

COUNCIL ASSESSMENT REPORT

WESTERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSWES-221 - D23-672
PROPOSAL	Demolition of Seven (7) Dwellings and Construction of a Group Home comprising thirteen (13) dwellings, Torrens title subdivision (4 Lots) and Community title subdivision (13 Lots)
ADDRESS	Lot 8 DP 863685, 475 Wheelers Lane, Dubbo
APPLICANT	The Trustee for Excelsior Housing Investment Property Trust
OWNER	Excelsior Housing 2 Pty Ltd
DA LODGEMENT DATE	21 December 2023
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Clause 5, Schedule 6 of the SRD SEPP: Private Infrastructure and Community Facilities (group homes) over \$5 million
CIV	\$17,760,000.00 (excluding GST)
CLAUSE 4.6 REQUESTS	Nil.
KEY SEPP/LEP	<ul style="list-style-type: none"> State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Housing) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Sustainable Buildings) 2022 Dubbo Regional Local Environmental Plan 2022 Dubbo Development Control Plan 2013
AGENCY REFERRALS	<ul style="list-style-type: none"> Essential Energy

TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	<ul style="list-style-type: none"> The Application was placed on exhibition for a period of 19 days ending 28 January 2024, during which time adjoining property owners were notified in writing of the proposed development. Council received four (4) submissions during the exhibition period.
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> Statement of Environmental Effects, prepared by Kennedy Associates Architects Architectural Plans, prepared by Kennedy Associates Architects Civil Engineering Plans, prepared by Barnson P/L Landscaping Plans, prepared by Barnson P/L Traffic Impact Report, prepared by Lok Consulting Engineers BASIX Assessment Report, prepared by ADP Consulting BASIX Certificate, prepared by ADP Consulting NatHERS Summary, prepared by ADP Consulting NatHERS Certificates, prepared by ADP Consulting Tree Report, prepared by Dubbo Tree Service Hazardous Material Survey, prepared by Nova Enviro P/L Geotechnical Investigation Report, prepared by Barnson P/L Acoustic Report, prepared by ADP Consulting Infrastructure Plan prepared by Kennedy Associates Architects Survey, prepared by Barnson P/L
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	No
SCHEDULED MEETING DATE	Select Date
ASSESSMENT STATUS	Assessment Complete. Provided to WRPP for determination
PREPARED BY	Bo Moshage – Senior Planner
DATE OF REPORT	9 May 2024

EXECUTIVE SUMMARY

The development application (D23-672) seeks consent for a Group Home development comprising four (4) key stages:

- Demolition (7 Dwellings);
- Torrens tile subdivision (4 Lots);
- Group home (13 dwellings); and
- Community title subdivision (13 Lots).

Associated landscaping and infrastructure provisions, including vehicular access and stormwater, are also proposed.

The subject site is known as Lot 8 DP 863685, 475 Wheelers Lane, Dubbo ('the site'). The site is bound by Wheelers Lane to the east and Cormorant Crescent to the west. The overall site has a street frontage to Wheelers Lane of 50.19 metres and 137.58 metres along Cormorant Crescent. The site is irregular shaped with a total area of 16,290m².

The proposed Group Home development will consist of thirteen (13) dwellings accommodating a maximum of 39 clients (one (1) client per bedroom). Existing development on the site consists of the office premises of Westhaven, as well as seven (7) residential dwellings for 28 clients, which are to be demolished. The administrative use (office) will be retained and continue in this use. The removal of eleven (11) trees from the site are also proposed, the loss of which are to be offset by supplementary landscaping to be implemented on site.

The site zoned R2 - Low Density Residential under Clause 2.2 of the *Dubbo Local Environmental Plan 2022* ('LEP 2022').

The principal planning controls relevant to the proposal include *State Environmental Planning Policy (Planning Systems) 2021*, *State Environmental Planning Policy (Housing) 2021*, *State Environmental Planning Policy (Transport and Infrastructure) 2021*, *State Environmental Planning Policy (Resilience and Hazards) 2021*, *State Environmental Planning Policy (Sustainable Buildings) 2022*, the *Dubbo Local Environmental Plan 2022* ('LEP 2022'), and the *Dubbo Development Control Plan 2013* ('DCP'). The proposal is consistent with various provisions of the planning controls.

There were no concurrence requirements from agencies for the proposal and the application is not Integrated Development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). A referral to Essential Energy pursuant to *State Environmental Planning Policy (Transport and Infrastructure) 2021* was undertaken.

Jurisdictional prerequisites to the grant of consent imposed by the following controls have been satisfied including:

- Clause 4.6 of *State Environmental Planning Policy (Resilience and Hazards) 2021* for consideration of whether the land is contaminated; and
- Clause 2.48 of *State Environmental Planning Policy (Transport and Infrastructure) 2021* in relation to electrical infrastructure.

The application was placed on public exhibition for 19 days ending 28 January 2024, with four (4) submissions received raising concern regarding the development.

The key issues raised with the proposal included:

- Traffic and Access
- Parking
- Operational Matters
- Rubbish
- Character of the Locality

All issues raised by the submissions have appropriately been dealt with and have been discussed in detail under the submissions section of this report.

The application is referred to the Western Region Planning Panel ('the Panel') as the development is '*regionally significant development*', pursuant to Clause (5) of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* as the proposal is development for Private Infrastructure and Community Facilities (group homes) over \$5 million.

Following consideration of the evaluation matters under Section 4.15(1) of the EP&A Act, the proposed development is consistent with the objectives of relevant SEPPs the LEP, DCP and Council policies, and is therefore recommended that, pursuant to Section 4.16(1)(a) of the *EP&A Act*, D23-672 be approved subject to the conditions of consent contained at **Attachment A** of this report.

1. THE SITE AND LOCALITY

1.1 The Site

The site is located in the Local Governmental Area (LGA) of Dubbo, 3km from the Central Business District and 1km from the Orana Mall shopping centre. The site is bound by Wheelers Lane to the east and Cormorant Crescent to the west. The overall site has a street frontage to Wheelers Lane of 50.19 metres and 137.58 metres along Cormorant Crescent. The site is irregularly shaped with a total area of 16,290m², sloping to the east from 286mAH to 263mAH. The site has vehicle access from both Wheelers Lane and Cormorant Crescent. For a locality map of the site see **Figure 1**.



Figure 1: Site location

1.2 The Locality

The site is located within an established residential area in the southeast of Dubbo. Surrounding development comprises low density single storey residential uses.

The Dubbo Greyhound Racing Club is approximately 300 metres to the south-east of the site, with the Hawthorn Street General Industrial area some 40 metres from the sites western property boundary.

The Orana Mall Shopping Centre is approximately 1km to the north of the site and includes Big-W, Woolworths, JB Hi-Fi Home, Reject Shop, Woolworths Petrol in addition to 70 specialty stores.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The site currently comprises the office premises of Westhaven, in addition to seven (7) residential dwellings which accommodates a total of 28 clients and has a total of 16 staff assisting the clients on site.

The proposal seeks consent for Group Home that will accommodate a maximum of one (1) client per bedroom, which equates to a maximum of 39 clients on site.

Each client will be supported by a staff member at all times whilst on site. Staff to operate in eight (8) hour shifts: 6am to 2pm, 2pm to 10pm, 10pm to 6am. There would be a total of two (2) staff on site at any one time for the non-villas and 1.5 staff per client (total of six (6)) for the villa to be located on proposed Lot 5.

The site would be accessed only by support vehicles (i.e. passenger cars), with one (1) vehicle stationed permanently on site. No other service vehicles would access the site.

The proposed application has four (4) key stages:

- Demolition;
- Torrens Tile subdivision;
- Group homes; and
- Community Title subdivision.

An overall proposed development plan is provided in **Figure 2**, with the development specifically comprising the following components:

- Site preparation works, including demolition of the seven (7) existing dwellings and associated infrastructure, with the removal of eleven (11) trees; (**Figure 3**)
- Four (4) lot Torrens title subdivision to create a development lot (proposed Lot 27) for eleven (11) of the proposed group home development; an allotment for the office building (proposed Lot 14) in addition to the creation of the two (2) lots (proposed Lot 12 and Lot 13) for two (2) of the proposed group homes that will front Wheelers Lane; (**Figure 4**)

The current administrative use (office) of the land will be retained and continue. As noted above, the subdivision will see this component on its own separate allotment – proposed Lot 14.

- Construction of thirteen (13) group home dwellings on previously created Lot 27. Specifically, this will include:
 - Five (5) x two-bedroom dwellings;
 - Three (3) x three-bedroom dwellings;
 - Four (4) x four-bedroom dwellings; and
 - One (1) villa dwelling, comprising four (4) living pods each containing one (1) bedroom and a communal area located on proposed Lot 5.

Each of the dwellings will include a double garage plus sufficient area for two (2) stacked parking spaces in front of the respective garage (except for proposed Lot 5 which has one (1) stacked space); and

- Community Title subdivision of the balance of the group homes on the development allotment into eleven (11) lots for dwellings and two (2) community lots. The two (2) community lots will contain a total of eleven (11) off street parking spaces. (**Figure 5**)

It is noted that all buildings and external common areas will be fully accessible. A full list of plans supporting the proposed development are included in **Attachment 1**. For the avoidance of doubt, consent is sought for the entire development via this application and the development does not represent a concept Development Application within the provisions of Division 4.4 of the EPA Act.



Figure 2: Proposed development plan

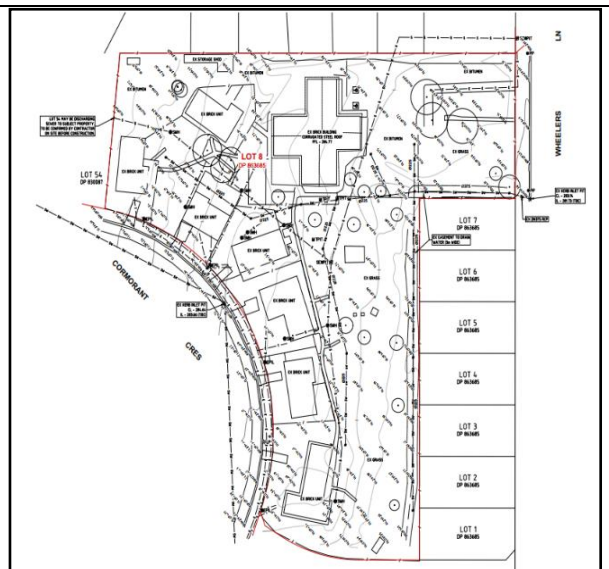


Figure 3: Existing Site (Demolition) Plan

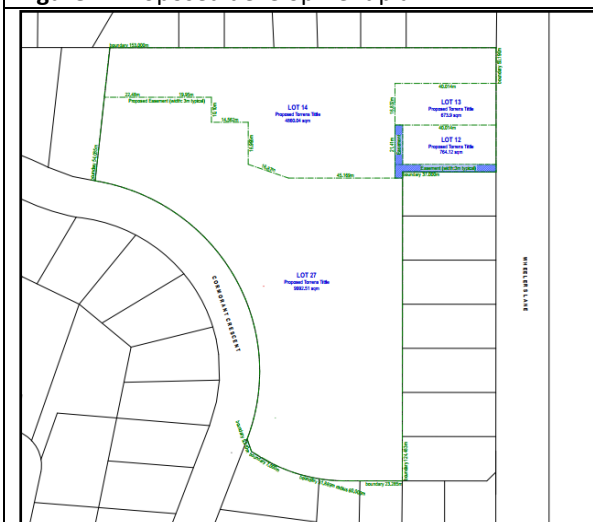


Figure 4: Proposed Torrens Title Subdivision Plan

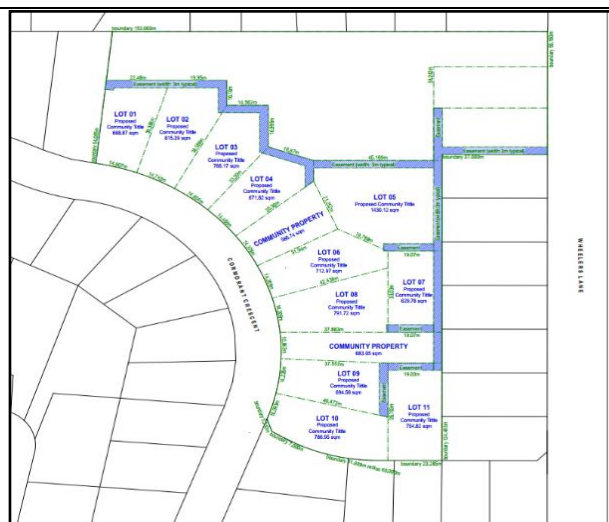


Figure 5: Proposed Community Title Subdivision Plan

2.2 Background

A pre-lodgement meeting was held prior to the lodgement of the applicant on 24 January 2023 where various issues were discussed. A summary of the key issues and how they have been addressed by the proposal is outlined below:

- Land zoned R2 Low Density Residential. Group homes permissible in the zone under SEPP Housing 2021. The MLS is 600m².
- There was discussion as to how the development would be undertaken and the most appropriate approval pathway, noting the proponent intends to demolish and construct the development in stages.
- Demolition Management Plan required that addresses dust, noise, traffic, waste management.
- Standard matters to be considered such as servicing, stormwater drainage, and vehicular access to all subdivided lots.
- Torrens Title subdivision arrangement to have an allotment dedicated for access/parking. Preferable that driveways form part of an allotment for the dwelling they serve. Common parking spaces may simply have to form part of that allotment, with an easement for parking over them.
- The natural fall of the land is east to Wheelers Lane. A drainage easement exists along the eastern property boundary. Stormwater to drain to this, ensuring does not exceed its capabilities, and drain to Wheelers Lane. Inter-allotment drainage to be provided to ensure surface water does not cross allotment boundaries. Indicative plan to be submitted with Application indicating location and size of pipes and pits, outfall locations etc.
- There is a sewer main running through the property. May be require to be rerouted to ensure no dwellings constructed over the main.
- Water supply to be sourced from mains on Wheelers Lane and Cormorant Crescent.
- It was advised a Traffic Impact Statement would be required.
- Application to review Chapter 3, Part 2 of SEPP Housing 2012. There are no significant matters of consideration for Group Homes under this part. Although suggest they address the community need for this housing under Clause 62(1).
- BASIX affected development.
- Outdoor lighting to be shielded and point downwards to minimise light pollution in consideration of the Siding Spring Observatory and the Dark Skies Guidelines.
- Development to address Section 2.1 of the Dubbo DCP 2013.
- Front setbacks to be a minimum of 4.5 metres, and 5.5 metres for garages.
- Need to demonstrate living areas and POS have adequate solar access.
- All dwellings to be single storey, so overshadowing and privacy impacts minimised.
- In terms of parking, it was noted each dwelling would have a single garage, primarily for use by staff. There would still be space for a second park forward of the building line for a second vehicle.
- Standard kerbside collection would be undertaken with plans to demonstrate there is sufficient kerbside space to accommodate all bins for kerbside collection, including the battle-axe allotments with no direct road frontage.
- No front fencing to be constructed.

The development application was lodged on 21 December 2023. A chronology of the development application since lodgement is outlined in **Table 1** including the Panel's involvement (briefings, deferrals etc) with the application.

Table 1: Chronology of the DA

Date	Event
21 December 2023	DA lodged
9 January 2024	Exhibition of the application
9 January 2024	DA referred to external agencies
13 February 2024	Request for Information from Council to applicant detailing: <ul style="list-style-type: none">• BASIX Commitments
19 February 2024	Amended plans / information lodged
20 February 2024	Amended details reviewed by Council's Senior Building and Development Certifier
12 March 2024	Request for Information from Council to applicant detailing: <ul style="list-style-type: none">• Sewerage• Stormwater
27 March 2024	Amended plans / information lodged
1 May 2024	Amended details reviewed by Council's Infrastructure Team

2.3 Site History

The site has been the subject of a number of Development Applications over the years. Relevant to this application is D78-92 – *Disabled Housing seven (7) separate dwellings*. There are no additional issues from previous development approvals, which require further consideration.

3. STATUTORY CONSIDERATIONS

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*
- (b) *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.

3.1 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 (Planning Systems) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy (Sustainable Buildings) 2022
- Dubbo Regional Local Environmental Plan 2022
- Dubbo Development Control Plan 2013

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 2** and considered in more detail below.

Table 2: Summary of Applicable State Environmental Planning Policies
(Preconditions in **bold**)

EPI	Matters for Consideration	Comply
SEPP (Planning Systems) 2021	Chapter 2: State and Regional Development <ul style="list-style-type: none"> • Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 5 of Schedule 6. 	Yes
SEPP(Resilience & Hazards) 2021	Chapter 4: Remediation of Land <ul style="list-style-type: none"> • Section 4.6 - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions. 	Yes
SEPP (Transport and Infrastructure) 2021	<ul style="list-style-type: none"> • Clause 2.48 Determination of development applications—other development – electricity transmission – referral to Essential Energy undertaken, and the proposal is satisfactory subject to conditions. 	Yes
SEPP Housing 2021	Chapter 3: Diverse housing <ul style="list-style-type: none"> • Part 2 - Group homes - the proposal is satisfactory subject to conditions. 	Yes
SEPP (Sustainable Buildings) 2022	No compliance issues identified subject to imposition of conditions on any consent granted.	Yes
Dubbo Regional Local Environmental Plan 2022	<ul style="list-style-type: none"> • Clause 1.2 - Aims of Plan • Clause 1.4 - Definition • Clause 2.2 - Zoning of land to which Plan applies • Clause 2.3 - Permissibility and zone objectives • Clause 2.6 - Subdivision consent requirements • Clause 2.7 - Demolition requires development consent • Clause 4.1 - Minimum subdivision lot size • Clause 5.10 - Heritage conservation • Clause 5.14 - Siding Spring Observatory - Maintain dark sky • Clause 7.2 - Earthworks • Clause 7.5 - Groundwater vulnerability • Clause 7.7 - Airspace operations • Clause 7.8 - Development in areas subject to aircraft noise 	Yes

Dubbo Development Control Plan 2013	<ul style="list-style-type: none"> • Chapter 2.1 - Residential Development and Subdivision • Chapter 3.5 - Parking 	Yes
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State Environmental Planning Policy (Planning Systems) 2021

Clause 2.19 of the SEPP establishes the requirements for determination of regionally significant development. In accordance with Schedule 6 (Clause 5), the proposed development is regionally significant development as it is private infrastructure and community facilities (group homes) over \$5 million. The proposed development has a CIV of \$17,760,000.00, and the consent authority for the development will be the Western Regional Planning Panel. The proposal is consistent with this Policy.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Clause 4.6 of the SEPP requires that the consent Authority consider if the land subject to a Development Application is contaminated, and if contaminated, if it is then suitable for the intended use, or if remediation is required.

The Central NSW Regional Contaminated Land Policy does not list any potentially contaminating land use activity that may have occurred on this site.

The subject site has a residential history and there are no changes in land use sensitivity as a result of this application. No further action required in accordance with Clause 4.7 of the SEPP. Standard accidental finds conditions will be recommended to be applied to the project.

The Hazardous Materials Survey undertaken for the existing buildings on site identified that there are some asbestos containing materials, lead based paints, and synthetic mineral fibre located within the dwellings.

Condition accordingly regarding demolition to be undertaken in accordance with the recommendations of the Hazardous Materials Survey prepared by Nova Enviro P/L dated 15/09/2022. This includes requirements for waste disposal, and a Clearance Report post demolition.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2- Infrastructure

The application was referred to Essential Energy in accordance with Clause 2.48 for which they responded in correspondence dated 13 February 2024, raising no objection to the proposed development. The requirements specified by Essential Energy will be included on the development consent as notations, as Council is unable to enforce such requirements.

State Environmental Planning Policy (Housing) 2021

Chapter 3 Part 5 applies to housing for seniors and people with a disability. The proposed development does not provide a form of housing contemplated by that part of the Housing SEPP.

However, as Group Home, Chapter 3, Part 2 of SEPP Housing is applicable and an assessment against the relevant assessment criteria is provided below:

Assessment Criteria	Considerations	Compliance comments
61 - Development in prescribed zones	Provides that development for the purpose of a permanent group home on land zoned R2 - Low Density Residential may be carried out with consent	Yes – Land is zoned R2 - Low Density Residential
62 - Determination of Development Applications	Provides that a consent authority must not- (a) refuse consent to development for the purposes of a group home unless the consent authority has made an assessment of the community need for the group home, or (b) impose a condition on a consent granted for a group home only because the development is for the purposes of a group home.	Yes - It is considered that the proposal is designed and located to meet the specialist disability accommodation needs for Supported Independent Living (SIL) accommodation to adults with a disability to live in a home-like environment in the Dubbo community.
66 - Development standards for land near Siding Spring Observatory	Development to which this section applies must not be carried out unless the development will not result in— (a) a group home with an outside light fitting, other than a shielded light fitting, or (b) for land in the local government areas of Coonamble, Gilgandra or Warrumbungle Shire—a group home with more than— (i) 7 shielded outside light fittings, or (ii) 5 shielded outside light fittings that are not automatic light fittings. (3) Words used in this section have the same meanings as in the Standard Instrument, Clause 5.14.	Yes – Application to be conditioned that the dwellings (individually) must not be provided with more than seven (7) outside light fittings, all of which must be shielded. If more than five (5) shielded outside light fittings are provided, those additional fittings must also be automatic light fittings. In addition, continuous lighting along pathways and common areas of the development to be installed with sensor lighting.

State Environmental Planning Policy (Sustainable Buildings) 2022


The application requires BASIX documentation as the proposed dwellings are classed as 1a buildings under the Building Code of Australia (BCA). Legislation requires all buildings or parts of buildings of this classification to contain the relevant documentation.

A multi-dwelling BASIX Certificate has been issued for the dwellings No. 1423074M dated 29 September 2023 and NatHERS Certificates for each individual dwelling dated 11 October 2023. The BASIX Certificate is a valid certificate as it was generated within three (3) months of the development application being lodged.

On 19 February 2024, amended plans and documentation were submitted addressing issues raised in Council's additional information requirements uploaded to the NSW Planning Portal on 9 January 2023 relating to BASIX Certificate and NatHERS Certificate requirements. The BASIX requirements and associated plans have now been assessed and approved as meeting the objectives of the SEPP.

Dubbo Regional Local Environmental Plan 2022

The relevant local environmental plan applying to the site is the Dubbo Regional *Local Environmental Plan 2022* ('the LEP').

Part 1 Preliminary	Comply
Clause 1.2 Aims of the Plan	
The proposed development is not contrary to the relevant aims of the Plan.	Yes
Clause 1.4 Definitions	
<p>The proposed development is defined as:</p> <ul style="list-style-type: none"> • Group home (permanent) means a dwelling— <ul style="list-style-type: none"> (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 permanent household accommodation for people with a disability or people who are socially disadvantaged, <p>but does not include development to which State Environmental Planning Policy (Housing) 2021, Chapter 3, Part 5 applies.</p> <p>The development is not Multi Dwelling Housing, which are prohibited in the R2 zone. Notwithstanding that each dwelling contains a number of rooms and some a number of buildings, it is considered that each dwelling will operate as one unit in the context of a Group Home.</p> <p>Subdivision and Demolition are permissible with consent respectively through Clause 2.6 and Clause 2.7 of the LEP.</p>	Yes
Clause 2.2 Zoning of land to which Plan applies	
<p>The subject site is zoned R2 - Low Density Residential as shown in Figure 6.</p>  <p>Figure 6: Zoning Map</p>	Yes

Clause 2.3 Zone objectives and Land Use Table																																					
<p>The proposed development is permissible with consent and is considered consistent with the following R2 zone objectives:</p> <ul style="list-style-type: none"> • To provide for the housing needs of the community within a low density residential environment. • To enable other land uses that provide facilities or services to meet the day to day needs of residents. • To ensure development is consistent with the character of the immediate locality. 	Yes																																				
Clause 2.6 Subdivision – consent requirements																																					
<p>The application includes a two (2) stage subdivision proposal.</p> <p>Torrens Title Subdivision - Four (4) allotments</p> <p>The subject site has a minimum lot size of 600m². The purpose of this subdivision is to excise the Westhaven Office building and ancillary parking areas from the residential component of the site, create the two (2) lots for Group Homes fronting Wheelers Lane, and create a larger lot for Group Homes fronting Cormorant Crescent. The proposed subdivision is shown on the Torrens Subdivision Plan (Figure 4).</p> <table border="1"> <thead> <tr> <th>Lot</th><th>Area</th></tr> </thead> <tbody> <tr> <td>12</td><td>764.1m²</td></tr> <tr> <td>13</td><td>673.9m²</td></tr> <tr> <td>14</td><td>4,860m²</td></tr> <tr> <td>27</td><td>9,992.96m²</td></tr> </tbody> </table> <p>Community Title subdivision - Lot 27</p> <table border="1"> <thead> <tr> <th>Lot</th><th>Area</th></tr> </thead> <tbody> <tr> <td>1</td><td>668.87m²</td></tr> <tr> <td>2</td><td>815.39m²</td></tr> <tr> <td>3</td><td>766.17m²</td></tr> <tr> <td>4</td><td>671.82m²</td></tr> <tr> <td>5</td><td>1,430.12m²</td></tr> <tr> <td>6</td><td>712.97m²</td></tr> <tr> <td>7</td><td>629.78m²</td></tr> <tr> <td>8</td><td>791.72m²</td></tr> <tr> <td>9</td><td>694.56m²</td></tr> <tr> <td>10</td><td>786.95m²</td></tr> <tr> <td>11</td><td>754.82m²</td></tr> <tr> <td>Common (x 2)</td><td>1,269.79m²</td></tr> </tbody> </table> <p>Subdivisions require Council consent to ensure that all lots created meet the minimum lot size requirements as specified in the Lot Size Map (see Clause 4.1 below).</p>	Lot	Area	12	764.1m ²	13	673.9m ²	14	4,860m ²	27	9,992.96m ²	Lot	Area	1	668.87m ²	2	815.39m ²	3	766.17m ²	4	671.82m ²	5	1,430.12m ²	6	712.97m ²	7	629.78m ²	8	791.72m ²	9	694.56m ²	10	786.95m ²	11	754.82m ²	Common (x 2)	1,269.79m ²	Yes
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Clause 2.7 Demolition requires development consent																																					
<p>The application includes demolition of the seven (7) existing dwellings and associated sheds, shade structures and infrastructure as shown in Figure 7. The proposed demolition to be undertaken in conformity with AS 2601-1991 and subject to standard conditions of consent.</p>	Yes																																				



Figure 7: Demolition Plan

Part 4 *Principal development standards*

Clause 4.1 *Minimum subdivision lot size*

The property has a 600m² minimum lot size.

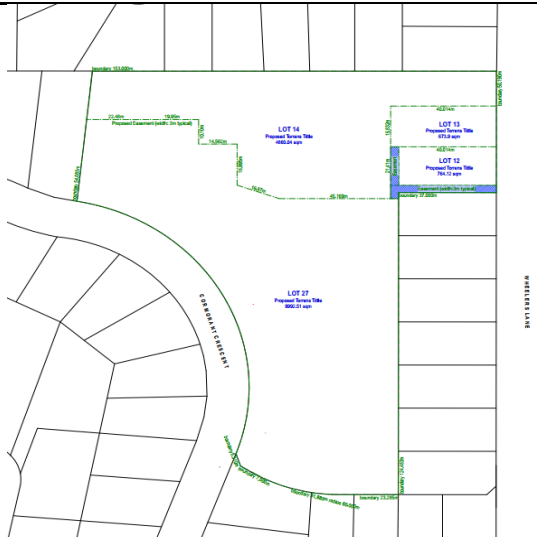
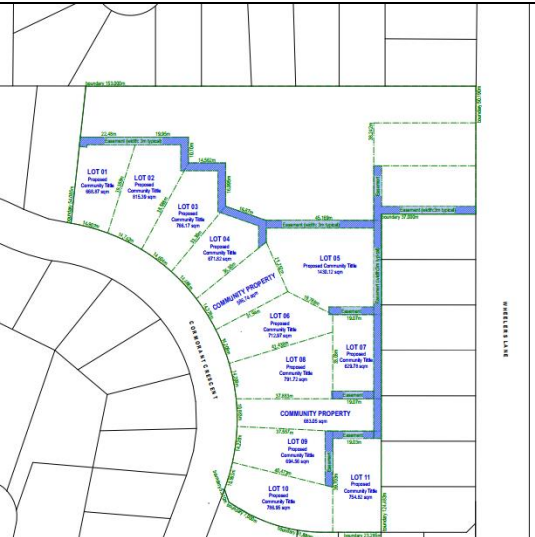
Four (4) lot Torrens title subdivision to excise the office building and carparking areas from the group home component of the site, and the creation of the two (2) lots for group homes fronting Wheelers Lane.

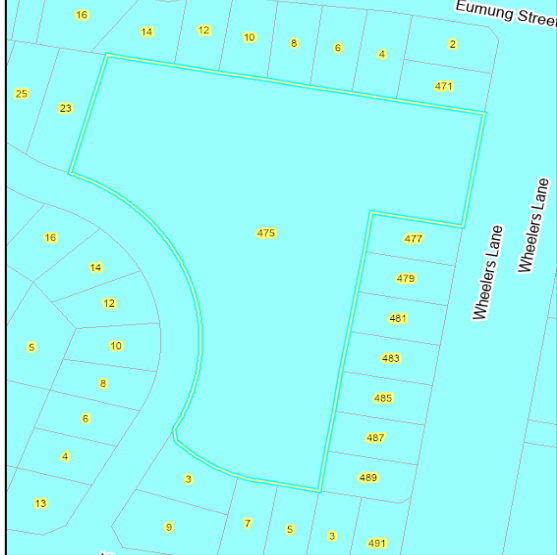
The proposed Torrens title subdivision plan as shown in **Figure 8** is consistent with the proposed allotment size.

Community Title subdivision of the balance of the group home component of the site into 11 lots to contain dwellings and two (2) community lots.

The proposed community title subdivision plan as shown in **Figure 9** is consistent with the proposed allotment size.

Yes

		
Figure 8: Torrens Title Subdivision plan	Figure 9: Community Title Subdivision plan	
Clause 4.1AA Minimum subdivision lot size for community title schemes		
The layout provides for a variety of lot sizes, reflecting the variety of housing choice within the proposed development.		Yes
Part 5 Miscellaneous provisions		
Clause 5.10 Heritage conservation		
<u>European Heritage</u> There are no heritage items located on site or listed heritage items located in the vicinity of the development site.		Yes
<u>Aboriginal Heritage</u> An AHIMS Search was performed for the subject site, which revealed no known items of Aboriginal cultural heritage significance located on site. Standard condition recommended regarding any Aboriginal archaeological material being discovered during construction works.		Yes
Clause 5.14 Siding Spring Observatory – maintaining dark sky		
The proposed development has been assessed as unlikely to adversely affect observing conditions at the Siding Spring Observatory, having regard to subclauses: (a) the amount of light to be emitted; (b) the cumulative impact of the light emissions with regard to the critical level; (c) outside light fittings (shielded light fittings); (d) measures taken to minimise dust associated with the development; and (e) the Dark Sky Planning Guidelines published by the Secretary under clause 92 of the EP&A Regulation 2000. Additionally, as per subclause (7) the proposed development is not considered likely to result in the emission of light of 1,000,000 lumens or more.		Yes

Condition accordingly that the dwellings (individually) must not be provided with more than seven (7) outside light fittings, all of which must be shielded. If more than five (5) shielded outside light fittings are provided, those additional fittings must also be automatic light fittings. In addition, continuous lighting along pathways and common areas of the development to also be installed with sensor lighting.	
Part 7 Additional local provisions	
Clause 7.2 Earthworks	
The proposed development will require earthworks to be undertaken upon the site. Erosion and sediment control measures are required before any earthworks commence in which a condition to this effect will be placed on the consent.	Yes
Clause 7.5 Groundwater vulnerability	
The site is mapped on the Natural Resource – Groundwater Vulnerability map. A condition of consent will require sediment and erosion control measures to be installed prior to the commencement of construction and to remain in place until the works are complete. As such it is considered unlikely the proposed development will result in groundwater contamination. It is also considered unlikely that the proposed development will result in an adverse impact on groundwater dependent ecosystems or have a cumulative impact on groundwater.	
Clause 7.7 Airspace operations	
The subject site is located within the Obstacle Limitation Surface Map at height 423.5mAH. The Finished Floor Level for the proposed development at its highest point is 285.65mAH and with the development having a height of 5.45 metres, this equates to an overall height of 291.1mAH, 132.4m below the surface map.	Yes

The proposal is considered to be generally consistent with the LEP.

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

There are no proposed instruments which have been the subject of public consultation under the EP&A Act, that are relevant to the proposal.

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

The following Development Control Plan is relevant to this application:

Dubbo Development Control Plan 2013 (the DCP)

An assessment is made of the relevant chapters and sections of this DCP. Those chapters or sections not discussed here were considered not specifically applicable to this application or are discussed elsewhere in this report.

Chapter 2.1.1 Residential Design	Comply
Element 1 Streetscape character	
<p>The frontage of building and entries adjacent to public streets are readily apparent.</p> <p>The design has incorporated various features to maximise the visual interest of the development both from the street and internally, including stepped/modulated front elevations of the dwelling/s; articulation through the provision of porches, variations in building materials, colours and roof profiles and also through the provision of considered landscaping.</p> <p>No component of the proposed development are mirror reverse design.</p> <p>No fencing is to be forward of the front building line of any allotment, with side and rear boundary fencing predominantly 1.8m high of various materials including Colorbond construction.</p>	Yes
Element 2 Building setbacks	
<p>The development has been designed to reinforce the characteristics of the neighbourhood. The existing dwellings in the locality have a front setback of between 6 metres and 8 metres. The proposed development will provide a minimum dwelling setback of 6 metres with the majority of the dwellings set back 7 metres or more.</p>	Yes
Element 3 Solar access	
<p>All dwellings demonstrate that suitable solar access can be achieved to the habitable parts of each unit, as well as respective Principle Private Open Space areas, including the clothes drying areas.</p> <p>Dwellings on the east/west orientated lots have been configured to optimise solar access as much as is possible with a priority being to place living areas on the northern side.</p> <p>Sufficient roof area exists for the installation of solar panels if desired in the future.</p> <p>The proposed development will not reduce the level of solar access currently provided to adjoining properties.</p>	Yes
Element 4 Private open space and landscaping	
<p>Landscape Plans have been submitted which details landscaping within private areas and community areas. The landscaping proposed is considered suitable. Appropriate conditions will be included on the consent that the appropriate stage of landscaping be established prior to the issue of the relevant Occupation Certificate.</p> <p>All proposed dwellings achieve a Principal Private Open Space (PPOS) of 20% of the site area (excluding the area located forward of the front building line) and one area accessible from living area that is a minimum 5m x 5m area.</p> <p>A variety of new plantings are proposed to enhance the appearance of the developed site and will consist of a mixture of new trees, shrubs and groundcovers.</p> <p>The proposed landscaping will not impact existing infrastructure or the solar access to adjoining properties.</p>	Yes
Element 5 Infrastructure	
<p>Water and sewerage services are available to the site. Electricity supply is to be</p>	Yes

provided to each dwelling via underground trenching.	
Following submission of additional information relating to the management of stormwater, Council's Senior Development Engineer (SDE) did not raise any significant issues that require further investigation or that would prevent the application from being granted consent with conditions.	
Element 6 Visual and Acoustic privacy	
<p>The proposed development is not likely to result in visual privacy issues. The proposed development has been designed to ensure visual privacy is maintained between adjoining development and the subject dwellings. Additionally, a 1.8m high Colorbond fence immediately along new boundaries will ensure privacy to the proposed dwellings and open space areas.</p> <p>The acoustic privacy component of the development is achieved by co-locating the garages and bedrooms of the dwellings not adjacent to the living areas or directly adjoining the garage of the adjoining residence.</p> <p>To minimise the potential for offensive noise from rainwater tank pumps, they are to be located in a position where it least affects neighbouring properties and not exceeds the background noise level (LA90) by 5dB(A) measured at the worst-affected residence.</p>	Yes
Element 7 Vehicular access and car parking	
<p>All the lots provide two (2) off-street double garaged car parking in addition to two (2) stacked spaces on the driveway (except for Lot 5 which only provides one (1) stacked space). Furthermore, there are eleven (11) visitor car spaces located internally on site.</p> <p>Swept paths have been provided which show turning circles for 8.8 metre rigid vehicles (Emergency Services) around the ring road (Lot 14).</p> <p>Condition accordingly that prior to occupation, all public car park and hardstand areas, traffic and parking signage and line marking, vehicular cross-overs, to be completed.</p> <p>See comments under Chapter 3.5 Parking for further comments.</p>	Yes
Element 8 Waste Management	
<p>Waste would be collected by Council's kerbside waste collection.</p> <p>Council's Resource Recovery and Efficiency (RRE) Team notes that details of bin storage location and dimensions (able to house 3 kerbside bins per residence) and bin presentation on the kerbside will allow for effective collection and servicing:</p> <ul style="list-style-type: none"> • Bins needs to be kept clear of vehicles, trees or other objects. • Space must be left outside and between bins, 50 cm between (approximately 3.5m for presentation). • Waste collection trucks and manoeuvring width requirements. <p>The development will not generate any trade waste.</p>	Yes
Element 9 Site facilities	
Each dwelling will have its own letter box and adequate storage areas that will	Yes

comply with the 8m ³ minimum requirement.	
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Chapter 3.5 Parking

Group homes are not an identified land use within this Chapter. However housing development generally requires the following vehicle parking requirements:

- One bedroom unit = one car parking space per unit;
- Two or more bedroom unit = two car parking spaces per unit; and
- Visitor parking = one car parking space for every four units or part thereof with a minimum of one car parking space.

At least one (1) of the required parking spaces must be located behind the front building line. All the lots provide two (2) off-street car parking spaces with at least one (1) space located behind the front building set back (within the garage). Furthermore, while a minimum of four (4) visitor carparking spaces are required, eleven (11) visitor carparking spaces are located internally on site.

Contributions

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions:

- Water and Sewerage Contribution Policy – 2002
- Section 94 Development Contributions Plan for Dubbo Open Space and Recreation Facilities - 2016-2026
- Amended s.94 Contributions Plan - Roads, Traffic Management & Car Parking - 2016

In the event the application is approved, the following Contributions totalling **\$94,042.42** would be payable:

- \$20,090.25 - Water Headworks
- \$20,090.25 - Sewer Headworks
- \$26,260.72 - Open Space Recreation Contribution
- \$27,601.20 - Urban Roads Contribution

3.4 Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

3.5 Section 4.15(1)(a)(iv) - Provisions of Regulations

Clause 61 to 68 of the Regulation contains matters that must be taken into consideration by a consent authority in determining a development application.

In relation to the above:

- All demolition works will be carried out in accordance with Australian Standard AS 2601—2001: The Demolition of Structures.
- The Dark Sky Planning Guideline is considered in relation to the development.

These provisions have been considered and addressed in the draft conditions (where necessary).

The remaining clauses are not applicable to the proposed development.

3.6 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that 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:

Context and setting

The proposed development is considered to be generally consistent with the character, finishes and amenity of the locality, and the streetscape will be maintained through landscaping of the site and articulation in the built form.

The scale, form, character, and design of the development is compatible with the existing structures directly adjoining and within the locality.

Consideration has been given to the potential for overshadowing as a result of the design with no adverse impact on solar access to the proposed and surrounding dwellings.

The development will not detract from existing views and vistas of adjoining properties and will not result in any additional impact on the character of the locality.

Access and traffic

The Traffic Impact Assessment submitted with this application provides an assessment of the existing traffic movements experienced at the site and the anticipated traffic movements at completion of the development.

Appropriate conditions have been included limiting construction access to a single stabilised entry off Wheelers Lane.

Onsite vehicular management comprises two (2) common lot parking spaces for eleven (11) vehicles.

Public Domain

It is considered the proposed development will not have any detrimental impact on the public domain. The site is located within a low-density residential zone and the proposed structures will not be apparent from the public domain from that of a dwelling house and as such will have no impact on the developments visual relationship with locality.

Utilities

The site would be connected to all utility services (water, sewer, stormwater and electricity).

Flora and fauna impacts

It is proposed to remove eleven (11) trees the existing trees/shrubs from the site in order to facilitate the development. The Arborist Report details provide justification for each removal. Five (5) trees/shrubs will be retained on site, with a variety of new plantings proposed to enhance the appearance of the developed site and will consist of a mixture of new trees, shrubs and groundcovers as outlined in the Landscape Plan.

Noise and vibration

On-going management of acoustics will be required to ensure no adverse impact on adjoining or nearby sensitive receivers. Condition accordingly that the activities carried out on site shall not constitute a nuisance in relation to noise, as specified under the Protection of the Environment Operations Act 1997.

Some noise and vibration may be experienced during construction which is limited through standard conditions relating to hours of construction and not exceeding 5dB(a) above background noise to be placed on the consent.

Safety, Security and Crime Prevention

An assessment of the four (4) Crime Prevention Through Environmental Design (CPTED) principles has been undertaken in supporting Statement of Environmental Effects (SoEE). The assessment found that subject to implementation of adopted principles and recommendations with respect to surveillance, access control, territorial reinforcement and space management, the proposed development is considered acceptable in the context of crime and safety.

Condition application that the requirements contained in the supporting SoEE relating to safety, security and crime prevention to be implemented prior to occupation.

Social Impact

The proposed development provides high-quality supported residential accommodation that will support those with disabilities in the Dubbo community and the greater region. The combination of CPTED principles employed in the design of the development and the enhanced opportunities for social interaction result in a positive outcome for the development of the site.

3.7 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 permissible with the consent of Council within the R2 - Low Density Residential zone subject to the provisions of SEPP (Housing) 2021;
- The land is not known to be contaminated, and is not subject to natural hazards such as bushfire, with proposed building clear of the mapped flood planning area;
- The development would be provided with access to all required service infrastructure;
- The development is not inconsistent with the objectives for the R2 Zone;
- The development would not have an adverse environmental, social, or economic impact on the surrounding locality; and

- The development would have a positive social and economic impact on the city and region.

3.8 Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 5 of this report.

3.9 Section 4.15(1)(e) - Public interest

The proposed development is considered to be in the public interest as it is consistent with the relevant planning controls.

On balance, the proposed development is also considered to be in the public interest as it will provide improved facilities to the public in the form of enhanced specialist disability accommodation, therefore enabling housing diversity, choice and affordability within the local Dubbo community.

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 3**.

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 3: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Referral/Consultation Agencies			
Essential Energy (Electricity supply authority)	CI 2.48 - SEPP (Transport and Infrastructure) 2021 Development near electrical infrastructure	No objection to the proposed development. The requirements specified by Essential Energy in correspondence dated 13 February 2024 will be included on the development consent as notations, as Council is unable to enforce such requirements.	Yes

4.2 Council Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 4**.

Table 4: Consideration of Council Referrals

Officer	Comments	Resolved
Stormwater	Council's Engineering Officer reviewed the amended stormwater concept plan and considered that there were no objections subject to conditions.	Yes (conditions)
Traffic	Council's Traffic Engineering Officer reviewed the proposal and raised no concerns in relation to traffic generation and car parking subject to conditions.	Yes (conditions)
Building	<p>Assessment of the application by Council's Senior Building Development Certifier identified that while BASIX Certificates had been provided for the proposed development, the BASIX commitments nominated were not shown on the Development Application plans. In addition, NatHERS Certificates had not been provided and required QR Code Stamp not shown on the Development Application plans.</p> <p>In this regard, amended plans were submitted on 19 February 2024 incorporating the BASIX commitments as stipulated on the supporting BASIX certificate, with NatHERS Certificates and QR Code Stamp requirements provided.</p> <p>No further objections subject to recommended conditions.</p>	Yes (conditions)
Health	<p>An acoustic report was submitted which addresses the noise in relation to functions and indoor sports activity and the noise related to construction has been addressed. Standard condition recommended in relation to hours of construction activity and level of noise caused by construction not exceed an LAeq (15 min) of 5dB(A) above background noise.</p> <p>No objections subject to recommended conditions.</p>	Yes
Waste	<p>Standard condition recommended that all solid waste from construction and operation of the proposed development shall be assessed, classified and disposed of in accordance with the NSW Environment Protection Authority's Waste Classification Guidelines. Whilst recycling and reuse are preferable to landfill disposal, all disposal options (including recycling and reuse) must be undertaken with lawful authority as required under the Protection of the Environment Operations Act, 1997.</p> <p>No objections subject to recommended conditions.</p>	Yes

4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 9 January 2004 until 28 January 2024. A total of four (4) unique submissions were received.

The issues raised in these submissions are listed below and are considered in **Table 5**.

- Traffic and Access
- Parking
- Operational Matters
- Rubbish
- Character of the Locality

Table 5: Community Submissions

Issue	No of submissions	Council Comments
Traffic and Access Concerned about traffic congestion and impact on residential roads and supporting infrastructure (stormwater pipes / irrigation lines and front lawns / footpaths)	4	<p>The Traffic Impact Assessment submitted with this application provides an assessment of the existing traffic movements experienced at the site and the anticipated traffic movements at completion of the development.</p> <p>Appropriate conditions have been included limiting construction access to a single stabilised entry off Wheelers Lane.</p>
Parking Concerned that the development will adversely impact the road with an overall lack of parking	4	<p>Each of the dwellings will include a double garage plus sufficient area for two (2) stacked parking spaces in front of the respective garage (except for proposed Lot 5 which has one (1) stacked space.</p> <p>In addition, onsite vehicular management comprises two (2) common lot parking spaces for eleven (11) vehicles.</p>
Operational Matters Concerned about lack of staff parking and overall anti-social behaviour	2	<p>Onsite vehicular management comprises two (2) common lot parking spaces for eleven (11) vehicles.</p> <p>An assessment of the four (4) Crime Prevention Through Environmental Design (CPTED) principles has been undertaken in supporting Statement of Environmental Effects (SoEE). The assessment found that subject to implementation of adopted principles and recommendations with respect to surveillance, access control, territorial reinforcement and space management, the proposed building, the proposed development is considered acceptable in the context of crime and safety.</p> <p>Condition application that the requirements contained in the supporting SoEE relating to safety, security and crime prevention to be implemented prior to commencement of</p>

		operations.
Rubbish Concerned about bin collection and litter accumulation from the development	2	<p>The proposed development provides details of bin storage location and dimensions (able to house 3 kerbside bins per residence) and bin presentation on the kerbside to allow for effective collection and servicing:</p> <ul style="list-style-type: none"> • Bins needs to be kept clear of vehicles, trees or other objects. • Space must be left outside and between bins, 50 cm between (approximately 3.5m for presentation). • Waste collection trucks and manoeuvring width requirements.
Character That the proposal is not in character with the locality	1	<p>The proposed development is considered to be generally consistent with the character, finishes and amenity of the locality and streetscape will be maintained through landscaping of the site and articulation in the built form.</p> <p>The scale, form, character, and design of the development is compatible with the existing structures directly adjoining and within the locality.</p> <p>Consideration has been given to the potential for overshadowing as a result of the design with no adverse impact on solar access to the proposed and surrounding dwellings.</p> <p>The development will not detract from existing views and vistas of adjoining properties and will not result in any additional impact on the character of the locality.</p>

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:

- Traffic and Access
- Parking
- Operational Matters
- Rubbish
- Character of the Locality

These issues have been resolved through recommended conditions of consent as outlined in **Attachment B**.

6. RECOMMENDATION

That the Development Application [DA No 23/672] for Demolition (7 Dwellings); Torrens tile subdivision; Group home (13 dwellings); and Community title subdivision at Lot 8 DP 863685, 475 Wheelers Lane, Dubbo be **APPROVED** pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at **Attachment B**.

7. ATTACHEMENTS

The following attachments are provided:

- Attachment A: Architectural Plans
- Attachment B: Draft Conditions of consent