

COUNCIL ASSESSMENT REPORT

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSHCC-116 – [DA/2021/1702]
PROPOSAL	<p>Mixed use development including:</p> <ul style="list-style-type: none"> ▪ Commercial Premises (with retail premises, supermarket, mini major and liquor shop); ▪ Recreational Facility (Indoor) with gym and swimming pool; ▪ Food and Drink premises with Pub; ▪ Centre based Child Care Facility (112 children); ▪ Health Services Facility with Medical Centre; ▪ Car Wash; ▪ Signage; and ▪ construction of a road and its dedication to Maitland City Council.
ADDRESS	<p>Lot 11 DP 1280255, 4 Heritage Drive, Chisholm NSW 2322</p> <p>Lot 12 DP 1280255, 2 Heritage Drive, Chisholm NSW 2322</p>
APPLICANT	Chisholm SC Investment Trust
OWNER	Chisholm SC Pty Ltd
DA LODGEMENT DATE	12 January 2022
APPLICATION TYPE	Development Application (Integrated)
REGIONALLY SIGNIFICANT CRITERIA	Clause 2, Schedule 6 of the SEPP (Planning Systems) 2021: General Development
CIV	\$36,955,000 (excluding GST)
CLAUSE 4.6 REQUESTS	Nil
KEY SEPP/LEP	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021 [State Environmental Planning Policy (Koala Habitat Protection Policy) 2021 at lodgement];</i> • <i>State Environmental Planning Policy (Industry and Employment) 2021 [State Environmental Planning Policy 64 – Advertising and Signage at lodgement];</i> • <i>State Environmental Planning Policy (Planning Systems) 2021 [State Environmental Planning Policy (State and Regional Development) 2011 at lodgement];</i>

	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021 [State Environmental Planning Policy No. 55 – Remediation of Land at lodgement];</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021 [State Environmental Planning Policy (Infrastructure) 2007];</i> • <i>Draft Remediation of Land SEPP;</i> • <i>Draft SEPP (Environment);</i> • <i>Maitland Local Environmental Plan 2011.</i>
TOTAL & UNIQUE SUBMISSIONS	Nil
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> • Statement of Environmental Effects by Urbis, dated 12.2021 (V3) • Regulatory Compliance Report by McKenzie Group, dated 19.11.2021 (Rev 02) • Bushfire Assessment Report by Newcastle Bushfire Consulting, dated 30.11.2021 (Rev 1) • Preliminary Environmental Site Assessment by Environmental Consulting Services, dated 22.12.2020 (Rev 1) • Section J Report by JHA, dated 8.12.2021 (V1) • Traffic and Parking Impact Assessment by McLaren Traffic Engineering & Road Safety Consultants, dated 23.12.2021 (Issue B) And Letter of Response to TFNSW dated 3 February 2022 and email of Sidra modeling dated 25.01.2022 • Stormwater Management Plan Report by Triaxial Consulting, dated 10.12.2021 (Rev 0) • CPTED Report by The Design Partnership, dated 5.11.2021 (Issue A) • Economic Impact Assessment by Ethos Urban, dated 11.2021 • Access Report by Vista Access Architects, dated 8.11.2021 (Issue G) • Flora & Fauna Assessment by EPS, dated 8.12.2021 (Arborist Report) • Construction Management Plan by Richard Crookes Constructions • Site Waste Management & Minimisation Plan by Chisholm SC Pty Ltd • Operational Waste Management Plan by Elephants Foot, dated 10.12.2021 (Rev B) • Hunter Water Requirements Letter (30.11.2021) & Stamped Plan (24.11.2021) • Response to RFI – water table • Response to general RFI (15 June 2022) • Noise Emission Assessment by Acoustic Logic, dated 8.06.2022 (Issue 4) • Zone Boundary and DP overlay • Zone Boundary letter by Urbis

	<ul style="list-style-type: none"> • Pub – (Chisholm Tavern) Plan of Management (May 2022) • Traffic Letter to TfNSW by McLaren Traffic Engineering (15 June 2022) • Social Impact Assessment by Urbis (10 June 2022) • Response to RFI – HBT (2 August 2022) • Response to RFI – UD (10 August 2022) • Response to RFI – SIA (22 August 2022) • Preliminary Site Contamination Investigation by Environmental Consulting Services, (31 August 2022) (Rev 2) • Cover letter for DA Amendment (1 September 2022) • Owner's consent for DA Amendment (1 September 2022)
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)	Nil
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	YES
SCHEDULED MEETING DATE	21 September 2022
PLAN VERSION	<ul style="list-style-type: none"> • Chisholm Shopping Centre: Information and Analysis by BN Group, A00.20 (dated 10.08.2022) • Chisholm Shopping Centre: General Site Plan by BN Group A02.01 (dated 10.08.22) • Chisholm Shopping Centre: Floor Plans by BN Group, A02.02-A02.06 (10.08.2022) • Chisholm Shopping Centre: Elevations by BN Group, A09.01-A09.06 (dated 10.08.2022) • Chisholm Shopping Centre: Sections by BN Group, A11.01-11.06 (dated 10.08.2022) • Chisholm Shopping Centre: Material Board by BN Group, A100.01 (dated 13.12.2021) • Landscape Documentation by Moir, LP01-LP1209 Rev. E (dated 9.08.2022) • Civil Plans by Triaxial Consulting, DA2.00-DA4.00 dated 25.08.2022 (Issue B)
PREPARED BY	Brian Gibson (Principal Planner)
DATE OF REPORT	9 September 2022

EXECUTIVE SUMMARY

The development application (DA/2021/1702) seeks consent for a Mixed Use Development consisting of:

- Commercial Premises (with retail premises, supermarket, mini major and liquor shop);
- Recreational Facility (Indoor) with gym and swimming pool;
- Food and Drink premises with Pub;

- Centre based Child Care Facility (112 children);
- Health Services Facility with Medical Centre;
- Car Wash;
- Signage; and
- construction of a road and its dedication to Maitland City Council.

The development will result in a neighbourhood shopping centre, with a supermarket and a mix of retail and food and drink premises, and a pub, being located at the southern elevated end of the site. Entry and Exit driveways will be located midway along the eastern and western boundaries, with an Entry only at the northern boundary, towards the eastern corner with a landscaped car park located in the northern half. The accessways and car park will step down the site towards the northern boundary with the natural contours.

At the north-west corner a two storey building built to the boundary will incorporate the recreation facilities at ground level and a child care centre at the upper level which has on grade access to the car park. A basement car park, including a car wash is located at the south-west corner, with access via the western driveway. Located above the basement car park is the pub. Positioned in the south-west corner is a medical centre. The loading dock is located at the southern boundary. Pedestrian links are provided at points along the western, northern and eastern boundaries.

The development proposal includes the construction and dedication of a public road to Council. This road will provide a link between Settlers Boulevard and Heritage Drive, and access to the rear loading dock of the shopping centre (southern boundary).

The subject sites are known as 2 and 4 Heritage Drive ('the site') and comprises a site with three road frontages being bounded by Settlers Boulevard at the south-east corner and along the eastern boundary, Tigerhawk Drive at the northern boundary, and Heritage Drive along western boundary and the south-west corner. The site is located centrally within the Thornton North Urban Release Area and has an approximate combined area of 6.07 ha (Lot 12 – 1.678 ha and Lot 11 4.39 ha).

The existing development site is unimproved vacant land, being managed grassland with isolated trees. The development site falls from the south to north, with a fall of approximately 12 m from the south east corner to the north west corner, with a ridge running through the site within the eastern portion of the site.

The site is located in the Thornton North Urban Release Area (URA), which has ongoing development occurring in the form of residential estate subdivisions with low density dwellings (one to two storey). The URA also incorporates a K-12 school, child care centres, open space, riparian areas and remnant vegetation contained on rural and conservation zoned land.

The lot containing the Mixed Use Development is located in the B1 – Neighbourhood Centre zone pursuant to Clause 2.2 of the *Maitland Local Environmental Plan 2011* ('LEP 2011'). The land over which the road is to be constructed and dedicated is zoned R1 – General Residential pursuant to Clause 2.2 of the LEP 2011. The Mixed Use Development and its related components are permissible with consent in the B1 zone, with the road being permissible within the R1 zone. The proposed road is required to provide suitable and permissible access over the R1 zone to the Mixed Use Development.

The principle planning controls relevant to the proposal include *State Environmental Planning Policy (Biodiversity & Conservation) 2021*, *State Environmental Planning Policy (Industry and Employment) 2021*, *State Environmental Planning Policy (Planning Systems) 2021*, *State*

Environmental Planning Policy (Resilience & Hazards) 2021, State Environmental Planning Policy (Transport & Infrastructure) 2021, the Maitland Local Environmental Plan 2011 and the Maitland Development Control Plan No.1 ('DCP'). The proposal is generally consistent with various provisions of the planning controls including:

- The development is consistent and has addressed the requirements of the various State Environmental Planning Policy which apply to the development/site;
- Complies with the zoning and development standards of the LEP 2011, including FSR and minimum Lot sizes;
- The development is generally consistent with the controls/provisions of Parts B, C, E, and F of the DCP;
- The proposal is considered to be consistent with the various objects of the EP&A Act (orderly and economic development of land) and the public interest given it is consistent with various planning controls; and
- The proposal addresses the matters for consideration under Section 4.15(1) of the EP&A Act in relation to potential to the site, surrounding area and the environment.

There were no concurrence requirements from agencies for the proposal.

The application is integrated development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') in relation to Section 100B of the Rural Fires Act, 1997. The General Terms of Approval have been obtained from the NSW Rural Fire Service, refer to **Attachment B**.

Referrals to Ausgrid and Transport for NSW pursuant to *State Environmental Planning Policy (Transport and Infrastructure) 2021* ('Transport and Infrastructure SEPP') were sent with no objections raised. NSW Police were also consulted however no response was received.

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

- Section 4.6 of the Transport and Infrastructure SEPP for consideration of whether the land is contaminated;
- Section 2.48(2) of the Transport and Infrastructure SEPP in relation to connection to the existing electricity distribution network.

The application was placed on public exhibition from 27 January 2022 to 23 February 2022, with no submissions being received.

The application is referred to the Hunter & Central Coast Planning Panel ('the Panel') as the development is '*regionally significant development*', pursuant to Section 2.19(1) and Clause (2) of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* as the proposal is development for general development with a CIV over \$5 million.

A 'kick off' briefing was held with the Panel on 9 February 2022 where key issues were discussed, including social analysis of the proposed licensed premises, road dedication as part of subdivision application to address permissibility of the adjoining R1 zone, cross sections between the R1 and B1 interface, future use of existing pad including parking and access, and the building interface with the public realm at the pedestrian scale.

A further detailed briefing with the Panel was held on 20 April 2022. The Panel's comments relating to the proposal included:

1. *Scope of application* – The application needs to be clear about what consent is being sought for. There must be clear on whether development of the PAD site is to be included or not, and if the former then all relevant details need to be provided – e.g., access, manoeuvring, FSR etc.
2. *Permissibility* – The Public (dedicated) Road access is essential to address permissibility issues for access to the southern boundary.
3. *Zone boundaries* – Confirmation is required there is no encroachment of the development into the road reserve or the zone boundary. Given this is a greenfield development there should be no encroachments. Clause 5.3 of the LEP provides a mechanism for minor flexibility near zone boundaries.
4. *Suitability of the site* – Contamination is a threshold matter and the application needs to be clear and specific if remediation is required. There needs to be sufficient current documentation to satisfy the provisions of the SEPP.
5. *Bulk and Scale* – The Bulk and scale, and interfaces at southern end need to be carefully considered;
6. *Urban Design* – Detailed information is required to address the relationship between landscaping and retaining in terms of scale, cross sections, interfaces between the R1 and B1 zones, and the pedestrian interfaces/landscape outcomes;
7. *Traffic* – External pedestrian and traffic access arrangements need to be resolved as part of this application and Council's Traffic Committee should be involved. Details regarding the relationship between the school, the proposed centre and bus stops, crossing etc are required.
8. *Pedestrian infrastructure/connectivity to the west and east* – The application needs to demonstrate pedestrian connectivity is provided, with suitable infrastructure, to the east and west of the site.

Following consideration of the matters for consideration under Section 4.15(1) of the EP&A Act, the provisions of the relevant State environmental planning policies, the proposal can be supported.

The development application has demonstrated the Mixed Use Development is a suitable use of the land within the Thornton North URA which is designated as a neighbourhood shopping centre site. The issues of urban design, integrated transport, and environmental site constraints/characteristics have been considered and are not critical issues, with conditions recommended to assist with managing potential impacts.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(b) of the EP&A Act, DA/2021/1702 is recommended for approval subject to the conditions contained at **Attachment A** of this report.

1. THE SITE AND LOCALITY

1.1 The Site

The development is located in the suburb of Chisholm, positioned in the eastern half of the Maitland City Council Local Government Area approximately 4.5kms to the east of East Maitland. The development site is identified as Lot 11 DP 1280255, 4 Heritage Drive, Chisholm and Lot 12 DP 1280255, 2 Heritage Drive, Chisholm. The development site is north-east of the New England Highway and the Main Northern Railway Line, and approximately

800m to the north of Raymond Terrace Road. Refer to Figure 1 for a locality plan of the development site.

The development site is within a new release residential suburb, with recent subdivisions adjoining to the south, west and north-west. Land to the east and north-east are expected to be subdivided in the near future. To the north of the development site on the opposite side of Tigerhawk Drive is the St Bede's Catholic College.

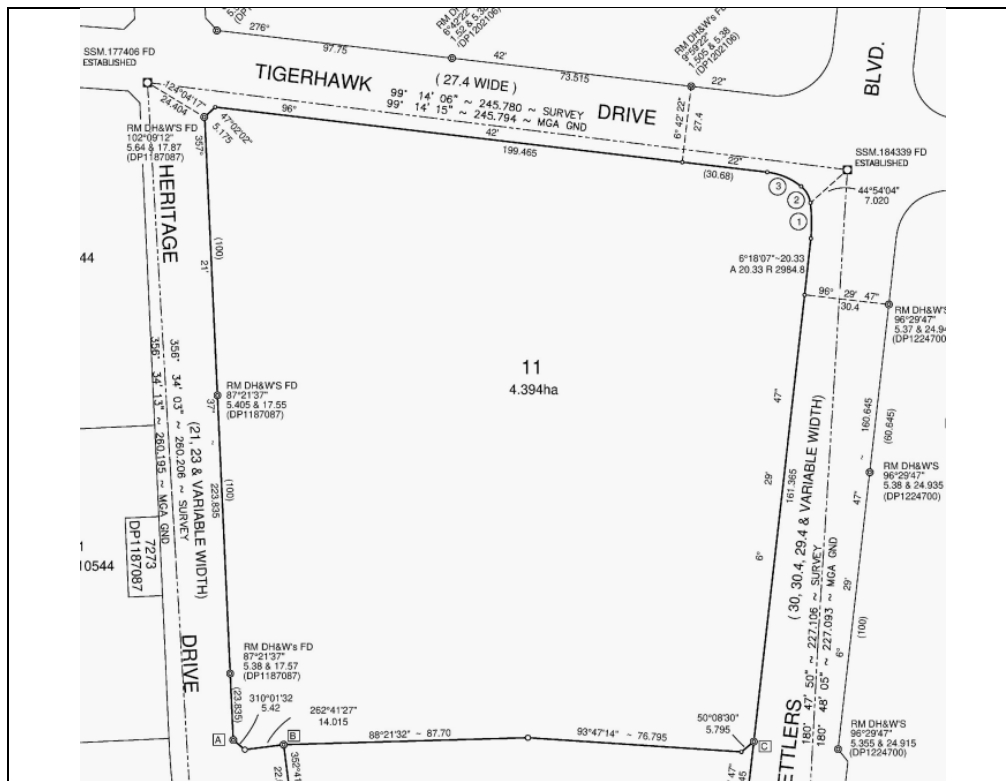


Figure 1

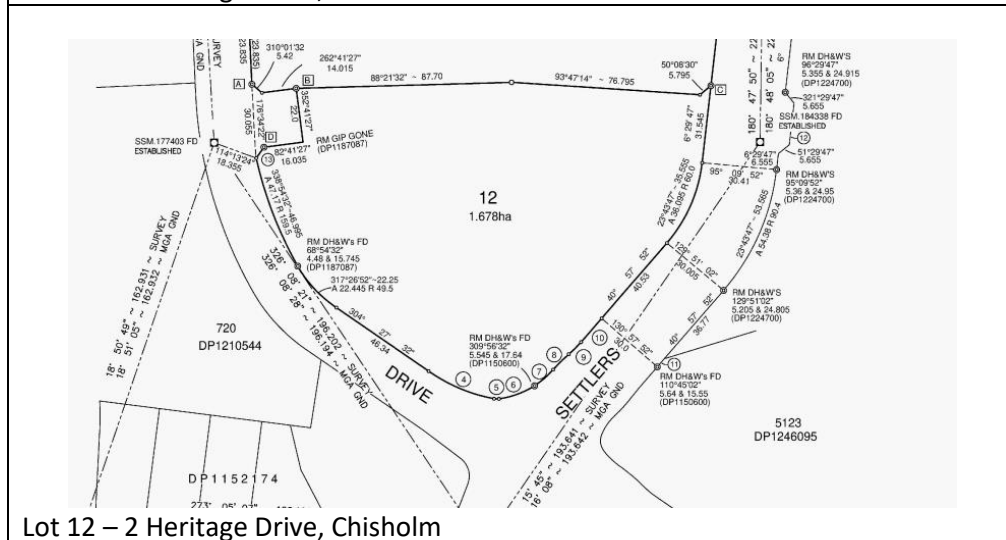
The development site is an irregular shape, with an area of 4.3940 Hectares for Lot 11, having approximate frontages of 200m to Tigerhawk Drive at the northern boundary, 225m to Heritage Drive at the western boundary, 165m to Settlers Boulevard at the eastern boundary, and a southern boundary of approximately 180m.

For Lot 12, it is also an irregular shape with an area of 1.678 Hectares, having approximate frontages of 145m to Heritage Drive at the south west boundary, 165m to Settlers Boulevard at the south east boundary, and 165m to Settlers Boulevard at the eastern boundary, and a southern boundary of approximately 180m.

At Figure 2 are an excerpt of the Deposited Plan for both Lot 11 and Lot 12.



Lot 11 – 4 Heritage Drive, Chisholm



Lot 12 – 2 Heritage Drive, Chisholm

Figure 2

A ridge line runs through the eastern half of the site, falling south to north. Accordingly, the high point of the site is the south-east corner (approximately 30m AHD) with the low points being the north-west corner (approximately 16m AHD) and the north-east corner (approximately 20m AHD). An excerpt of the survey plan is shown at Figure 3.

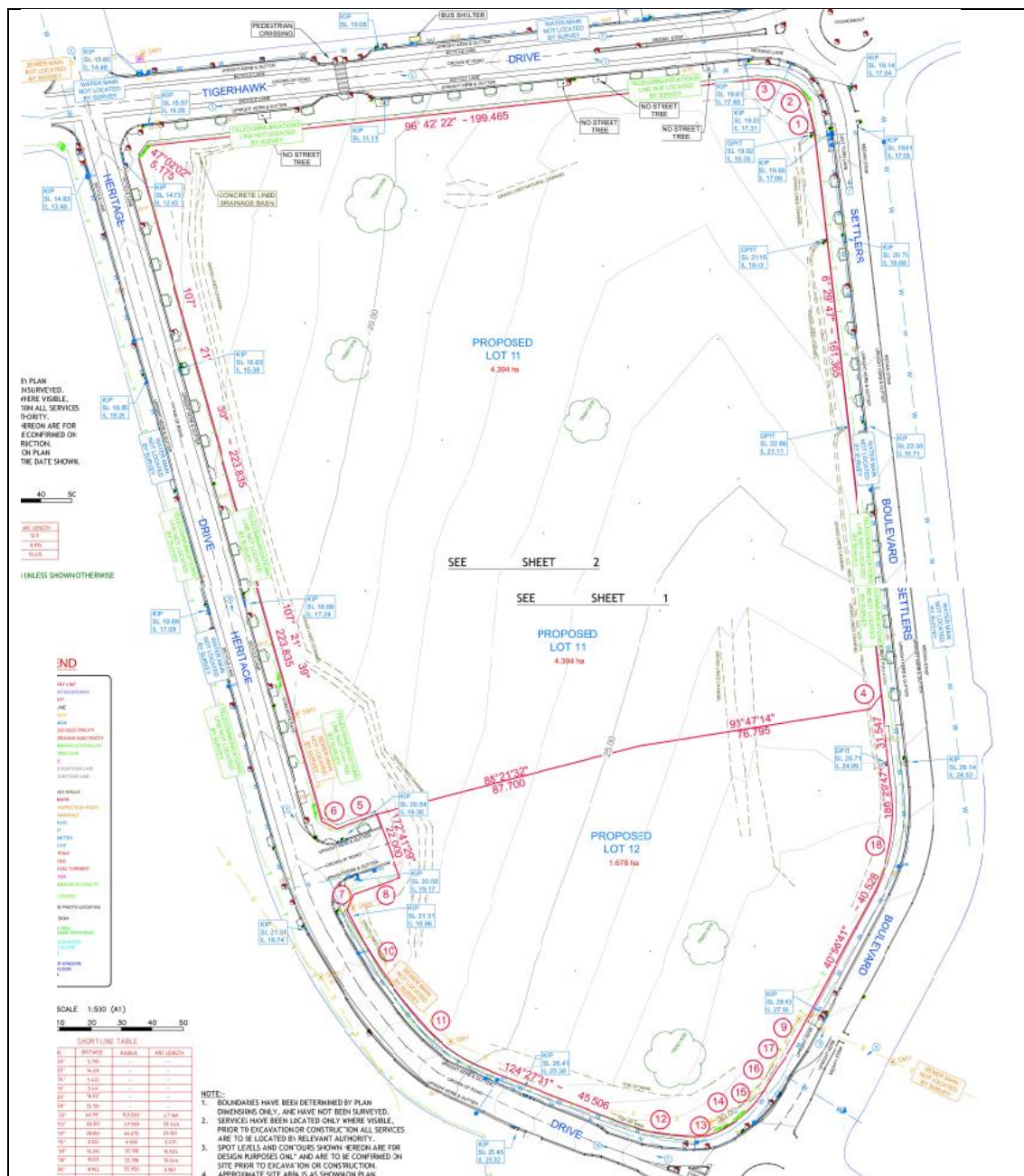


Figure 3

The property is currently managed land, including grassland with three isolated remnant native trees (within Lot 11 - to be cleared) but contains no buildings/structures although a concrete drain is located in the north-west corner. A footpath adjoins the development along the road frontages at the north, east and west boundaries, including street trees. A road entry exists at the south-west corner of Lot 11. Photographs of the development site are shown at Figure 4.

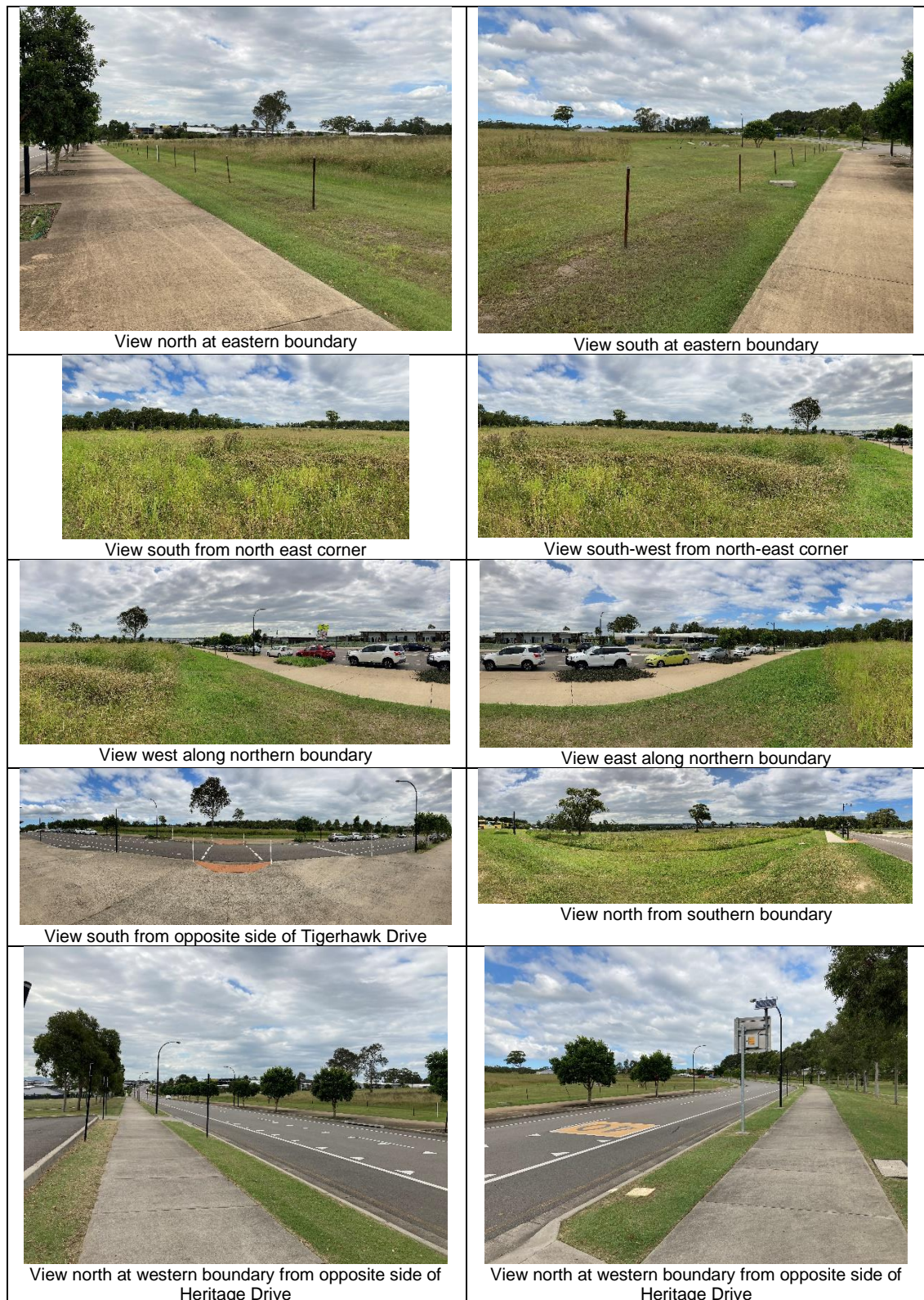


Figure 4

The development site is mapped as Class 5 Potential Acid Sulfate Soils and as Vegetation Category 3 on the Bushfire Prone Land map, as identified in Figure 5 below.

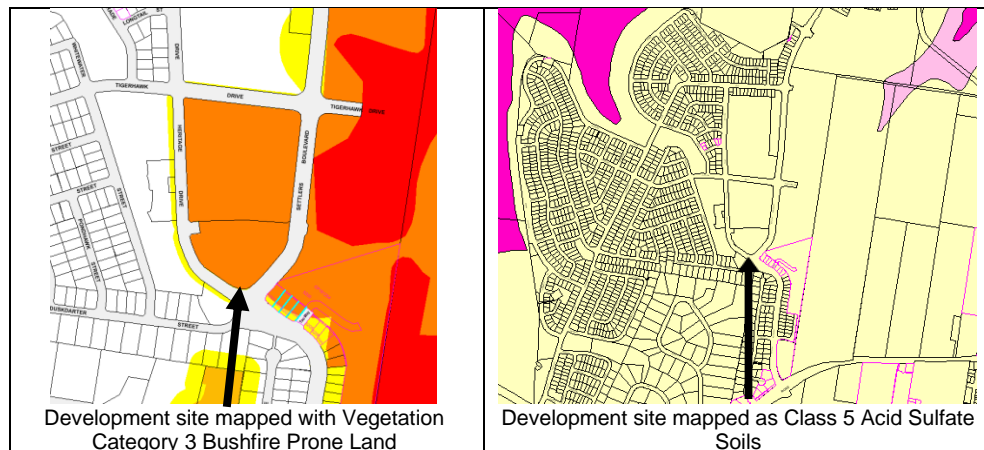


Figure 5

1.2 The Locality

The development site is located at Chisholm to the east of East Maitland, north of the New England Highway and the Main Northern Railway Line, within the Chisholm (Thornton North Stage 2) Urban Release Area (URA). The development site is nominated as a Potential Village Centre within the URA.

The URA supports low density residential development in line with the Hunter Regional Plan 2036, the Greater Newcastle Metropolitan Plan 2036 and the Maitland Local Strategic Planning Statement.

The locality consists predominantly of new release residential zoned land, with areas of cleared rural zoned land and areas of conservation zoned land containing established scattered and forested areas of vegetation including water bodies and creeks which drain to the Hunter River to the east. The area also contains community infrastructure in the form of passive and active recreation spaces and an independent school [the nearest public schools are located to the south-west (Metford) and south-east (Thornton)].

Located to the west is the Stockland Greenhills Shopping Centre whilst to the south-east the Thornton Shopping Centre, both via local road networks. The Maitland Hospital is located to the west.

The New England Highway provides access to Maitland and East Maitland to the north-west and Newcastle to the south-east. Raymond Terrace is located to the east, accessible via Raymond Terrace Road. To the south-west is the Metford Train Station providing access to both intra and inter city services. Further to the east is the Pacific Highway which is accessible by local roads, providing access to the north coast and Sydney.

The predominant built form within the locality is of detached low density residential development of single and two storey forms on lots generally in the range of 450m² to 700m². The independent school is the only development of a larger scale, containing built forms that in appearance are non-residential and of greater scale (one, two and three storey structures, broken into different elements in a landscaped setting).

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal seeks consent for a Mixed use development including Commercial Premises with retail premises, supermarket, mini major and liquor shop, Recreational Facility (Indoor) with gym and swimming pool, Food and Drink premises with Pub, Centre based Child Care Facility (112 children), Health Services Facility with Medical Centre, Car Wash, Signage and the construction of a road and its dedication to Maitland City Council.

Specifically, the proposal involves:

- Site preparation and early works including removal of all vegetation, retaining walls and bulk earth works;
- All land uses proposed within Chisholm Shopping Village including Retail Premises, Food and Drink Premises, Health Services Facility (Medical Centre), Recreation Facility (Indoor) and Centre based child care facility;
- Fit out of the Centre based child care facility;
- Development of the shopping centre and ancillary uses including all external walls and structures. All detailed internal tenancy fit outs will be subject to separate approval (with the exception of the Centre based child care facility);
- A total commercial / retail Gross Floor Area of 12,905m²;
- An on site detention system which will be provided as a combination of below ground tanks and surface storage within the proposed carpark;
- All internal driveways and hard stand areas to accommodate loading and 668 car parking spaces and a basement car park with ancillary car wash facility; and
- Landscaping and public domain works including tree planting, paving, construction of driveways, perimeter footpaths and a public road.

The Mixed use development is to be constructed over Lot 12 (4 Heritage Drive), with the link road to be constructed over Lot 11 (2 Heritage Drive). The link road will adjoin the southern boundary of Lot 12, such that it will be bounded by a public road along all frontages.

The key development data is provided in **Table 1**.

Table 1: Key Development Data

Control	Proposal
Site area	Lot 12: 4.3940 Hectares or 43,940m ² Lot 11: 1.678 Hectares or 16,780m ²
GFA	13,010m ² ➤ Tavern @ 705m ² ➤ Supermarket @ 2,555m ²

	<ul style="list-style-type: none"> ➤ Mini Major @ 1,140m² ➤ Retail @ 3,490m² ➤ Liquor @ 165m² ➤ Child care @ 875m² ➤ Recreational Facility @ 1,745m² ➤ Medical Centre @ 805m² ➤ Amenities and Internal Plaza @ 1,525m²
FSR (B1 zone)	0.29:1 (Lot 12)
Max Height	13m (two storeys)
Car Parking spaces	<ul style="list-style-type: none"> ○ 639 general spaces ○ 14 accessible spaces ○ 10 parent spaces ○ 5 ev spaces <p>Total - 668</p>
Setbacks	<p><u>Northern boundary</u>: 5m setback to the sale structures</p> <p><u>North-west corner</u>: zero setback up to two storeys for the Gym and Child Care Centre</p> <p><u>Western boundary</u>: 3m for car park basement wall, 9-10m for Tavern wall</p> <p><u>Eastern boundary</u>: variable setback for the medical centre, minimum of 10m</p> <p><u>Proposed southern boundary</u>: variable setback of 0.4-15m, predominantly 5m</p> <p>Note, awnings for the pub terrace area are aligned with the basement car park structure; awnings for the Gym/Child care centre encroach the road reserve of Heritage Drive and Tigerhawk Drive; the canopy at Settlers Boulevard is setback 8m.</p>
Child Care Centre	<p><u>Unencumbered Indoor Space</u></p> <p>required: 112 children @ 3.25m² = 364m²</p> <p>provided: 366m² @ 3.26m² per child</p> <p><u>Unencumbered Outdoor Space</u></p> <p>required: 112 children @ 7m² = 789</p> <p>provided: 795.3m² @ 7.1m² per child</p>

Figures 6 & 7 below provide details of the floor plans and site boundaries for the proposed mixed use development.

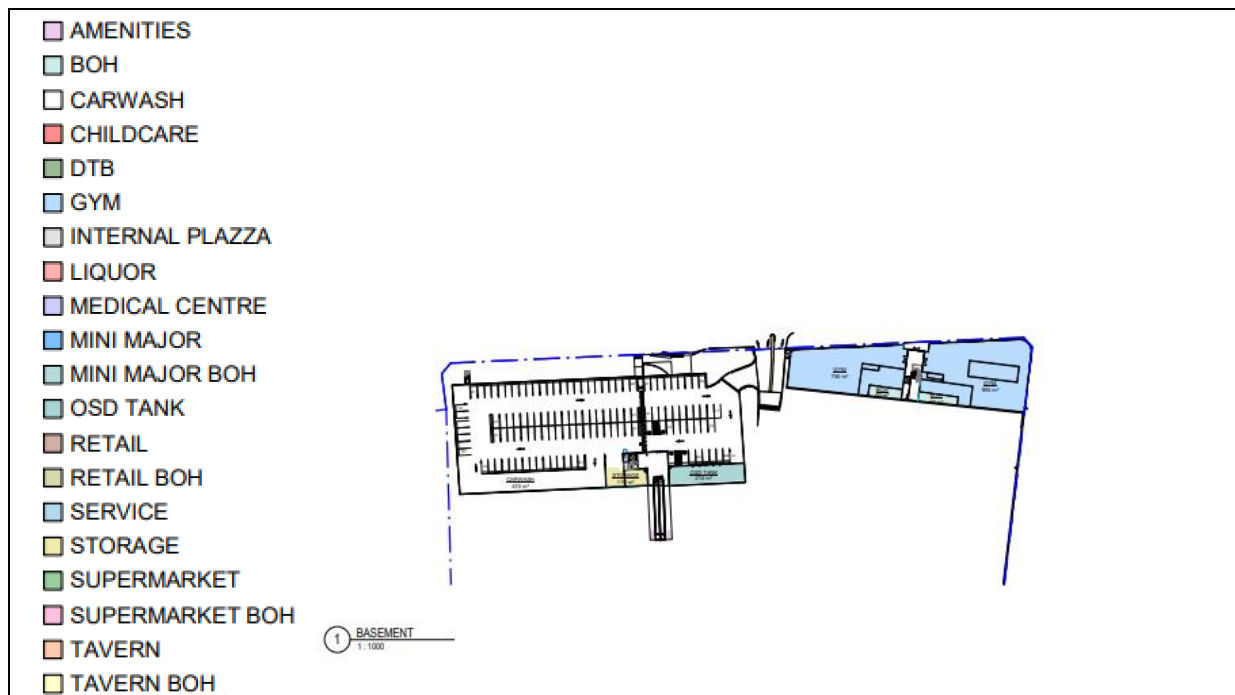


Figure 6

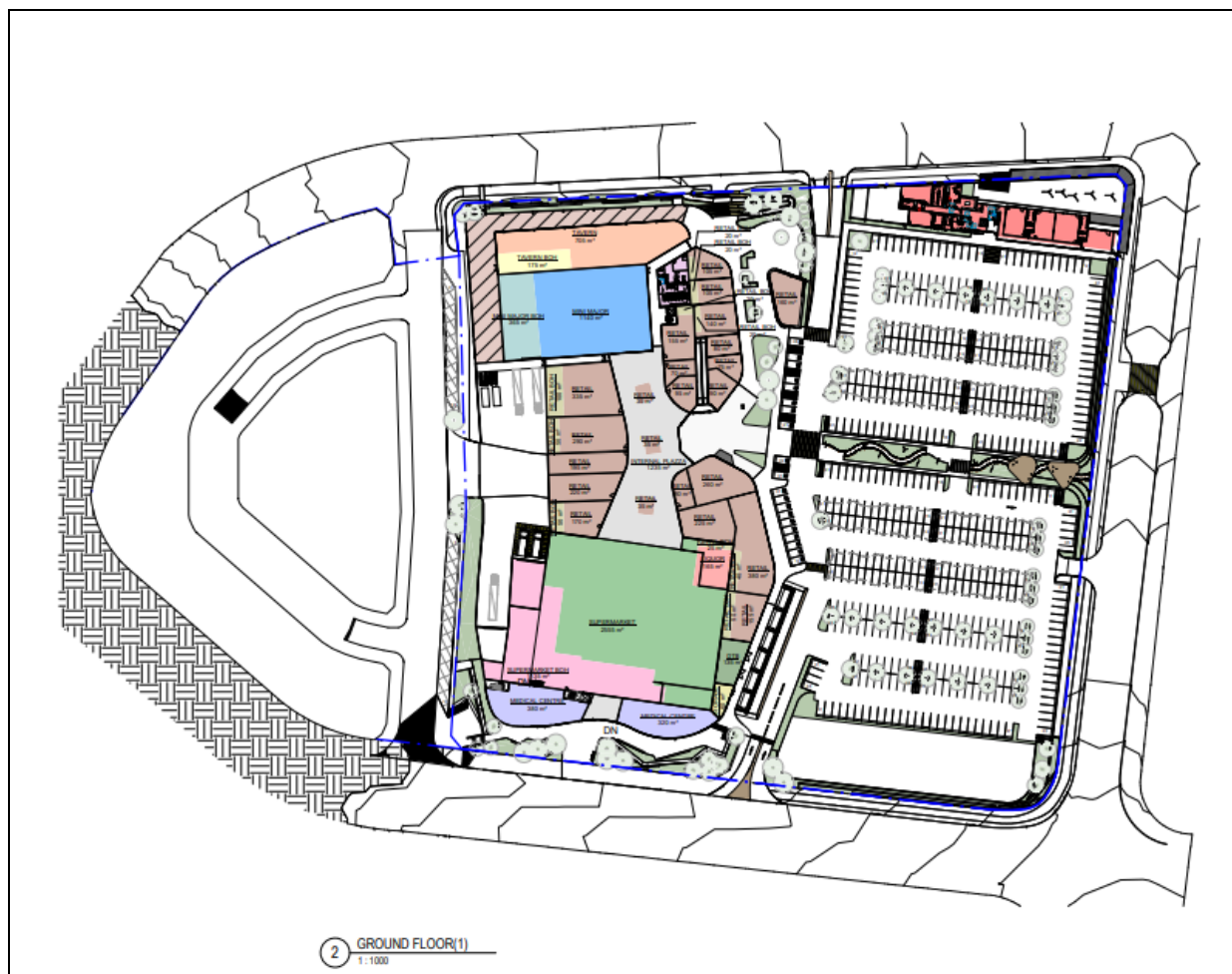


Figure 7

In Figure 8 below photomontages of the development are provided.





Figure 8

A full set of the architectural plans, including elevations and cross sections, the landscape plans and the Civil (Stormwater and Sediment Control Plans) are at **Attachment D**.

The DA has been lodged as integrated development requiring the General Terms of Approval in relation to Section 100B of the Rural Fires Act, 1997. The DA is Traffic Generating Development pursuant to SEPP (Transport and Infrastructure) 2021 and clause 2.48 applies under the same. Copies of the Agency responses are available at **Attachment F**.

2.2 Background

The development application was lodged on 12 January 2022. A chronology of the development application since lodgement is outlined in **Table 2**.

Table 2: Chronology of the DA

Date	Event
24 January 2022	DA referred to external agencies
27 January 2022	Advertisement of the application for 28 days
9 February 2022	Kick Off Briefing for the Hunter & Central Coast Planning Panel
9 February 2022	Request for information from Council to applicant – clarification of excavation/water table for purposes of Integrated Development referrals
10 February 2022	Response from applicant to Council's Information Request confirming excavation works do not intercept the water table
11 February 2022	Request from Council to applicant to correct land description details for the DA
	Response from applicant to Council's request to correct land description details for the DA
20 April 2022	Panel briefing
22 May 2022	Additional Information request issued by Council
15 June 2022	Response from application to Additional Information request
27 July 2022	Submission by applicant of request to have TfNSW review its requirements
	Additional Information request for Urban Design matters, CPTED/SIA matters
3 August 2022	Submission by applicant of Ecology report
10 August 2022	Submission by applicant of response to Urban Design issues

23 August 2022	Submission by applicant of response to CPTED/SIA matters
24 August 2022	Additional Information request for access to rear loading dock
1 September 2022	Submission by applicant of response to link road
4 September 2022	Submission by applicant of certification of Preliminary Site Investigation report

At the Kick-Off Briefing with the Hunter Central Coast Regional Planning Panel on 9 February 2022 the following key issues were identified by Panel for consideration:

- Proposed tavern and liquor store –social analysis required for licensed premises.
- Road dedication as part of subdivision application under adjoining R1 zone. Confirmation this is to be dedicated as public road, otherwise access and permissibility required consideration under subject application.
- Detailed cross sections at R1 and B1 interface.
- Future use of existing pad, including parking and access.
- Base building of proposed gym and interaction at pedestrian scale

At the detailed Briefing with the Hunter Central Coast Regional Planning Panel on 20 April 2022, the Panel made the following comments:

- Proposed tavern and liquor store – social analysis required for licensed premises.
- Bulk and scale, and interfaces at southern end need to be carefully considered.
- The Panel will want to understand the relationship between landscaping and retaining in terms of scale, cross sections etc. There is a need for more detail on cross sections, particularly between interfaces R1 and B1 zones, pedestrian interfaces / landscape outcomes.
- Pedestrian infrastructure and connectivity to the west and east – needs to be clarified. Consideration should be given to improved outlook and linkages to the existing park.
- Public (dedicated) Road access will be essential – may be permissibility issues if the road does not form part of the application.
- PAD site – application needs to be clear about what they are seeking consent for. The PAD site can be the subject of a subdivision. If it is to be considered for use then all relevant details need to be provided – e.g., access, manoeuvring, FSR etc.
- External pedestrian and traffic access arrangements need to be resolved now as part of this application and Council's Traffic Committee should be involved. The Panel want a clear understanding of the relationship between the school, the proposed centre and bus stops, crossing etc.
- Contamination is a threshold matter and the application needs to be clear and specific if remediation is required. There needs to be sufficient current documentation to satisfy the provisions of the SEPP.
- Given this is a greenfield development there should be no encroachments into the road reserve or zone boundaries. It is noted that Council's LEP clause 5.3 provides a mechanism for minor flexibility near zone boundaries.

The Panel understands Council will issue a detailed RFI and consideration will be given for a further update briefing once a response has been received from the applicant. The Panel expects the applicant to respond in a timely manner to enable the application to continue to progress.

2.3 Site History

Historic use

Prior to 1954 the land was lightly timbered, with it being cleared sometime prior to 1965 and used for grazing. By 1975 a poultry farm was established on land in the vicinity of the site.

Between the early 1980s and the early 2000s, use of the site for poultry farming was intensified with large scale buildings and associated roads operating in the vicinity of the site.

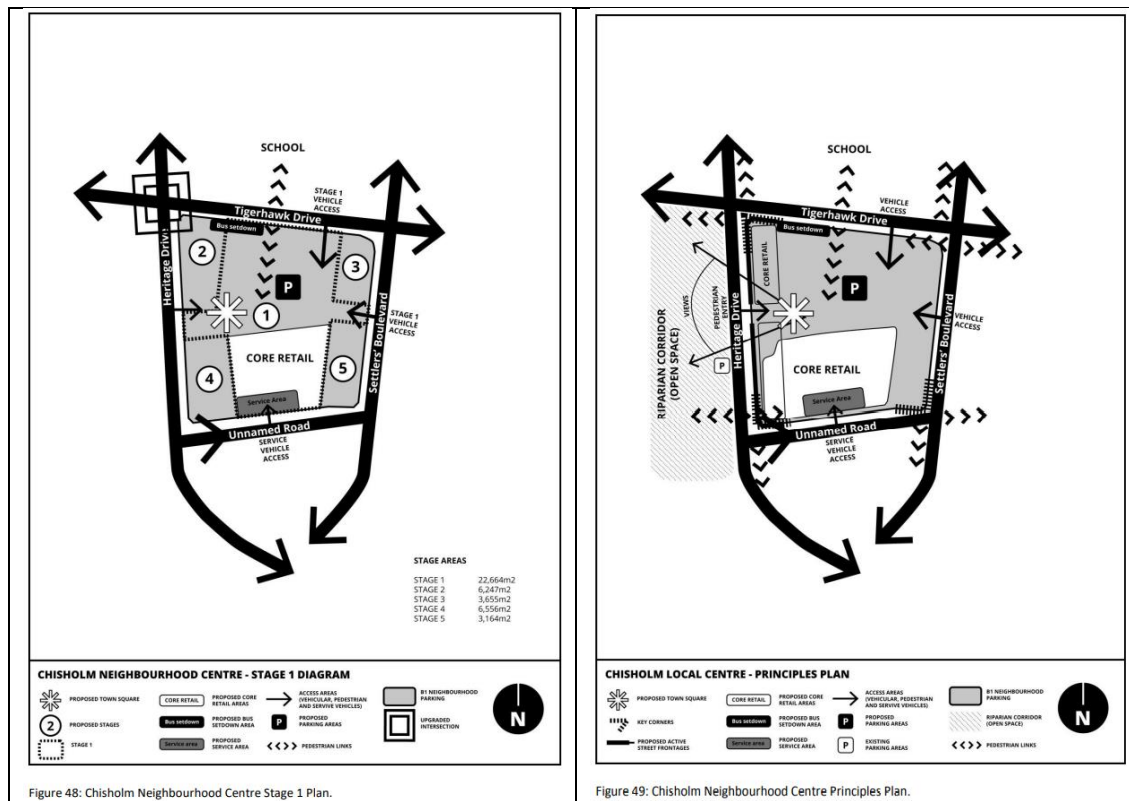
In the mid 2000s the poultry farm had been removed. From 2010 onwards subdivision of land in the vicinity of the development site had commenced.

Recent planning/development history

The site of the development application has been subject to long term strategic planning for the specific purpose of a neighbourhood shopping centre to serve the URA.

On 21 July 2017 Amendment No. 22 to the Maitland Local Environmental Plan (MLEP) 2011 was gazetted which amended the boundaries of the existing B1 zone, decreased the floor space ratio to 0.3:1 to account for the modified larger B1 site, and removed the 8m building height limit to provide flexibility over the future built form on site.

In conjunction with the amendment to the LEP a Precinct Plan (Maitland Development Control Plan 2011 Part F – Thornton Urban Release Area) was adopted for the subject site. Figure 9 below is an excerpt of the design principles for the Chisholm Local Centre from the DCP.



Following the amendments to the LEP and DCP, Development Application no. 2018/1526 was lodged on 10 July 2018 with Council for a Neighbourhood Shopping Centre, the cost of works being \$29,733,000. Consent was granted 22 October 2019 for a Commercial Premises comprising a GFA of 7,584m² and 434 car parking spaces as the first stage of the development of the Shopping Centre. The consent is due to lapse on 22 October 2024. Figure 10 below is a masterplan for the Shopping Centre detailing how the Centre may be development.



Figure 10

Post the granting of consent the site was sold, with the approved scheme being revisited by the new owners. The applicant held a number of discussions with Council prior to lodgement of the DA, including pre-lodgement meetings on 17 June 2021 and 12 August 2021.

The DA was submitted through the Planning Portal on 23 December 2021 and formally lodged with Council on 12 January 2022.

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*
 - (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), that apply to the land to which the development application relates,*
- (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.

It is noted that the proposal is considered to be (which are considered further in this report):

- Integrated Development (s4.46)

3.1 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 and Conservation) 2021*
- *State Environmental Planning Policy (Industry and Employment) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Maitland Local Environmental Plan 2011*

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

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 2: Vegetation in non-rural areas, clause 2.6 – clearing of vegetation requires a permit or approval (development consent) Chapter 4: Koala Habitat Protection 2021, clause 4.9 – the land does not contain koala feed tree species or is core koala habitat	Yes

State Environmental Planning Policy (Industry and Employment) 2021	Chapter 3: Advertising and Signage • Section 3.6 – granting consent to signage	Yes
State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and Regional Development • Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 2 of Schedule 6 as it comprises General Development over \$30 million	Yes
SEPP (Resilience & Hazards)	Chapter 4: Remediation of Land • Section 4.6 – A Preliminary Site Investigation report has concluded the site is suitable for the proposed development.	Yes
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 is satisfactory subject to conditions. • Section 2.121(4) – Traffic-generating development • Section 2.123 - Premises used for recharging or exchanging batteries Chapter 3: Educational Establishments • Section 3.23 - Centre-based childcare facility—matters for consideration by consent authorities	Yes
Proposed Instruments	No compliance issues identified.	Yes
Maitland LEP 2011	• Clause 2.3 – Permissibility and zone objectives • Clause 4.3 - Height of building • Clause 4.4 – Floor space ratio • Clause 5.10(8) – Heritage conservation • Clauses 6.2 & 6.3 – Urban release areas • Clause 7.1 – Acid sulfate soils • Clause 7.2 - Earthworks	Yes

Consideration of the relevant SEPPs is outlined below

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2: Vegetation in non-rural areas

The development proposes the clearing of three native trees from the site. The proposed clearing is within a non-rural area of the state to which Part 2.3 applies. Under Part B.5 Tree Management of the DCP, a permit or approval is required for the removal of the trees being in the form of development consent.

The proposed clearing does not exceed the biodiversity offsets scheme threshold (the clearing is less than 0.5 ha for minimum lot size of 1 ha to less than 40 ha).

Chapter 4: Koala Habitat Protection 2021

Chapter 4 applies to the land by virtue of having an area greater than 1 hectare and does not have an approved koala plan of management. Under subclause 2, the outcomes of the Flora & Fauna Assessment by EPS (December 2021) are accepted, which advised no suitable habitat for Koala was recorded and no indications of Koala presence were observed.

State Environmental Planning Policy (Industry and Employment) 2021

The SoEE states signage does not form part of this DA and will be subject to a future DA. Whilst signage is reflected in the elevations, this is for indicative purposes. A condition is recommended requiring separate consent for all signage.

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

Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 2 of Schedule 6 of the Planning Systems SEPP as the proposal is development for General Development over \$30 million. Accordingly, the Hunter & Central Coast Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021 ('the Resilience and Hazards SEPP')* have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. In order to consider this, a Preliminary Site Investigation ('PSI') has been prepared for the site.

The PSI by Environmental Consulting (June, 2022) consisted of a site inspection, a review of background information including past investigation reports and targeted soil sampling. The PSI was Certified by an accredited person.

The report identified site as vacant with aerial photographs revealing it has been predominantly vacant since 1954 although a small shed was located near the south east corner from sometime after 1977 until around 2007. The certificates of title indicate some owners were poultry farmers however, associated buildings and storage facilities were located on the land surrounding the site other than the small shed near the south east corner.

A separate PSI completed in 2003 encompassed the Site and surrounding land. At the time of this investigation there was a turkey farm located adjacent to the Site to the west and three other turkey farms located more remotely to the north and west. The PSI 2003 did not identify any potential sources of contamination on the site or in close proximity to the Site.

A second PSI conducted in 2020 considered the development on the site through a review of the historical aerial photographs. This showed that the site had not been significantly developed although there was a small shed (for a period of between 20-30 years) near the south east corner and an unpaved road running north south across the Site. The investigation did not identify a potential for significant contamination including the presence of fill material.

The PSI (2022) investigation considered the previous two PSI (2003 & 2000) and the proposed development and concluded based on past use of the site there is no indication of the potential for significant contamination.

To further consider the past use of the land and the proposed development, targeted soil sampling was undertaken at the former location of the small shed on the Site and at the proposed location of the childcare facility. During the site inspection no potential ACM was observed on the site including at the former shed location. The targeted soil sampling did not identify levels of potential contaminants above Site Assessment Criteria.

Accordingly, the site is considered suitable for the proposed mixed use development.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 - Infrastructure

Pursuant to clause 2 of section 2.48(2) (Determination of development applications – other development) – electricity transmission, the application was referred to Ausgrid for comment. In a response on 14 February 2022 Ausgrid advised it raised no objections to the – the proposal is satisfactory subject to the Council considering the suitability of the site for the development as being compatible with the surrounding land uses and the existing environment, including compatibility of the proposal with existing Ausgrid infrastructure. Having regard to the development and the locality, there are no conflicts with the existing Ausgrid network, with the development proposing a kiosk within the site boundaries with mans for access and maintenance.

Pursuant to clause 2(a) of section 2.122 *Traffic Generating Development*, and Schedule 3 of the SEPP, the development is a Traffic Generating Development (being a Shop with a GFA greater than 2000m²). The application was referred to Transport for NSW (TfNSW) under clause 4.

TfNSW considered the Traffic and Parking Impact Assessment (TPIA) and provided comment raising no objection to the development subject to works at Raymond Terrace Road. The applicant submitted an addendum to the TPIA requesting TfNSW to reconsider its requirements for the road works. On 24 August 2022 TfNSW advised the required works at Raymond Terrace Road have no nexus with no conditions are recommended.

The development proposes to install electric vehicle (ev) charging stations in the basement car park. Pursuant to section 2.123 *Premises used for recharging or exchanging batteries*, ev charging stations are permissible with consent where a car washing facility exists. A car wash facility is incorporated with the development, to be located in the basement car park.

Chapter 3 – Educational Establishments

Concurrence under Section 3.22 is not required as the development complies with both regulation 107 and 108 in terms of the provision of floor area and outdoor space respectively. Refer to Architectural Plan A2.06 for details of the compliance.

Matters to be taken into consideration as required by Section 3.23 - *Centre-based childcare facility—matters for consideration by consent authorities* are addressed in **Attachment C**.

No issues are identified with the development's compliance with Section 3.26 *Centre-based child care facility – Non-Discretionary Development Standards*.

Maitland Local Environmental Plan 2011

The relevant local environmental plan applying to the site is the *Maitland Local Environmental Plan 2011* ('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 facilitate ecologically sustainable development of land and natural assets,
- (b) to protect and maintain the extent, condition, connectivity and resilience of natural ecosystems, native vegetation, wetlands and landscapes, including those aspects of the environment that are matters of national environmental significance within Maitland in the long term,
- (c) to properly plan and protect human-made resources of Maitland including buildings, structures and sites of recognised significance which are part of the heritage of Maitland,
- (d) to protect, enhance or conserve the natural resources of Maitland including the following—
 - (i) areas of high scenic rural quality,
 - (ii) productive agricultural land,
 - (iii) habitat for listed threatened species and endangered ecological communities,
 - (iv) minerals of regional significance,
- (e) to create liveable communities which are well connected, accessible and sustainable,
- (f) to provide a diversity of affordable housing with a range of housing choices throughout Maitland,
- (g) to allow for future urban development on land within urban release areas and ensure that development on such land occurs in a co-ordinated and cost-effective manner,
- (h) to concentrate intensive urban land uses and trip-generating activities in locations most accessible to transport and centres, strengthening activity centre and precinct hierarchies and employment opportunities,
- (i) to ensure that land uses are organised to minimise risks from hazards including flooding, bushfire, subsidence, acid sulfate soils and climate change,
- (j) to encourage orderly, feasible and equitable development whilst safeguarding the community's interests, environmentally sensitive areas and residential amenity.

The proposal is consistent with these aims as the proposal provides a centre for the neighbouring communities which is well connected and accessible, which will provide commercial and retail services for existing and future residents, in a sustainable manner. The development is generally consistent with the orderly development pattern outlined in the urban release area plans (DCP), and minimises risks from hazards, including bushfire threats.

Zoning and Permissibility (Part 2)

The site is located within the B1 Neighbourhood Centre Zone pursuant to Clause 2.2 of the LEP. Refer to Figure 11 for an extract of Land Zoning Map 006A (5050_COM_LZN_006A_020_20211202, Amendment 32).

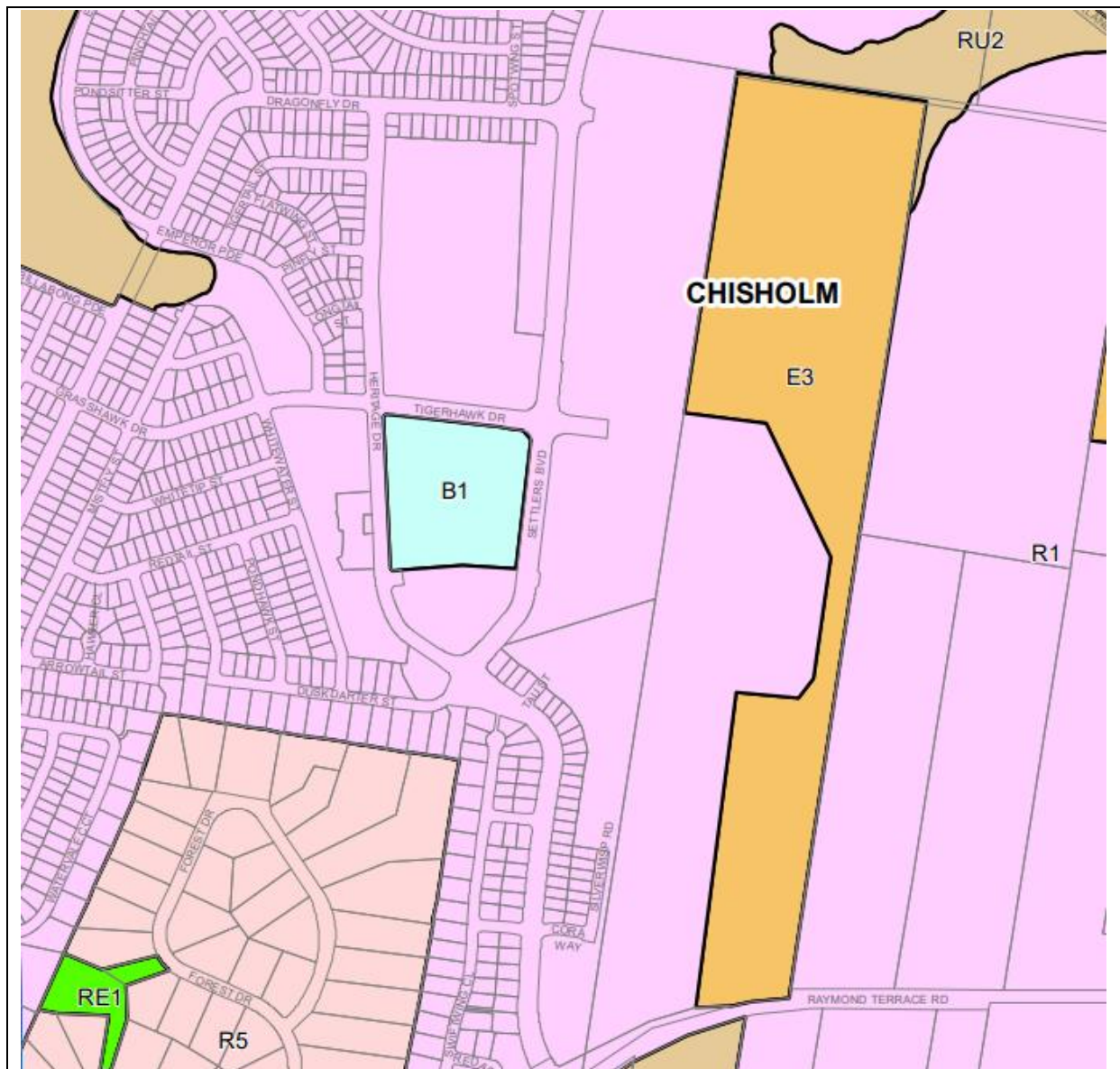


Figure 11

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of Mixed Use Development which is a permissible use with consent in the Land Use Table in Clause 2.3.

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

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To provide retail, business and community facilities to meet the needs of a growing population.*

The proposal is considered to be consistent with these zone objectives for the following reasons:


- The mixed use development provides a range of goods and services to the local community;

- A range of land uses supporting the health, educational/recreational and social needs of the local community; and
- The development will serve the existing and future residents of the Chisholm community, being a part of the Thornton North Urban Release Area.

General Controls and Development Standards (Part 2, 4, 5, 6 and 7)

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 4** below.

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Subdivision (CI 2.6)	Land to which the LEP applies may be subdivided but only with development consent.	The development proposes a subdivision to dedicate a public road to Council, with the residue land to form a single lot	Yes
Minimum subdivision lot size (CI4.1 (3))	The size of any lot resulting from a subdivision is not to be less than the minimum size on the Lot Size map in relation to the land. The minimum lot size for Lot 12 (no. 2 Heritage Drive, Chisholm) is 450m ² .	The development proposes a residue lot of approximately 12,900m ² .	Yes
FSR (CI 4.4(2))	The maximum floor space ratio is not to exceed the floor space ratio for the land on the Floor Space Ratio Map: 0:3 (13,182m ²) Note	0.29:1 (13,010m ²)	Yes
Zone Boundary (CI 5.3)	This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 20 metres.	An overlay of the B1/R1 zone boundaries with the property boundaries (DP1280255) confirms the proposed development does not encroach the R1 zone boundary at the southern site boundary. 	Yes

Heritage (CI 5.10)	The consent authority must, before granting consent to the carrying out of development in an Aboriginal place of heritage significance consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement).	The development site is not deemed to be a place of Aboriginal Place of Heritage Significance having regard to an AHIMS search.	Yes
Public Utility Infrastructure (CI 6.2)	Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available.	It has been demonstrated all public utility infrastructure required to serve the development is available.	
Development Control Plan (CI 6.3)	Development consent must not be granted for development on land in an urban release area unless a development control plan, that provides for specified matters relating to the area, has been prepared for the land.	A DCP for the Thornton North Urban Release Area has been made,	Yes
Acid sulphate soils (CI 7.1)	Class 5	The works are not within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.	Yes

Earthworks (CI 7.2)	Development Consent is required for earthworks unless the works are ancillary to other development for which development consent has been given.	The earthworks are ancillary to the proposed Mixed Use Development the subject of this development application.	Yes
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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, and are relevant to the proposal, including the following:

- *Draft Remediation of Land SEPP*
- *Design and Place SEPP*
- *Draft SEPP (Environment)*

These proposed instruments are considered below:

Draft Remediation of Land SEPP

The explanation of intended effect for a new Remediation of Land SEPP and draft planning guidelines was exhibited by the Department from 31 January to 13 April 2018. The Department is identifying the next steps in the consultation and plan making process, therefore no further detailed consideration can be undertaken based on the progress of the proposed instrument.

Design and Place SEPP

Following extensive consultation with industry and stakeholder groups the NSW Government will not introduce the State Environmental Planning Policy for Design and Place.

Draft SEPP (Environment)

The explanation of intended effect for the Environment SEPP was exhibited by the Department from 31 October 2017 to 31 January 2018. The Department is identifying the next steps in the consultation and plan making process, therefore no further detailed consideration can be undertaken based on the progress of the proposed instrument.

The proposal is generally consistent with these proposed instruments.

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

The following Development Control Plan is relevant to this application:

- *Maitland Development Control Plan 2011* ('the DCP')

The following chapters of the Maitland Development Control Plan 2011 (DCP) are relevant to the assessment of the DA:

- Part A.4 – Notification;

No issues have arisen from Part A of the DCP

- Part B.6 – Site Waste Minimisation and Management;

A Waste Management Plan and supplementary information has been provided. Conditions are recommended.

- Part C.1 – Accessible Living;

An access report has been provided. Conditions are recommended

- Part C.11 – Vehicular Access & Car Parking;

A Traffic Impact Assessment, and an Addendum have been provided. Conditions are recommended having regard to design and construction of the car park, access driveways and the loading dock.

- Part C.12 – CPTED;

A CPTED report was provided as per the DCP controls. Conditions are recommended.

- Part E.1 – Centres; and

An Economic Impact Statement was provided. The development is deemed to have a net positive impact.

- Part F.7 – Chisholm Neighbourhood Centre.

The development has been assessed against the DCP controls for the shopping centre.

A detailed assessment of the DCP is available at **Attachment C**.

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

- *Maitland S7.11 Development Contributions Plan 2006 [Revision C - 2013]*

This Contributions Plan has been considered with the development identified under clause 6 as being subject to the plan. The plan requires a levy of 1% of the proposed cost of carrying out the development where the cost is greater than \$200,000 under clause 9. Included in the recommended draft consent conditions is a contribution of \$369,550.

(d) Section 4.15(1)(a)(iia) – 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.

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

There are no relevant matters contained in Clause 92(1) of the EP&A Regulation required to be taken into consideration by a consent authority in determining a development application.

3.2 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 use of the land is consistent with Council's long term planning for the site. Overall the proposal will have a positive impact on the character of the area through the creation of an architecturally designed retail centre that will establish a presence and focal point in the locality. The proposed design is complementary to the modern design of the school precinct to the north.

Throughout the assessment Council raised concerns regarding the edge treatment, particularly the use of retaining walls, having the potential to negatively impact the streetscape. The applicant workshoped the issue with Council and submitted further detail and design amendments to the satisfaction of Council.

- Access and traffic

The proposal will generate additional pedestrian and vehicle traffic within the locality, and as such, will result in impacts in relation to transport, traffic and pedestrian access.

The Thornton Urban Release Area of the DCP (Part F) provides for the primary vehicular access to the proposal to be from Settlers Boulevard and Tigerhawk Drive, adjacent to the existing roundabout. The proposal supports this outcome with an entry/exit off both Heritage Drive and Settlers Boulevard, and an entry off Tigerhawk Drive. This enables residents to equally access the site and to spread the vehicle movements hence reducing congestion.

A Traffic and Parking Impact Assessment (McLaren, December 2021) which is contained within Appendix J of the SEE. Following ongoing discussions with Council, the applicant considered revised traffic and pedestrian trip generation forecasts for the proposal. Pedestrian demand for the proposal was assumed at 16 walk trips per 100 vehicle trips generated. The applicant has undertaken SIDRA analysis of the existing intersection with the results demonstrating that the intersection would operate at satisfactory levels during peak periods. The results demonstrate adequate capacity at the intersection for forecast vehicle turning movements with no requirement for auxiliary turning lanes. The applicant's analysis demonstrates that with their proposed traffic control measures, the intersection operates at a level of service A and B.

The proposal seeks consent for the loading dock to be constructed off the link road between Settlers Boulevard and Heritage Drive at the southern boundary. Swept paths have demonstrated adequate functioning of the loading dock from a traffic management perspective.

The proposal is likely to result in traffic, transport and pedestrian impacts within the locality. Given the proposal is generally consistent with the DCP, with Transport for NSW having raised no objections from a traffic generating perspective, the development is supported with conditions recommended.

- Public Domain

The development adjoins passive open space to the west. The development provides pedestrian linkages (pram ramps) which are appropriately aligned to enable movement between the neighbourhood shopping centre and the open space.

The development is bounded by footpaths at the west, north and eastern frontages. The proposed road link at the southern boundary includes a footpath for the entire frontage. The development site links to other established footpaths to existing residential development, with linkages to be established within future subdivisions to the east and north.

- Utilities

All required utilities are available to connect to the development. Required kiosk/sub-stations are appropriately located and minimise impacts on the public domain.

- Heritage

The development site is not a listed heritage item nor is it located in a heritage conservation area nor in the vicinity of any heritage items or heritage conservation areas. The site history does not warrant further consideration, nor does the context of adjoining development require sympathetic design outcomes.

A search of the AHIMS register identified no items on the site or within a 200m buffer. Considering the site history and level of disturbance it is not expected any relics will be found, however a condition will be imposed regarding any unexpected finds.

- Other land resources

The development site is part of an urban release area with consideration of land resources having occurred at the rezoning stage. The site is surrounded by residential and educational development and has no impact on other land resources.

- Water/air/soils impacts

Water - The site does not contain any natural watercourses. Site stormwater and drainage is to be undertaken in accordance with the Stormwater and Drainage Plans and Stormwater Management Report (RGH Consulting Engineers, Rev B, June 2018). The development provides On Site Detention (OSD) in accordance with Council's requirements. A bio-filtration basin will be located in the north west corner of the site, adjacent to Heritage Drive and Tigerhawk Drive. No significant impacts on water resources are expected as a result of the proposal.

Air - Potential impacts relating to air quality during construction will be managed in accordance with industry guidelines, in particular dust suppression. Conditions are recommended to manage potential air quality impacts during construction. With regard to the operation of the proposal, this is expected to be typical of retail centres (plant, retail activities) and no significant impacts are expected.

Soils - No significant impacts are expected regarding soil management with the implementation of erosion prevention and sediment controls for the construction

phase through approved plans and recommended conditions. Additional soil will be introduced to the site for landscaping purposes.

Contamination - the preliminary site investigation report has demonstrated the suitability of the proposed development having regard to site history and previous land uses. Conditions are recommended to manage unexpected finds through the construction phase.

- Flora and fauna impacts

The site is highly disturbed and comprises of maintained grasslands. Three isolated trees, including two remnant Lower Hunter Spotted Gum trees and one broad-leaved white Mahogany tree are located on site. One of the Lower Hunter Spotted Gums, in the north west corner of the site, contains a small hollow. Due to the isolation of this tree, this hollow offers only marginal potential roosting and nesting habitat to microbats and other small mammals.

The development will result in the removal of three trees, including a hollow bearing tree. A Flora & Fauna Assessment by EPS (June 2021) and a Supplementary report by Hunter Ecology (August 2021) conclude the proposal is unlikely to significantly impact any threatened species or ecological communities. Recommendations are provided to manage potential impacts by the proposal, including an ecologist to be present on site during site clearing.

- Natural environment

The development requires significant changes to natural the land form. Whilst the development generally accords with the slope of the site, falling southern to north, cut and fill is required to accommodate the basement car park, the level on grade car park, the buildings and driveway/pedestrian access points.

- Noise and vibration

Operation of the proposal has potential to generate noise impacts through hours of operation, plant and equipment, loading docks and use of the Pub (it is noted the proposal seeks consent for the construction of Pub only).

The application has nominated hours of operation for the tenancies, the car parks (basement), and the loading dock. An acoustic report was provided in support of the proposed development, which has been reviewed and conditions recommended.

Plant will be located on the roof of the proposal above the major tenant behind a plant screen, located the south east area of the main building. The Child Care Centre/Gym & Swimming Pool have not nominated details of plant equipment. Conditions are recommended to screen any roof top plant.

Acoustic impact from vehicles accessing the proposal is not expected to result in a significant impact within Settlers Boulevard given the future traffic volumes on this road.

Construction of the proposal will be undertaken in accordance with relevant industry guidelines, including standard construction hours. While this will result in some acoustic impacts within the locality, they will be short term only. Conditions are recommended to mitigate potential impacts.

- Natural hazards

The site is mapped as bushfire prone land, noting the proposed Child Care Centre is a listed Special Fire Protection Purpose in section 100B of the Rural Fires Act, 1997. A Bushfire Assessment Report (BAR) by Newcastle Bushfire Consulting (November, 2021) is contained at Appendix E. The BAR concludes that there is potential for bushfire attack at the site and provided recommendations to address the identified risk.

The GTA's were obtained from the NSW Rural Fire Service having regard to the development being Integrated Development under section 4.46 of the Environmental Planning & Assessment Act, 1979.

The recommendations of the BAR are recommended to be included as a condition, along with the GTA's from the NSW Rural Fire Service.

- Safety, security and crime prevention

A CPTED assessment has been prepared for the proposal (The Design Partnership, November 2021). Following a review, further design amendments were made to address concerns regarding safety and security particularly during the later hours.

The development generally incorporates the CPTED principles of surveillance, access control, activation and site permeability, and overall will activate the site.

Provided the recommendations of the CPTED report are implemented (recommended as conditions), no significant impacts as a result of the proposal are expected. Conditions are recommended.

- Social impact

The proposal will result in a positive social impact within the locality. The centre will be a focal point for the community, and include appropriate facilities such as a Childcare centre, recreational facilities, retail services, a medical centre, food and drink premises, a pub, providing a sense of community.

The development has been designed to enable permeability, and to support different modes of transport. The development is accessible from different parts of the locality and will act as a community hub.

Matters relating to offsite impacts can be managed through conditions.

- Economic impact

The proposed development will have a net positive economic impact with the predicted net long-term employment increase of 460 jobs in the locality and further 517 direct and indirect jobs generated during the \$30Mil construction phase. The proposed development will also provide a much needed neighbourhood shopping centre for the growing community at Chisholm, and reducing the need for residents to travel outside the suburb.

The proposal will result in some economic impact to existing centres in the broader locality, however as the continued growth of the Thornton North URA it is expected trading levels will return to normal over a period of time.

Council is currently reviewing and revising the 2010 Activity Centres and Employment Clusters Strategy (ACECS). Notwithstanding, it is considered the proposal will meet the objectives of the designated 'Chisholm Local Activity Centre' and will provide a range of accessible services for the local population. This is evidenced by the proposed centre's capacity to host a full line supermarket as well as a diverse range of other retail/service spaces.

The Chisholm Shopping Village will further support the objectives of the Draft Hunter Regional Plan 2041 to:

"Create a 15-minute region made up of mixed, multi-modal, inclusive and vibrant local communities"

On balance, the potential economic impacts of the proposal are considered acceptable. The proposal will have significant flow on effects from increased demand for materials, services and products and will also have a positive impact on employment opportunities within the wider region.

- Site design and internal design

The site design has been set out generally in accordance with the DCP such that development steps down the site from south to north. The design works with the site contours and presents an active and/or landscaped frontage treatment to each frontage.

The design responds well to development opposite, noting future residential development to the east is separated by a dual carriageway, development to the north consists of an educational establishment, an development to the west being passive open space. Land to the south is zoned R1, with an application presently under consideration for the subdivision of the land into low and medium residential lots.

Relevant reports (Acoustic) have demonstrated the development will be able to operate in a suitable manner with minimal impacts subject to conditions.

- Construction

Construction of the development in a developing residential neighbourhood, adjoining an educational establishment, will require the implementation of conditions to manage impacts and ensure the safety of the workers and the public. A Construction Management Plan has been lodged with the application.

Conditions will apply with regard to haulage routes, hours of construction deliveries and acoustic controls regarding construction.

- Cumulative impacts

The proposal has potential to result in some cumulative impacts within the locality, both during construction and operation.

The suburb of Chisholm is experiencing significant growth, including subdivision and residential construction. This has the potential to result in cumulative impacts where simultaneous construction is occurring. Such impacts relate to traffic, noise and dust. Any cumulative impacts as a result of construction, will be short term and managed in

accordance with industry practice. Conditions are recommended regarding a CMP and TMP to assist with managing these identified impacts.

A primary potential cumulative impact as a result of the operation of the proposal relates to the economic impact on existing centres within the broader locality. As identified above, such impacts are expected to be mitigated over time with the continued development of the URA.

The proposal also has the potential to contribute to a cumulative impact on the adjoining road network. As discussed above, recommended conditions can mitigate the identified impact. No significant impacts are expected.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

3.3 Section 4.15(1)(c) - Suitability of the site

The development site is considered suitable for the proposal and is consistent with Council's long term planning for the subject site. The key physical issues of relevance to this site relate to the placement of buildings and access points within the site, given the adopted Precinct Plan and constraints of the established surrounding road network.

Issues relating to traffic and access, visual impact, and non-compliance with Council's adopted DCP have either been resolved through the assessment process, via justification from the applicant and submission of additional information, or conditioned as appropriate.

On balance, the proposal will result in a significant positive social and economic impact within the locality. Accordingly the site is considered suitable for the proposal.

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

These submissions are considered in Section 4 of this report.

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

The proposal represents a significant investment in the region and will provide ongoing opportunities for local employment. The proposal will also provide significant economic and social benefits to the broader community, through the provision of local retail, social and medical services. There is a strong economic demand for the proposal within the local community, noting the lack of development of the B1 zoned land intended to benefit the local community.

The development proposal is considered to be in public interest.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/referral as

required by the EP&A Act and outlined below in Table 5.

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 5: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
N/A			
Referral/Consultation Agencies			
Ausgrid (Electricity supply authority)	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	Response dated 14 February 2022, advising no objection to the proposal subject to conditions (see Attachment E).	Yes
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.	Response dated 24 August 2022, advising no objection to the development and provided comment to assist the consent authority in making a determination (see Attachment E).	Yes
Mindaribba LALC	Cl.5.10(8) of MLEP2011	Nil	N/A
NSW Police	C.12 – <i>Maitland Development Control Plan 2011</i> Memorandum of agreement with NSW Police to refer development requiring a detailed Crime Prevention through Environmental Design assessment	Nil	N/A
Integrated Development (S 4.46 of the EP&A Act)			
RFS	S100B - <i>Rural Fires Act 1997</i> bush fire safety of subdivision of land that could lawfully be used for development of land for special fire protection purposes (Child Care Centre)	Response dated 25 May 2022, issuing its General Terms of Approval and a Bush Fire Safety Authority subject to conditions (see Attachment E).	Yes

4.2 Council Officer Referrals

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

Table 6: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	<p>The submitted stormwater concept plan, access driveways, car park design, loading dock and related manoeuvring, and the road link have been considered there were no objections with conditions recommended.</p> <p>The transport connections to the development, including integrated transport links to support private vehicles, public transport, pedestrian and bicycle were considered by Council's Infrastructure & Works team, inclusive of Council's Traffic Engineer. Such consideration included the review of bus stops (school and public), kerbside parking, footpaths, pram ramps, pedestrian crossings, school crossings and roadways/intersections. Conditions are recommended.</p>	Yes
Building	No referral comments provided, with conditions recommended.	Yes
Environmental Health	Referral comment provided to address acoustic issues and potential contamination of the land. Conditions have been recommended.	Yes
Ecology	Referral comment provided with conditions recommended. Particular conditions apply to the removal of the 3 remnant trees including a hollow bearing tree.	Yes
Urban Design	Referral comment advised the amended plans and additional information addressed concerns regarding urban design aspects of the proposal.	Yes
Strategy / Economic Analyses	Matters considered included integrated transport, economic impacts (net benefit), adherence to the activity centres and economic clusters strategy, online shopping (click and collect), operating hours and night time economy. The development is supported	Yes
Community Planning	The Social Impact Assessment and CPTED report in support of the proposed development were considered. Conditions are recommended to manage operational aspects including hours of operation.	Yes
Contributions	Referral advice provided regarding applicable contributions under S.7.12.	Yes
Waste	Referral advice received based on the Waste Management Plan noting the waste storage volume, locations and method of collection, the access by waste collection vehicles and frequency.	Yes

	Conditions are recommended regarding collection times, noting the waste management area is located at the southern end of the site adjacent to the proposed residential area.	
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The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

4.3 Community Consultation

The proposal was notified in accordance with Part A of the DCP/Council's Community Participation Plan from 27 January 2022 until 23 February 2022. The notification included the following:

- Notification letters sent to adjoining and adjacent properties (27 letters sent);
- Notification on the Council's website.

The Council received no submissions regarding the proposal.

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 Scope of application

The development application is for a Mixed Use Development which consists of:

- Commercial Premises (with retail premises, supermarket, mini major and liquor shop);
- Recreational Facility (Indoor) with gym and swimming pool;
- Food and Drink premises with Pub;
- Centre based Child Care Facility (112 children);
- Health Services Facility with Medical Centre;
- Car Wash;
- Signage; and
- construction of a road and its dedication to Maitland City Council.

The development plans as lodged and updated identify a 'future pad site' in the north east corner of Lot 11. The Panel sought clarification as to whether the pad sites are included or not in the application, and where they are to be included then full details are required. If the pad sites are not included, then no further assessment is required with any development on that portion being subject to future consideration.

In correspondence dated 15 June 2022 the applicant confirmed the pad sites are subject to future development application.

Resolution: The issue has been resolved through the provision of additional information which clarifies the scope of the application, hence there is no barrier to the determination of the application.

5.2 Permissibility

The Panel queried whether the Public (dedicated) Road access at the southern boundary of Lot 12 is included in the development application. It was identified the inclusion of the road is essential to address permissibility issues for access to the rear loading dock over the adjoining land which is zoned R1.

The applicant was requested in April 2022 to clarify the proposed development, with it recommended the road be included in the development application. The applicant responded in June 2022 the road is proposed within a separate development application (DA/2022/105) over Lot 11 and requested a condition be imposed not to occupy the shopping centre until linen plan is registered for the subdivision. southern boundary. The applicant was of the view the DA over Lot 11 would be determined prior to this application being reported for determination.

In August 2022 Council requested the applicant to review the application to include the proposed link road, noting the DA over Lot 11 had not been determined and there was no certainty it would be determined prior to the Panel meeting to determine the application for the Mixed Use Development. Council expressed concern that without the DA over Lot 11 being determined prior to the Panel's consideration of this application, and with no road included in the development, the permissibility issues would stand and the application would likely not be supported in its current form.

In September 2022 the applicant submitted an amendment to the application to include Lot 11 (2 Heritage Drive, Chisholm) with owner's consent. The amendment to the application included construction of the link road between Settlers Boulevard and Heritage Drive, and its dedication to Maitland City Council.

Resolution: The issue has been resolved with inclusion of the link road as part of the application (refer to **Attachment D**), and accordingly, there is no barrier to the determination of the application.

5.3 Zone Boundaries

The applicant was required to confirm there is no encroachment of the development into the R1 zone boundary.

The applicant provided an overlay of the zone boundary with the Deposited Plan 1280255 at the southern boundary (refer to **Attachment D**), based on information obtained from Maitland City Council's GIS team. The overlay details the southern property boundary is contained within the boundary for the B1 zone (note, there is a small encroachment of the B1 zone into Lot 11 however this will be incorporated into the proposed road to be dedicated as public road).

Given the overlay has confirmed there is no encroachment of the R1 zone into Lot 12, the provisions of Clause 5.3 of the LEP do not need to be applied.

Resolution: The concerns regarding the encroachment of the R1 zoned land into Lot 12 has been resolved, hence there is no barrier to determination of the development application.

5.4 Suitability of the site

The development application was initially lodged with two PSI reports dating from November, 2003 and December, 2020. Concerns were raised with the coverage of the reports relative to the development site, whether the reports were current and from information contained in the reports.

A revised PSI report was provided by the applicant in June, 2022 and a subsequent version in September, 2022. The later report provided certification of the PSI report by a suitably accredited person.

The revised PSI report was reviewed by Council's Environmental Health Officer, who raised no objections to its investigation of potential contamination of the site and was satisfied the site is suitable for the proposed development as required by Clause 4.6 of the SEPP (Resilience and Hazards) 2021. Conditions were recommended.

Resolution: The concerns regarding the potential contamination of the site have been addressed through the provision of a PSI and its review by appropriately qualified Council officers, hence there is no barrier to determination of the development application.

5.5 Bulk and Scale –

The bulk and scale of the development at the southern interface of the Mixed use development was identified as a concern. The applicant was advised in April 2020 of the concerns regarding the interface between the B1 and R1 zones, and the treatment of the 'rear' elevation of the mixed use development.

In response the applicant provided additional information in June, and later following a workshop with Council's Urban Designer supplementary information in August, 2022. This information provided additional detail, including cross sections (refer to Plan A11.01, Rev. D).

The cross sections of the interface demonstrate the bulk and scale of the southern elevation of the Mixed use development is moderate, noting the single storey built form (with parapet) recessed below the height of the proposed link road behind a landscaped screen. The cross sections also demonstrate the elevation of the adjoining land (Lot 11) whereby any development at a single storey will likely have its roof form above the height of the shopping centre and therefore providing context.

Resolution: The additional information has demonstrated the bulk and scale of the built forms is acceptable having regard to the existing natural slope of the development site, proposed development to the south and the articulation and landscape treatment of the southern elevation, therefore the application can be determined.

5.6 Urban Design –

Detailed information is required to address the relationship between landscaping and retaining in terms of scale, cross sections, interfaces between the R1 and B1 zones, and the pedestrian interfaces/landscape outcomes;

Concerns regarding urban design outcomes were advised to the applicant in April 2020. In response the applicant provided additional information in June, and later following a workshop with Council's Urban Designer supplementary information in August, 2022. This information provided additional detail regarding design treatment, improved pedestrian links and amenity and additional cross sections to demonstrate the scale of the interface (refer to Landscape Plans LP01 to LP12, Rev E).

The cross sections of the interface demonstrate the bulk and scale of the southern elevation of the Mixed use development is moderate, noting the single storey built form (with parapet) recessed below the height of the proposed link road behind a landscaped screen. The cross sections also demonstrate the elevation of the adjoining land (Lot 11) whereby any development at a single storey will likely have its roof form above the height of the shopping centre and therefore providing context.

Resolution: The additional information has demonstrated the edge treatment is acceptable having regard to the public realm along each frontage, therefore the application can be determined.

5.7 Traffic –

External pedestrian and traffic access arrangements need to be resolved as part of this application and Council's Traffic Committee should be involved. Details regarding the relationship between the school, the proposed centre and bus stops, crossing etc are required.

The development proposal is for a neighbourhood shopping centre in an urban release area. The locality provides a planned network of road and pedestrian links, incorporating bus routes and stops.

As the development application qualified as a Traffic Generating Development pursuant to SEPP (Transport and Infrastructure) 2021 it was referred to TfNSW for comment under cl. 2.122 along with a Traffic and Parking Impact Assessment (TPIA) by the applicant. TfNSW advised on 24 August 2022 the following particulars:

- TfNSW supports the use of active transport options for the development, as detailed in the Traffic and Parking Impact Assessment dated 23 December 2021 for the proposal and in Section 7, Part F of the Maitland Development Control Plan 2011.
- Council should ensure that appropriate traffic measures are in place during the construction phase of the project to minimise the impacts of construction vehicles on traffic efficiency and road safety within the vicinity.
- Council should have consideration for appropriate sight line distances in accordance with Section 3 of the Austroads Guide to Road Design Part 4A (Unsignalised and Signalised Intersections) and the relevant Australian Standards (i.e. AS2890:1:2004) and should be satisfied that the location of the proposed driveway promotes safe vehicle movements.
- All matters relating to internal arrangements on-site such as traffic / pedestrian management, parking, manoeuvring of service vehicles and provision for people with disabilities are matters for Council to consider.

Conditions have been recommended to address traffic measures at the construction phase and design matters relating to internal arrangements for on-site traffic and pedestrian movements.

Resolution: The proposed layout of the development additional information has demonstrated the edge treatment is acceptable having regard to the public realm along each frontage, therefore the application can be determined.

5.8 Pedestrian infrastructure/connectivity to the west and east –

The application needs to demonstrate pedestrian connectivity is provided, with suitable infrastructure, to the east and west of the site.

Concerns regarding the placement/alignment of links between the proposed shopping centre and the open space/park to the west were raised with the applicant in April 2020. In response the applicant provided additional information in June, and later following a workshop with Council's Urban Designer supplementary information in August, 2022. This information provided revised pedestrian linkages affording improved access on both the east and western side of Heritage Drive (refer to Architectural Plans A02.02 and A02.03, Revisions C & F respectively).

Resolution: The additional information has demonstrated the improved pedestrian links in Heritage Drive, therefore the application can be determined.

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.

The development application, inclusive of plans and supporting documentation, has demonstrated the proposed Mixed Use Development is compliant with relevant environmental planning instruments, generally compliant/consistent with the DCP controls, with any related impacts being managed through conditions. The site is suitably located, having been identified through land zoning and the DCP to be used as a neighbourhood shopping centre to serve the residential development at Thornton North. The development is compatible with the existing and future road network, adjoining development and the environmental characteristics of the land, with conditions recommended to further manage any potential impacts.

It is considered that the key issues as outlined in Section 6 have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment A**.

7. RECOMMENDATION

That the Development Application No 2022/1702 for Mixed Use Development [including Commercial Premises (with retail premises, supermarket, mini major and liquor shop); Recreational Facility (Indoor) with gym and swimming pool; Food and Drink premises with Pub; Centre based Child Care Facility (112 children); Health Services Facility with Medical Centre; Car Wash; Signage and construction of a road and its dedication to Maitland City Council] at Lot 11 DP 1280255, 4 Heritage Drive, Chisholm NSW 2322 and Lot 12 DP 1280255, 2 Heritage Drive, Chisholm NSW 2322 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 A**.

The following attachments are provided:

- Attachment A: Draft Conditions of consent
- Attachment B: General Terms of Approval by NSW Rural Fire Service
- Attachment C: Tables of Compliance
- Attachment D: Plans (Architectural/Civil/Landscape)
- Attachment E: Supporting Documentation
- Attachment F: Agency Referral responses