure these planning controls are consistent with the State Planning Policies and regulatory provisions that apply to each particular type of residential accommodation.</p> <p>O2. To promote higher dwelling densities in areas that are suited to higher densities without significantly compromising the amenity and character of our settlements.</p> <p>O3. To ensure that lot size is of sufficient size to promote good site planning, vehicle access and parking, open space and landscaping, building separations and solar access, dwelling design, and street / visual amenity.</p>	<p>There are no State Planning Policies applicable to group homes.</p> <p>The development is considered to be suitable for the size of the property and be similar to the adjoining/surrounding multi dwellings.</p> <p>The size of the allotment is able to promote vehicle and parking, open space and landscaping.</p> <p>The development proposes to consist of two storeys. This is consistent with the adjoining two storey dwellings and multi dwellings in the locality.</p> <p>The development proposes the following setbacks:</p>	Yes

	<p>O4. To ensure that the height and scale of development integrates into the existing and desired streetscape and minimises impacts on adjacent properties from shadow, acoustic and visual privacy, and cut and fill.</p> <p>O5. To ensure it is designed with suitable building setbacks and separations to provide good residential amenity to the proposed building and neighbours including:</p> <ul style="list-style-type: none"> <li>a) Minimising noise impacts from adjacent roads &amp; neighbouring land uses;</li> <li>b) Maximising visual privacy;</li> <li>c) Maintaining reasonable solar access to primary living spaces and open spaces &amp; minimise overshadowing to/from other dwellings on the site and adjacent sites;</li> <li>d) Promoting natural cross ventilation;</li> <li>e) Encouraging useable private (and possibly communal) open spaces that are accessible from primary living spaces and capable of supporting some significant landscaping;</li> <li>f) Providing opportunities for water and energy efficiency.</li> </ul> <p>O6. To ensure the design of higher density or innovative and different building forms demonstrates how the building siting and driveway layout:</p>	<ul style="list-style-type: none"> <li>• Carpark &amp; Retaining Wall- 1m from side boundaries,</li> <li>• Rear Setback- 3.3m from single storey building corner.</li> </ul> <p>Given the orientation of the property and the topography of the land, ancillary works such as the retaining walls are located within proximity to the boundary.</p> <p>In terms of bulk and scale- the development's two storey height and positioning within a battle-axe lot is screened by existing and potential future residential uses.</p> <p>Overshadowing, impacts are minor and concentrated over the Council reserve (vacant land) to the south west during early morning; and south east in the afternoon. The shadow diagrams are shown below:</p> <div style="text-align: center;">  <p>WINTER SOLSTICE 9AM Scale 1:250</p>  <p>WINTER SOLSTICE 12PM Scale 1:250</p> </div>	
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	<p>a) Promotes casual surveillance of the street;</p> <p>b) Creates clear entrances and a sense of address for each dwelling;</p> <p>c) Avoids blank walls to public or semi-public areas and create visual interest;</p> <p>d) Promotes good orientation for solar access to living spaces and private open spaces;</p> <p>e) Reduces visibility of maintenance areas and soften driveways with landscaping and screening</p> <p>O7. To ensure the design of medium density housing incorporates an adequate level of outdoor private open space and landscaping areas:</p> <p>a) To maximise amenity for each dwelling;</p> <p>b) To maximise solar access to private open spaces and living areas.</p> <p>O8. To encourage deep soil landscaped areas that can support significant landscaping to:</p> <p>a) Retain and protect existing significant trees;</p> <p>b) Allow for water infiltration and reduce stormwater issues;</p> <p>c) Reduce the bulk and scale of larger developments and hardstand areas;</p>	 <p>WINTER SOLSTICE 3PM Scale 1:200</p> <p>The design of the development, with the location of the windows and balconies, specifically for the 2 storey building contains a greater setback from the boundaries with a orientation to the south. This overlooks the open space area on the site.</p> <p>Landscaping is proposed around the boundaries with the retaining wall will minimise visual/screening and noise impacts to adjoining properties.</p> <p>Communal and private open space areas are proposed for the development. The private open space for each residential unit is located on the balcony's, with communal space involving bbq area, dining, kitchen, and children's play area.</p> <p>The building is setback from the public road, this will help to minimise visual impacts to the streetscape as well as providing surveillance.</p> <p>The development contains no blank walls.</p> <p>The communal open space areas and balconies for the units are located to the</p>	
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	<p>d) Improve privacy and shading whilst allowing solar access in winter;</p> <p>e) Utilise species suitable to the climate with lower maintenance;</p> <p>f) Assist in defining the boundary between public, semi-public, and private land and promote good sight-lines and safety.</p> <p>O9. To ensure that solid waste management is integrated into the design of more complex developments and will provide:</p> <p>a) Safe and efficient access for waste collection vehicles to the waste storage area;</p> <p>b) Suitable locations and accessibility to promote effective waste management and recycling;</p> <p>c) Appropriately sized waste storage areas for the potential waste generation of the development and collection periods;</p> <p>d) Screening of waste storage areas to minimise visual and odour impacts.</p> <p>O10.To require larger residential developments to provide a percentage of dwellings that are either universally designed and/or adaptable to meet changing needs of residents and the community.</p>	<p>north of the building with an orientation to the east and south for solar access.</p> <p>As previously stated, no landscaping is located within the driveway area given it is for a battle axe allotment (to be consolidated) with two way driveway access. As such no landscaping is proposed along the driveway, however this is proposed to be concreted which will require minimal maintenance. Landscaping however, is proposed around the building sites and carparking area which will help to minimise and screen the development.</p> <p>A stormwater system consisting of a bioretention basin has been proposed for the development and is considered satisfactory.</p> <p>A solid waste area is proposed to be located within the development site, near the carpark area. This is a suitable location for the facility and will be screened from public view.</p>	
6.5.1 Siting & Setbacks	<p><b>Front Setback to Primary Street (Zone R1 General Residential)</b></p> <ul style="list-style-type: none"> <li>• 4.5m - single storey OR average setback of adjacent</li> </ul>	<p>The development proposes the following setbacks:</p>	

	<p>dwelling (whichever is greater),</p> <ul style="list-style-type: none"> <li>• 6.0m – two or more storeys OR average setback of adjacent dwellings (whichever is greater).</li> </ul> <p><b>Side Boundary</b></p> <ul style="list-style-type: none"> <li>• 1.5m - single storey,</li> <li>• 3m - two storeys or greater.</li> </ul> <p><b>Rear Boundary (no road frontage)</b></p> <ul style="list-style-type: none"> <li>• 4.5m - single storey,</li> <li>• 6m - two storeys or greater.</li> </ul>	<ul style="list-style-type: none"> <li>• Carpark &amp; Retaining Wall- 1m from side boundaries,</li> <li>• Rear Setback- 3.3m from single storey building corner.</li> </ul> <p>The two storey building component will contain a setback greater than 6m from the rear boundary.</p> <p>The single storey building component is below the required 4.5m setback as per the DCP.</p> <p>As such, the applicant has provided the following justification:</p> <p><i>“Notwithstanding, it should be acknowledged that the portion of the building that encroaches within the minimum setback area is limited to a length of approximately 3.5m.</i></p> <p><i>An encroachment for a length of 3.5m represents 8% of the total common boundary with the residential property to the immediate east at 8 Winton Close.</i></p> <p><i>By comparison, the remaining portion of the single storey building achieves a setback more than 4.5m from the common boundary with 8 Winton Close. In this regard, it is considered that overall design outcome is clearly superior to a minimum setback of 4.5m for the full length of the common boundary with 8 Winton Close and will clearly allow for suitable landscaping.”</i></p>	
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		<p>It is recognised that a small portion (a corner) of the single storey building component and yarning circle contains a setback of 3.3m from the rear boundary.</p>  <p>The yarning circle is an open veranda. The applicant has advised that a privacy screen with a minimum of 1.8m in height will be provided around the circle for privacy to adjoining properties. This was also a request by an adjoining property owner. This will further be conditioned on the consent.</p> <p>A landscaped hedge is also proposed along the boundary to minimise visual impacts and privacy to adjoining properties.</p>	
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**Figure 7:** *Photo of the proposed location of the Yarning Circle adjoining No.8 Wilton Close, 7 August 2024*

### **Council's Policy Implications (Other than DCP's)**

#### Lithgow Community Participation Plan

The development was publicly notified in accordance with the Lithgow Community Participation Plan 2020 (CPP) and the provisions of Environmental Planning and Assessment Regulations 2021 (EP&A Regulation). The notification period was for a minimum of 28 days from 28 October 2023 to 24 November 2023 and re-notified for an additional 14 days duration from 6 June 2024 to 24 June 2024 due to a redesign of the development.

During the notification period Seven (7) submissions by way of objection were received during the first notification period, with four (4) submissions received from within the original objectors during the second notification period.

The submissions over both notification periods raised the following issues:

- Classification of the development,
- Safety,
- Noise,
- Setback requirements,
- Privacy and overlooking impacts,
- Private open space area and location,
- Car and bicycle parking,
- Building size and layout,

- Building height,
- Bushfire protection,
- Traffic impacts,
- Property values,
- Light pollution,
- Scale and character,
- Incompatible use,
- Waste management,
- Fencing and easement impacts.

#### **S7.12 Development Contributions 2015**

Council's Section 7.12 Development Contributions Plan 2015 applies to this development given it is for group home development at an estimated cost of \$5,235,000.00.

<b>Estimated cost of development</b>	<b>Levy applicable</b>
\$0 to \$100,000	0%
\$100,001 to \$200,000	0.5%
\$200,001 and over	1%

As such, the following condition shall form part of the Development Consent:

*Prior to the issue of a Construction Certificate the applicant shall pay to Council a Section 7.12 contribution of **\$52,350.00** in accordance with the Lithgow City Council Section 94A (Section 7.12) Development Contribution Plan 2015. It is advised that the level of contribution in this plan may be adjusted at the time of actual payment, in accordance with the provisions of the Lithgow City Council Section 94A Development Contribution Plan 2015.*

#### **(d) Section 4.15(1)(a)(iv) - Provisions of Regulations**

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

The following relevant matters contained in the 2021 Regulation must be taken into consideration by a consent authority in determining a development application:

- Matters contained in Clause 61(1) including:
  - If demolition of a building proposed - the provisions of AS 2601;
  - If on land subject to subdivision order under Schedule 7, provisions of that order and any development plan;
  - Dark Sky Planning Guideline if applicable;
  - Low Rise Housing Diversity Design Guide for Development Applications (July 2020) if for manor house or multi dwelling housing (terraces).
- Matters in Cause 61 where the consent authority must be satisfied that the building complies (or will, when completed, comply) with such of the Category 1 fire safety provisions as are applicable to the building's proposed use.
- Matters in Clause 94 where the consent authority is to take into consideration whether it would be appropriate to require the existing building to be brought into total or partial conformity with the Building Code of Australia.

Council's Building Officer has assessed the development and is satisfied that the fire safety provisions can be conditioned on the consent, should the application be approved.

### 3.5 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

Head of Consideration	Comment
Context and setting	<p>The development is for a type of residential accommodation use within the R1 General Residential Zoning area under the Lithgow LEP 2014.</p> <p>The design and citing of the development has been created to reduce potential impacts through the main building setback being located further from the boundaries, within a battle-axe lot.</p> <p>The property consists of a current vacant allotment and therefore the development would provide additional housing to support the needs of the community.</p>
Access, traffic and parking	<p>Vehicle access is proposed to be via the existing battle-axe driveway from Hepburn Street. This access is considered to be satisfactory for the development in terms of site safety.</p> <p>The driveway has been designed to respond to the topography of the land with minimal earthworks proposed to be undertaken.</p> <p>The access has been undertaken in accordance with Council's Engineering Guidelines.</p> <p>The access location has good sightlines along Hepburn Street which is expected to experience low levels of traffic due to only servicing a limited number of residential lots/proposed units.</p> <p>It is expected that majority of the patrons utilising the facility will utilise public transport or company vehicles.</p> <p>The amount of vehicle usage would be specific for overnight stays only by patrons or employees.</p> <p>Given that the adjoining property contains 4 units each with 3 bedrooms (as per DA096/20), it is anticipated that given that the accommodation component of the development is similar, there would be limited traffic increase to the existing road usage.</p> <p>Hepburn Street is further a public road, designed and is suitable for additional developments.</p> <p>The development proposes 6 units varying between 1 to 2 bedrooms. 6 car parking spaces are also proposed.</p>

	<p>Given the low capacity of residences and short stay periods, it is expected that enclosed car parking is not required, as per the controls for multi dwelling developments.</p>
Public Domain	<p>The development is proposed to be located on an existing vacant allotment, with the development surrounded by different types of residential uses.</p> <p>A local park (McKellars Park) is located within 500m from the development with the local soccer fields (Majorie Jackson Park) located within 300m from the development site. As such the development is within proximity to public open space areas and contains adequate pedestrian linkages.</p> <p>The development will have minimal impact to the public domain given the location being surrounding by built developments.</p>
Utilities	<p>Water, sewer, electricity and telecommunication utilities will be provided to the development to the requirements of the respective public utility authority.</p>
Water/air/soil impacts	<p>Water impacts have been assessed by WaterNSW and is found to be adequate for the development subject to conditions on the consent.</p> <p>The development, once operational will have no impact on air quality. Conditions relating to dust will be conditioned on the consent during construction work.</p> <p>The proposed development will have no significant impact on soils. There is no reason to believe the site would be affected by contamination. Conditions of consent will be imposed to control erosion and sedimentation impacts on the site and therefore it is considered there will be minimal impacts on soils.</p> <p>The development proposes a maximum of approximately 3m of fill (majority to be located towards the south of the development project area) and minimal cut around the north eastern section of the development. The driveway will contain both a minimum amount of cut and fill.</p> <p>Block retaining walls are proposed to be constructed around the bottom of the building floor levels for containment of soils.</p> <p>The proposed development will have minimal impacts on drainage patterns and soil stability in the locality through construction in accordance with the stormwater management plan.</p>
Noise and vibration	<p>Noise is expected during the construction of the development with standard conditions of consent restricting to hours.</p> <p>Noise during operational hours is not expected to be high volumes due to the nature and purpose of the development.</p>

	Noise will be mitigated via the Operations Management Plan, that will be conditioned on the consent.
Natural Environment	Based on the information submitted, an assessment of the proposal and a site inspection, the development is considered to involve earthworks to level the site. Subject to conditions on the consent and an assessment from external government authorities, such as WaterNSW and Subsidence Advisory, the development is unlikely to result in adverse impacts on the natural environment.
Built Environment	The proposed development is considered to be in keeping with the established mixed use locality (being for multi dwelling development and residential uses). The proposal is not considered to be an overdevelopment of the site (given the combined area of the 2 allotments and built area to open space areas) and is unlikely to result in adverse impacts on the subject site and surrounding locality. Conditions are included on the consent to ensure minimal impacts occur to adjoining properties.
Social Impact	The development would provide a positive social impact as it proposes a facility in the locality for those in need or under the influence of domestic violence. The development has been designed to provide community/communal facilities with safety and security measures.
Economic Impact	The development would create a positive economic impact as it would employ local trades during construction with the continued use of the facility. The development would also provide a built accommodation form on an existing vacant allotment, close to the town centre.
Natural hazards	The site is affected by bushfire and subsidence, with the Rural Fire Service and Subsidence Advisory satisfied with the development subject to conditions on the consent.
Safety, security and crime prevention	<p>The development proposes sufficient security measures around the site. An Operational Management Plan will also be conditioned on the consent to address safety and security.</p> <p>The development is considered to be of low residential use with 6 units proposed. It is not expected to have a volume of usage to have impact to the surrounding landuses.</p>

### 3.6 Section 4.15(1)(c) - Suitability of the site

The site is considered suitable for the proposed development for the following reasons:

- The development is consistent with the objectives and is permissible under the applicable land use zone under the Lithgow LEP 2014.

- The constraints of the site have been considered in the development, which includes bushfire, subsidence, water quality, easements, traffic, access and parking and potential impacts to adjoining property owners.

The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development.

### 3.7 Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 5 of this report.

### 3.8 Section 4.15(1)(e) - Public interest

The development is considered to be in the public interest and is likely to result in significant housing accommodation for a facility that is in need in the locality, employment and economic benefits.

## 4. REFERRALS AND SUBMISSIONS

### 4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 4.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

**Table 4: Concurrence and Referrals to agencies**

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
<b>Concurrence Requirements (s4.13 of EP&amp;A Act)</b>			
Water NSW	Section 6.5 of the Biodiversity and Conservation SEPP (Chapter 6 - Sydney Drinking Water Catchment)	Water NSW considers that the proposed development can achieve a neutral or beneficial effect (NorBE) on water quality. Water NSW further provided appropriate conditions that are to be included in any development consent (6 December 2023, 03 July 2023 and 11 September 2024).	Yes
Rail authority for the rail corridor	Section 2.98(3) - <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>	N/A	N/A
<b>Referral/Consultation Agencies</b>			
RFS	S4.14 – EP&A Act	Refer to below comment under Integrated Development section.	Yes

	Development on bushfire-prone land		
Electricity supply authority	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	Endeavour Energy has advised that the proposal is satisfactory subject to conditions. Refer to response received 8 August 2024.	Yes
Rail authority	Section 2.97 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development land that is in or adjacent to a rail corridor.	N/A	N/A
Transport for NSW	Section 2.121 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development that is deemed to be traffic generating development in Schedule 3.	N/A	N/A
Design Review Panel	CI 28(2)(a) – SEPP 65  Advice of the Design Review Panel ('DRP')	N/A	N/A
<b>Integrated Development (S 4.46 of the EP&amp;A Act)</b>			
RFS	S100B - <i>Rural Fires Act 1997</i> bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes.	The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the Environmental Planning and Assessment Act 1979, and a Bush Fire Safety Authority, under section 100B of the Rural Fires Act 1997 (20 December 2023).	Yes
Subsidence Advisory	Clause 22 – Coal Mine Compensation Act 2017 requires approvals for development within mine subsidence districts.	Subsidence Advisory has considered the information submitted. General Terms of Approval, under Division 4.8 of the Environmental Planning and Assessment Act 1979, and under Clause 22 of the Coal Mine Compensation Act 2017 (19 August 2024).	Yes
Natural Resources Access Regulator	S89-91 – <i>Water Management Act 2000</i> water use approval, water management work	N/A	N/A

	approval or activity approval under Part 3 of Chapter 3.		
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## 4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

**Table 5: Consideration of Council Referrals**

Officer	Comments	Resolved
Engineering	Council's Engineering Officer reviewed the submitted stormwater concept plan and considered that there were no objections subject to conditions. Response received 7 November 2023.	Yes (conditions)
Building	Council's Building Officer reviewed the submitted documentation and considered that there were no objections subject to conditions. Response received 10 July 2024.	Yes (conditions)
Environmental	Council's Building Officer reviewed the submitted stormwater concept plan and considered that there were no objections subject to conditions. Response received 25 October 2023.	Yes (conditions)
Water and Wastewater	Council's Water and Wastewater Officer reviewed the submitted stormwater concept plan and considered that there were no objections subject to conditions. Response received 24 October 2023.	Yes (conditions)
Waste	Council's Waste Compliance Officer reviewed the submitted plan and considered that there were no objections subject to conditions. Response received 9 August 2024.	Yes (conditions)
Crime Prevention Officer-NSW Police Force	The Crime Prevention Officer from the NSW Police Force reviewed the submitted plan and considered that there were no objections subject to conditions. Response received 11 September 2024.	Yes (conditions)

## 4.3 Community Consultation

The development was publicly notified in accordance with the Lithgow Community Participation Plan 2020 (CPP) and the provisions of Environmental Planning and Assessment Regulations 2021 (EP&A Regulation). The notification period was for a minimum of 28 days from 28 October 2023 to 24 November 2023 and re-notified for an additional 14 days duration from 6 June 2024 to 24 June 2024 due to a redesign of the development.

- Notification letters sent to adjoining and adjacent properties.
- Notification on the Council's website.

During the notification period Seven (7) submissions by way of objection were received during the first notification period, with four (4) submissions received from within the original objectors during the second notification period.

The applicant received all submissions to address the concerns raised.

The issues raised in these submissions are considered in the Table below:

**Table 2: Community Submissions**

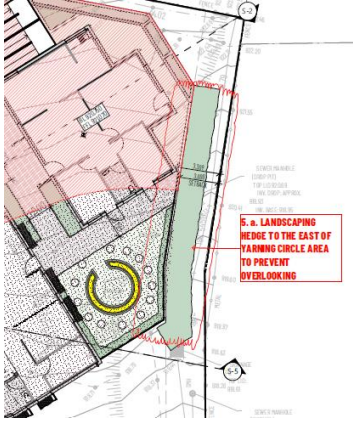
**First Notification Period**

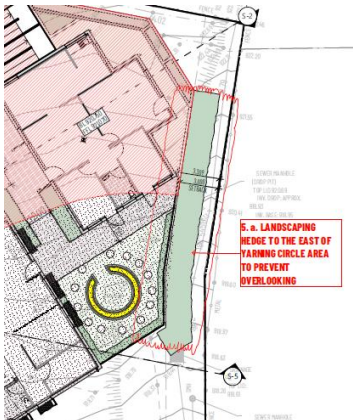
Community Concern	Applicants Comments	Council Comments
<b>Increase in traffic and pedestrian usage</b>	<p>Vehicles accessing the site will generate additional traffic in the surrounding network. The impacts of the additional traffic is expected to be acceptable as:</p> <ul style="list-style-type: none"> <li>• In the Housing Plus experience in operating other domestic and family violence accommodation elsewhere in NSW, a significant proportion of residents will arrive at the site by taxi or will be dropped by a trusted family member or friend;</li> <li>• Once prospective residents accepted to reside in the facility, it is anticipated that they will undertake far fewer trips to and from the site than residents of a typical dwelling house as a high proportion of services are delivered to the site or performed by staff (e.g. bulk grocery deliveries); and</li> <li>• Vehicle movements are expected to be limited to light vehicles and occasional vans and small trucks, resulting in traffic impacts to the surrounding road network and noise and vibration impacts to residential dwellings similar to any low density multi dwelling housing.</li> </ul>	<p>The access location has good sightlines along Hepburn Street which is expected to experience low levels of traffic due to only servicing a limited number of residential lots/proposed units.</p> <p>It is expected that majority of the patrons utilising the facility will utilise public transport or company vehicles.</p> <p>The amount of vehicle usage would be specific for overnight stays only by patrons or employees.</p> <p>Given that the adjoining property contains 4 units each with 3 bedrooms (as per DA096/20), it is anticipated that given that the accommodation component of the development is similar, there would be limited traffic increase to the existing road usage.</p> <p>Hepburn Street is further a public road, designed and is suitable for additional developments.</p> 

<p><b>Design, Scale and Character of the area</b></p>	<p>The proposed development achieves good site planning, demonstrated through the provision of adequate parking, open space, landscaping, building separation and dwelling design.</p> <p>The noncompliant rear setback (Council's DCP in terms of multi-dwelling development) will not be visible from the street and will not result in significant additional overshadowing impacts due to being limited to a single storey in height.</p> <p>The physical building design will promote and ensure a safe and secure environment. Safety includes physical safety, as well as mental and emotional safety.</p> <p>The proposed development will not have any impact on built form and streetscape character due to being located within a battle-axe lot, screened by existing residential uses to the east, north and west and potential future development within land in Zone R1 General Residential adjoining the site's southern boundary.</p>	<p>The design and scale of the development is considered to be suitable for the property. The total site area consist of 2625m<sup>2</sup> with the total area of the built construction area to consist of approximately 862.72m<sup>2</sup>.</p> <p>The development involves adequate parking areas, pedestrian access, open space and landscaped areas.</p> <p>The main purpose of the development is defined as a group home (transitional) with majority of the built form to be utilised for 6 units, The design and type of residential accommodation is therefore similar to the adjoining multi dwelling developments on the adjoining allotments.</p> <p>As such it is considered that the size and scale of the development will be compatible with the surrounding landuses.</p> <p>The development is expected to have minimal to no impact to the streetscape given the setback of the battle-ax allotment and being located near the end of the cul-de-sac.</p>
<p><b>Home Values would Decrease</b></p>	<p>-</p>	<p>This is not a planning consideration.</p>
<p><b>On site parking insufficient</b></p>	<p>As noted in the Statement of Environmental Effects submitted with the Development Application, the proposed development includes six car parking spaces, including one disabled space. Car parking is compliant with the minimum requirements</p>	<p>Clause 6.5.6 in the Lithgow DCP 2021 relates to controls for multi-dwelling-houses. There are no specific car parking controls within the Lithgow DCP 2021 relating to transitional group home developments.</p> <p>The development is defined as being a transitional group home</p>

	<p>under Section 6.5.6N of the Lithgow DCP 2021.</p> <p>Further, the following is noted:</p> <ul style="list-style-type: none"> <li>• In the Housing Plus experience in operating other domestic and family violence accommodation elsewhere in NSW, a considerable proportion of residents will arrive at the site by taxi or trusted family member or friend.</li> <li>• Once prospective residents accepted to reside in the facility, it is anticipated that they will undertake far fewer trips to and from the site than residents of a typical dwelling house as a high proportion of services are delivered to the site or performed by staff (e.g. bulk grocery deliveries); and</li> <li>• Vehicle movements are expected to be limited to light vehicles and occasional vans and small trucks, resulting in traffic impacts to the surrounding road network and noise and vibration impacts to residential dwellings similar to any low density multi dwelling housing.</li> </ul> <p>Group homes are not listed in the Table of Car Parking Requirements. However, the six parking proposed complies with the six required for multi dwelling housing comprising three one bedroom units and three two bedroom units.</p> <p>The proposed development includes parking spaces designed in accordance with</p>	<p>and not for permanent residences compared to multi dwelling houses.</p> <p>As such, the development is based on a merit assessment.</p> <p>The development proposes 6 units varying between 1 to 2 bedrooms. 6 car parking spaces are also proposed.</p> <p>Given the low capacity of residences and short stay periods, it is expected that enclosed car parking is not required, as per the controls for multi dwelling developments.</p> <p>The controls in the DCP for multi dwellings indicates that there should be 1 vehicle space for one-two bedroom units. As such on this basis, the development contains adequate parking spaces (irrespective of the ancillary uses proposed).</p>
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	AS2890 and AS1428.1 as required.	
<b>Bushfire</b> -turning areas and fire management plan.	Turning area to accommodate firefighting vehicles have been included on the amended plans.	<p>The development was assessed by the NSW Rural Fire Service, who has no objection to the application subject to conditions on the consent.</p> <p>Access to the property is further 2 - ways. This is adequate for fire fighting vehicles.</p>
<b>Fencing type</b> - timber proposed	The architectural plans have been amended to clearly denote all proposed boundary fencing, including location, material, finishes and height. Specifically, the proposed development includes a new 1.8m colourbond fence around those boundaries of the property that are not already fenced.	Council sought clarification from the applicant after the notification period with the developer confirming that a 1.8m colourbond fence to be located around the perimeter of the property. This is satisfactory for the development and has been shown on the amended plans.
<b>Increased noise</b>	-	<p>Noise is expected during the construction of the development with standard conditions of consent restricting to hours.</p> <p>Noise during operational hours is not expected to be high volumes due to the nature and purpose of the development.</p> <p>Noise will be mitigated via the Operations Management Plan, that will be conditioned on the consent.</p>
<b>Privacy/Overlooking Impacts</b> - The location of the 'Yarning Circle', overlooking rear open spaces and patios as it will be elevated 1-2m above existing ground level.	<p>The proposed development will not have a detrimental impact on adjoining residential properties.</p> <p>It is noted that the rear private open space and living room windows of 8 Wilton Close are sensitive to the potential impacts of overlooking from the proposed development.</p> <p>The proposed development has been designed to ensure that all windows that</p>	It is recognised that a small portion (a corner) of the single storey building component and yarning circle contains a setback of 3.3m from the rear boundary.

	<p>may afford a view towards 8 Wilton Close are either setback in excess of 9m from the common boundary with 8 Wilton Close, or would otherwise be screened by landscaping, perimeter fencing, minimum sill heights of 1.5m and solid vertical screens.</p> <p>Based on the proposed design it considered that the proposed development is unlikely to have a detrimental impact on the privacy of the adjoining residential properties.</p>	 <p>The yarning circle is an open veranda. The applicant has advised that a privacy screen with a minimum of 1.8m in height will be provided around the circle for privacy to adjoining properties.</p> <p>This was also a request by an adjoining property owner. This will further be conditioned on the consent.</p> <p>A landscaped hedge is also proposed along the boundary to minimise visual impacts and privacy to adjoining properties.</p>
<p><b>Light Pollution-</b> Details not provided</p>	<p>It is not anticipated that external lighting will have a detrimental impact on adjoining properties. It is considered that potentially detrimental off-site impacts could be adequately addressed via a condition of consent to require that all external lighting comply with AS 4282: Control of Obtrusive Effects of Outdoor Lighting.</p> <p>Compliance with AS4282 should ensure that adequate external lighting can be provided for residents of the group home without having a detrimental affect on the amenity of the immediate area, including other residential properties.</p>	<p>Since the 2<sup>nd</sup> notification period, the applicant has advised that a privacy screen will be located around the outdoor yarning circle. This will help to reduce potential lighting impacts to adjoining properties.</p> <p>Conditions will be included on the consent relating to an operational management plan and lighting impacts.</p>

<p><b>Insufficient setbacks to rear (eastern) boundary-</b> The non-compliance with the 4.5m minimum DCP setback to the “rear” boundary increases the potential overlooking impacts.</p> <p>Noting that this setback is for Medium to Higher Density Housing</p>	<p>The proposed development has been designed to achieve a minimum rear setback of 3.3m, being 1.2m below the required 4.5m setback for a single storey building.</p> <p>Notwithstanding, it should be acknowledged that the portion of the building that encroaches within the minimum setback area is limited to a length of approximately 3.5m.</p> <p>An encroachment for a length of 3.5m represents 8% of the total common boundary with the residential property to the immediate east at 8 Winton Close.</p> <p>By comparison, the remaining portion of the single storey building achieves a setback more than 4.5 m from the common boundary with 8 Winton Close.</p> <p>In this regard, it is considered that overall design outcome is clearly superior to a minimum setback of 4.5m for the full length of the common boundary with 8 Winton Close and will clearly allow for suitable landscaping.</p>	<p>Note that the DCP does not specifically detail controls for Group Homes. As such, Clause 6.5 was utilised as a guidance in the assessment.</p> <p>It is recognised that a small portion (a corner) of the single storey building component and yarning circle contains a setback of 3.3m from the rear boundary.</p>  <p>The yarning circle is an open veranda. The applicant has advised that a privacy screen with a minimum of 1.8m in height will be provided around the circle for privacy to adjoining properties.</p> <p>This was also a request by an adjoining property owner. This will further be conditioned on the consent.</p> <p>A landscaped hedge is also proposed along the boundary to minimise visual impacts and privacy to adjoining properties.</p>
<p><b>Operational Management Plan-</b> The plan is to detail impacts to adjoining property owners, such as visual amenity, privacy, activities proposed for the development, noise, alarms.</p>	<p>A draft Operational Plan of Management has since been submitted.</p>	<p>A condition will be included on the consent that an Operational Management Plan is to be submitted for Council approval prior to the issue of the construction certificate.</p> <p>The Operational Management Plan is to address:</p> <ul style="list-style-type: none"> <li>• Visual amenity,</li> <li>• Privacy,</li> </ul>

		<ul style="list-style-type: none"> <li>• Activities proposed for the development,</li> <li>• Noise,</li> <li>• Alarms,</li> <li>• Lighting,</li> <li>• Visitor and traffic hours of operations,</li> <li>• Hours of operational for cleaners, and other employees,</li> <li>• Any other potential operational impacts.</li> </ul>
<b>Site Survey Plan-</b> The plans do not include ground levels or open space areas for adjoining properties.	Amended plans have been since been submitted.	Amended plans have been since been submitted.
<b>Non-Compliance with the Lithgow DCP 2021 (Multi Dwelling Development)-</b> a) Building Height exceeds Clause 6.5.6A(1), and 6.5.6G (maximum 5.4m in the rear 40% of the site and ground floor height). b) No enclosed parking areas as per Clause 6.5.6N(1), c) No solar access for Units 5 and 6 as per clause 6.5.6H(1), d) All units have an internal area smaller than Clause 6.5.6K(1) e) Laneway exceeding 40m as per clause 6.5.6F(1), f) Clause 6.5.6L Private Open Space and Location. g) Clause 6.5.6M Storage h) Setback is less than the required	<p>a) a small portion of the development exceeds the recommended maximum building height by up to 0.32m. Given the negligible exceedance of the recommended building height, it is unlikely to have a discernible impact on the overall character of the development and the character of the street.</p> <p>It is acknowledged that the proposed development exceeds a height of 5.4m within the rear 40% of the site and a ground floor level of 1.3m above ground level.</p> <p>However, in each instance, it is considered that the proposed development is consistent with the objectives of the relevant provisions, being 6.5.6A(1) and 6.5.6G(4), respectively:</p> <p><i>The building height is consistent with the desired scale and character of the street and locality and provides an acceptable impact on the amenity of adjoining properties.</i></p>	<p>As previously stated in this report, the development is not defined as a multi dwelling development and as such there are no specific controls in the DCP for group homes.</p> <p>In relation to the community concerns in general and as a guide the following assessment is made:</p> <p>a) It is recognised that a small portion of the development exceeds the DCP for multi dwellings. Given that it is a small portion and the multi dwellings on the adjoining allotment on Hepburn Street is at a higher elevation, and the development proposes privacy screens and landscaping around the site, it is considered that the height of the development will not have detrimental impacts to the character or streetscape.</p> <p>The development has been orientated on the site to have the open space area to the south of the site. This as such could be defined as the rear of the site, due to the topography of the land and orientation of the allotment/development.</p> <p>Given the above justification, Council supports the variation to</p>

<p>4.5m and relies solely on a proposed hedge to mitigate the overlooking of the private open space (Clause 6.5.6O(1))</p>	<p><i>The development responds to the natural landform of the site, reducing the visual impact and avoiding large amounts of cut and fill and minimise the impacts of retaining walls.</i></p> <p>It should be acknowledged that the site is effectively contained within existing development to the north, east and west. The site does not have an extensive street frontage and will be a recessive form to existing buildings when viewed from Hepburn Street to the west and Wilton Close to the east.</p> <p>Further, it is noted that development to the north and west of the site, being 10 Wilton Close and 2 Hepburn Street, comprise higher density residential development which would have an equivalent or greater site coverage than the proposed development. Aerial imagery of 10 Wilton Close suggests that the site has been fully developed with multi storey buildings or other impervious surfaces except for the rear yards.</p> <p>Having regard to the characteristics of the existing developments at 10 Wilton Close and 2 Hepburn Street, it is considered that the proposed development is entirely consistent with the existing character of the area and that it will not have a detrimental visual impact.</p>	<p>the DCP should it have been assessed against the multi dwelling provisions.</p> <p>b) Parking has been addressed earlier in this assessment and table.</p> <p>c) All of the units contains windows and verandas/patios, that helps to gain solar access. The living room to unit 5 is also located on the western side of the development. As such it is expected that the unit will have some solar access and complies with eh DCP. Given the type of development being for short term accommodation, with communal living rooms and open space areas, as well as employees being utilised as careers, the variation of the DCP is supported.</p> <p>d) The DCP states:</p> <ul style="list-style-type: none"> <li>• 1 bed: 65m<sup>2</sup></li> <li>• 2 beds: 90m<sup>2</sup></li> </ul> <p>The development proposes:</p> <p>U1- 2 bedrooms= 91m<sup>2</sup>  U2-1 bedroom=71.36m<sup>2</sup>  U3-1 bedroom= 71.36m<sup>2</sup>  U4- 2 bedrooms= 91m<sup>2</sup>  U5-2 bedrooms=84.82m<sup>2</sup>  U6- 1 bedroom=61.64m<sup>2</sup></p> <p>As such, Unit 5 is the only non-compliance with the DCP, with a shortfall of 6m<sup>2</sup>. Given the use and purpose of the building structure, and the minor variation, the variation can be supported.</p> <p>e) No laneways are proposed as part of this application.</p> <p>f) Given that the development provides for communal areas, the open space area is considered satisfactory and complies with the DCP. There is sufficient private open space around the development to accommodate the purpose of each residential unit.</p>
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		<p>g) Given that the development is for short term accommodation, and would be managed/cleaned by the company within the Organisation Management Plan, storage within the units are not required compared to long term accommodation like multi dwelling developments.</p> <p>h) Refer to previous comments within the table relating to setbacks.</p>
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### Second Notification Period

Community Concern	Applicants Comments	Council Comments
<b>Classification of the development</b> - The revised plan appears to be more a community/commercial development rather than a residential, as demonstrated by the smaller amount or area appearing to be allocated as residential units.	The proposed development has been accurately characterised as a group home for the purpose of the Lithgow Local Environmental Plan 2014 (the 'LEP'). Group home, including group home (transitional) and group home (permanent), is a permissible land use in Zone R1 General Residential of the LEP. While the Development Application specifically defined the proposed development as group home (permanent), Council's suggestion that the characteristics of the proposed development may be more consistent with group home (transitional) is accepted.	The purpose of the development is to be utilised as a group home (transitional) with ancillary community uses. The development is more characterised as a group home (residential use), given its nature to provide accommodation to those in needs. The use of the facility therefore does not comply with the definition of a commercial premise under the Lithgow LEP 2014.
<b>Bushfire</b> -turning areas and fire management plan.	-	The development was assessed by the NSW Rural Fire Service, who has no objection to the application subject to conditions on the consent.  Access to the property is further 2 -ways. This is adequate for fire fighting vehicles.
<b>Bin (16) Frontage on Hepburn Street</b> -Impacts across adjoining easement	-	It is anticipated that waste generated during construction can be managed through standard construction measures. Once operational, the proposed development will generate

		<p>minimal waste, limited to office waste and residential waste equivalent to a small multi dwelling housing development.</p> <p>The bin storage will be readily accessible to all residents from the parking area in the proposed development.</p> <p>Council's waste Officer advised that a minimum of 6 bins (red, yellow and green), totally 18 bins is required for the development.</p> <p>Given the type of development and usage, it is anticipated that not all of these bins would be located within Hepburn Street on bin collection days at any one given time. Specially, given that the bins will be located within a communal area, the units and open space area will be managed by the company. This will be conditioned within the Operational Management Plan.</p> <p>The bins will need to be located on the Council road reserve on collection days.</p>
<b>Fencing and landscaping along easements/services</b>	-	<p>A fence is existing along the boundaries of the property, as such any additional fencing will be located within this area along the property boundary and edge of the easement. Given that the landscaping of the hedge and the fencing is light weight construction, it is considered that they will have no impact to the easements.</p>
<b>Fencing type-</b> timber proposed	-	<p>Council sought clarification from the applicant after the notification period with the developer confirming that a colourbond fence to be located around the perimeter of the property. This is satisfactory for the development and has been shown on the amended plans.</p>
<b>Carparking and garages-</b> non-	-	<p>Clause 6.5.6 in the Lithgow DCP 2021 relates to controls for multi-</p>

compliant with the Lithgow DCP 2021		<p>dwelling-houses. There are no specific car parking controls within the Lithgow DCP 2021 relating to transitional group home developments.</p> <p>The development is defined as being a transitional group home and not for permanent residences compared to multi dwelling houses.</p> <p>As such, the development is based on a merit assessment.</p> <p>The development proposes 6 units varying between 1 to 2 bedrooms. 6 car parking spaces are also proposed.</p> <p>Given the low capacity of residences and short stay periods, it is expected that enclosed car parking is not required, as per the controls for multi dwelling developments.</p> <p>The controls in the DCP for multi dwellings indicates that there should be 1 vehicle space for one-two bedroom units. As such on this basis, the development contains adequate parking spaces (irrespective of the ancillary uses proposed).</p>
<b>Stormwater Management Infrastructure</b>	-	<p>The application proposes an appropriate stormwater management network which will capture and control discharge of stormwater.</p> <p>WaterNSW has assessed the development and considers the stormwater infrastructure is adequate for the development.</p>
<b>Non-Compliance with the Lithgow DCP 2021-</b> i) Building Height exceeds Clause 6.5.6A(1), and 6.5.6G (maximum 5.4m in the rear 40% of the site	-	<p>These concerns have been addressed in the table above under the first notification period.</p>

<p>and ground floor height).</p> <p>j) No enclosed parking areas as per Clause 6.5.6N(1),</p> <p>k) No solar access for Units 5 and 6 as per clause 6.5.6K(1),</p> <p>l) Laneway exceeding 40m as per clause 6.5.6F(1),</p> <p>m) Clause 6.5.6L Private Open Space and Location.</p> <p>n) Clause 6.5.6M Storage</p> <p>o) Setback is less than the required 4.5m and relies solely on a proposed hedge to mitigate the overlooking of the private open space (Clause 6.5.6O(1))</p>		
<p><b>Impacts on Easements</b></p>	-	<p>The Deposited Plan (DP 1022160) shows a right of carriageway to be located at the end of the driveway (burdens and benefits Lots 26 and 27). This easement is proposed to be abolished given that the allotments will be consolidated.</p> <p>A 3m wide water, sewerage and drainage easement to be located at the rear of the site along the eastern and southern boundaries. The development as such is proposed to be setback 3.3m from the boundary.</p> <p>The development is therefore outside the easement area. A condition would be included on the consent to ensure that there is no impacts to the existing services and that no easements are obstructed or impacted upon.</p>
<p><b>Privacy/Overlooking Impacts-</b> The location of the 'Yarning Circle', overlooking rear open spaces and patios as</p>	-	<p>These concerns have been addressed in the table above under the first notification period.</p>

it will be elevated 1-2m above existing ground level



The South and West Elevation “Drawing 17” below shows an open balustrade fence to the perimeter of the Communal Open Space elevated deck.



The open balustrade provides no privacy screening to No 8 which is located downhill.

To address the privacy issue, the submitted Privacy Plan indicates reliance on a future hedge to be 1.5m above the Finished Floor Level of the elevated Yarning Circle). Given the elevation of the terrace above existing ground level this would require successful growth of a 2.6m to 3.5m height hedge.

**Insufficient setbacks to rear (eastern) boundary-** The non-compliance with the

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These concerns have been addressed in the table above under the first notification period.

4.5m minimum DCP setback to the “rear” boundary increases the potential overlooking impacts.		
<b>Deposited Plan- 88B instrument-</b> drainage, sewer and water easements 3m wide.	-	The easements will remain on the 8B Instrument.
<b>Light Pollution-</b> Details not provided	-	These concerns have been addressed in the table above under the first notification period.
<b>Site Survey Plan-</b> Amended plans do not include ground levels or open space areas for adjoining properties	-	These concerns have been addressed in the table above under the first notification period.
<b>Architectural Plans-</b> details incorrect property details	-	Amended on the plans
<b>Operational Management Plan-</b> The plan is to detail impacts to adjoining property owners, such as visual amenity, privacy, activities proposed for the development, noise, alarms.	-	-
<b>Safety of surrounding residents and Security of the Site-</b> due to the location and nature of the development.	<p>The proposed development is unlikely to cause any disruption to residents.</p> <p>As noted in the SoEE submitted with the Development Application, the fundamental principle of the Core and Cluster model is that the residents have direct access to critical support and assistance while also having the personal space and necessary amenities to effectively deal with personal issues and trauma.</p>	<p>The development proposes sufficient security measures around the site. An Operational Management Plan will also be conditioned on the consent to address safety and security.</p> <p>The development is considered to be of low residential use with 6 units proposed. It is not expected to have a volume of usage to have impact to the surrounding landuses.</p>

	<p>As a result, the proposed group home (transitional) has been designed to minimise the risk of crime. Predominately this has been achieved by applying the principle of access control, including the installation of 1.8m high fencing and a security gate across the frontage of the site which intended to prevent access to the property other than by residents and staff.</p> <p>Given the way access control has been addressed, it is considered that the design of the proposed group home (transitional) will create a perception that the cost of attempting to commit a crime will outweigh any potentially benefit and that the potential risk of crime is substantially reduced.</p> <p>Furthermore, it is considered that the way access control has been addressed will complement and facilitate other crime prevention principles:</p> <ul style="list-style-type: none"> <li>• Surveillance: the use of a 1.8m high perimeter fence and security gate will minimise interaction with the public realm, minimising the need to provide clear sightlines between public and private spaces.</li> <li>• Territorial reinforcement: the 1.8m high perimeter fence and security gate will create a clear transition between public and private space. This will enhance the residents' sense of ownership of communal space within the proposed</li> </ul>	
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	<p>group home (transitional), which will encourage use and reduce the likelihood of opportunistic crime.</p> <ul style="list-style-type: none"> <li>• Space management: this principle is of less relevance as it typically refers to the ensuring management of public open space.</li> </ul> <p>Given that the proposed group home (transitional) will be secured by the 1.8m high fence and security gate, it is highly unlikely that an activity would occur which would lead to vandalism, graffiti etc.</p> <p>Further to this assessment, Housing Plus has developed a strong understanding of the potential impacts associated with the 'Core and Cluster' model through the construction and operation of The Orchard in Orange, NSW. As noted in the Statement of Environmental Effects submitted with the Development Application, The Orchard was one of two trials of the 'Core and Cluster' model in NSW and has been in operation since November 2020.</p> <p>In response to concerns raised by the local community during, Housing Plus has continued to monitor potential impacts of The Orchard. Potential impacts that have been monitored include:</p> <ul style="list-style-type: none"> <li>• Increase in crime.</li> <li>• Reduced sense of safety; and</li> <li>• Increase and traffic and parking issues.</li> </ul>	
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	<p>In each case, Housing Plus has found that the concerns raised by the local community have not eventuated.</p> <p>Based on the foregoing assessment, it is considered that the proposed group home (transitional) presents very minor likelihood and magnitude of crime and other potential disruptions to the local community occurring.</p>	
<b>Increase in Traffic</b>	-	These concerns have been addressed in the table above under the first notification period.

## 5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

### 5.1 Safety

The development proposes fencing and security around the boundaries of the site. The facility will further be managed and maintained by staff. The development is located amongst a built up residential area and can only be accessed by a battleaxe driveway. An Operational Management Plan will be conditioned on the consent to manage potential safety concerns. As such, it is considered the development satisfies potential safety concerns.

### 5.2 Noise

Noise is expected during the construction of the development with standard conditions of consent restricting to hours.

Noise during operational hours is not expected to be high volumes due to the nature and purpose of the development.

Noise will be mitigated via the Operations Management Plan, that will be conditioned on the consent.

### 5.3 Privacy & Overlooking Impacts

The yawning circle is an open veranda. The applicant has advised that a privacy screen with a minimum of 1.8m in height will be provided around the circle for privacy to adjoining properties. This was also a request by an adjoining property owner. This will further be conditioned on the consent.

A landscaped hedge and colourbond fencing are also proposed along the boundary to minimise visual impacts and privacy to adjoining properties.

Louve screening is proposed around the windows to minimise visual and privacy impacts to the adjoining properties.

All residential units and windows are to be located more than 3m from the boundaries.

Windows within the second storey are proposed to be no less than 2m<sup>2</sup>.

All balcony's will be located more than 3m from all setbacks as they are to be located to the south.

#### **5.4 Scale & Character**

The design and scale of the development is considered to be suitable for the property. The total site area consist of 2625m<sup>2</sup> with the total area of the built construction area to consist of approximately 862.72m<sup>2</sup>.

The development involves adequate parking areas, pedestrian access, open space and landscaped areas.

The main purpose of the development is defined as a group home (transitional) with majority of the built form to be utilised for 6 units, The design and type of residential accommodation is therefore similar to the adjoining multi dwelling developments on the adjoining allotments.

As such it is considered that the size and scale of the development will be compatible with the surrounding landuses.

#### **5.5 Traffic Impacts**

Vehicle access is proposed to be via the existing battle-axe driveway from Hepburn Street. This access is considered to be satisfactory for the development in terms of site safety.

The access location has good sightlines along Hepburn Street which is expected to experience low levels of traffic due to only servicing a limited number of residential lots/proposed units.

It is expected that majority of the patrons utilising the facility will utilise public transport or company vehicles.

The amount of vehicle usage would be specific for overnight stays only by patrons or employees.

Given that the adjoining property contains 4 units each with 3 bedrooms (as per DA096/20), it is anticipated that given that the accommodation component of the development is similar, there would be limited traffic increase to the existing road usage.

Hepburn Street is further a public road, designed and is suitable for additional developments.

### **6. CONCLUSION**

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

It is considered that the key issues outlined in the report have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions in **Attachment A**.

## **7. RECOMMENDATION**

That the Development Application DA157/23 for Group Home (Transitional) with associated community facilities at Lot 26 & 27 DP 1022160, 4-6 Hepburn Street Lithgow NSW 2790 be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of consent
- Attachment B: Architectural Plans
- Attachment C: Civil Design Plans
- Attachment D: Landscaping Plan
- Attachment E: Bushfire Report
- Attachment F: Mine Subsidence Report
- Attachment G: Waste Management Plan