

COUNCIL ASSESSMENT REPORT

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSHCC-312 – 16-2024-420-1
PROPOSAL	Demolition of three dwellings, vegetation removal, 3 into 2 lot Torrens title subdivision, construction of 13x multi dwelling houses
ADDRESS	Lots 130, 129 & 151 DP 31774 31, 35 & 37 Phillip Street, Raymond Terrace
APPLICANT	EPM Projects
OWNER	Homes NSW
DA LODGEMENT DATE	27/08/2024
APPLICATION TYPE	Integrated
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19 (1) and Clause 5 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as the development is affordable housing with a capital investment value of more than \$5 million.
CIV	\$6,090,000 (excluding GST)
CLAUSE 4.6 REQUESTS	Yes – Clause 4.1B Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings
KEY SEPP/LEP	<ul style="list-style-type: none"> • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Housing) 2021 • State Environmental Planning Policy (Sustainable Buildings) 2022 • Port Stephens Local Environmental Plan 2013
TOTAL & UNIQUE SUBMISSIONS KEY IN ISSUES SUBMISSIONS	0
DOCUMENTS SUBMITTED FOR CONSIDERATION	Attachment A: Draft conditions of consent Attachment B: Clause 4.6 Request Attachment C: Architectural Plans

	Attachment D: Civil Engineering Plans Attachment E: Landscape Plan Attachment F: Subdivision Plan Attachment G: Flood Risk Management Report Attachment H: Social Impact Assessment Attachment I: Vehicle Swept Paths Attachment J: Traffic Impact Assessment Attachment K: Bushfire Report Attachment L: Geotechnical and Acid Sulfate Soil Investigation Report Attachment M: Arborist Report Attachment N: Access Report Attachment O: Acoustic and Vibration Assessment Attachment P: BCA Performance Requirements Compliance Statement Attachment Q: Waste Management Plan Attachment R: Statement of Environmental Effects & Applicant's Clause 4.6 Request Attachment S: AHIMS Search Result Attachment T: BASIX Certificate
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	N/A
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	17 February 2025
PLAN VERSION	16/01/2021 Revision P24
PREPARED BY	Christopher Primrose – Development Planner
DATE OF REPORT	7 February 2025

EXECUTIVE SUMMARY

The development application (16-2024-420-1) seeks consent for the demolition of three dwellings, vegetation removal, three into two lot Torrens title subdivision and construction of 13 multi dwelling houses. The multi dwelling housing is proposed to be used for affordable and social housing, with seven (7) of dwellings to be used for affordable housing and six (6) of the dwellings to be used for social housing.

The site comprises of three adjacent allotments located at 31, 35 and 37 Phillip Street Raymond Terrace, legally known as Lots 130, 129 and 151 in DP 31774 respectively. The site is an irregular shape with a combined area of 1,792.6m². The primary frontage has a width of 45.72m and faces Phillip Street to the south while a secondary frontage with a width of 19.78m faces Windsor Street to the east. Adjacent suburbs include Nelsons Plains which is

approximately 2km north, the suburb of Medowie is approximately 6.5km east, the suburb of Heatherbrae is approximately 750m south, and the suburb of Millers Forest (Maitland LGA) is approximately 1.5km west. The town centre of Raymond Terrace is the closest commercial zoned land to the site, approximately 1km north-west, and provides several services including supermarkets, take away food and drinks premises, retail stores and health services facilities.

The proposal was notified during the assessment of the application in accordance with the Port Stephens Council's Communication and Engagement Strategy. The notification period was from 4 September to 18 September 2024. No submissions were received during the notification period.

The key issues in respect of the assessment of this application related to flooding, traffic and parking, streetscape presentation, private open space and waste storage configurations. To address the flooding impacts, specialist advice was sought from a suitably qualified engineer to prepare a Flood Impact and Risk Assessment and to inform the design of the proposed development. As shelter-in-place is proposed, the application also addressed the *Shelter-in-place guideline for flash flooding* released by the Department of Planning, Housing and Infrastructure. The other key issues were addressed through design amendments made throughout the assessment of the application and recommended conditions of consent.

The proposal is referred to the Hunter and Central Coast Regional Planning Panel (HCCRPP) for determination pursuant to Section 2.19(1) and Clause 5 of Schedule 6 of the *State Environmental Planning Policy (Planning Systems) 2021* that declares the proposal regionally significant development as the development is affordable housing with a capital investment value of more than \$5 million.

The development has been assessed under Section 4.15 of the EP&A Act and is considered satisfactory. Accordingly, pursuant to Section 4.16(1)(a) of the EP&A Act, it is recommended that the application be approved subject to conditions of consent contained in **Attachment A**.

1. THE SITE AND LOCALITY

1.1 The Site

The site comprises of three adjacent allotments located at 31, 35 and 37 Phillip Street Raymond Terrace, legally known as Lots 130, 129 and 151 in DP 31774 respectively. The site features an irregular shape with an area of 1,792.6m². The primary frontage has a width of 45.72m and faces Phillip Street to the south while a secondary frontage with a width of 19.78m faces Windsor Street to the east. The site features a slight slope that falls approximately 1.24m across the site, from 9.67m AHD in the north-western corner to 8.43m in the south-eastern corner. The site currently contains three single storey residential dwellings, ancillary structures, fencing and several mature trees, refer to **Figure 1**.



Figure 1: Site aerial

Site Inspection

A site inspection was carried out on 23 January 2025. The subject site can be seen in the photos below:



Photograph 1: View of the site looking towards the corner of Windsor Street and Phillip Street



Photograph 2: View of 37 Phillip Street and existing bus stop



Photograph 3: View of the subject site



Photograph 4: Existing multi dwelling housing on adjoining site (west)

1.2 The Locality

The proposal is located within the Port Stephens Local Government Area (LGA) within the suburb of Raymond Terrace. The suburb of Nelsons Plains is approximately 2km north, the suburb of Medowie is approximately 6.5km east, the suburb of Heatherbrae is approximately 750m south, and the suburb of Millers Forest (Maitland LGA) is approximately 1.5km west.

The site is surrounded by predominately single storey low density residential dwellings, with a similar multi dwelling housing development on the adjacent site to the west. Raymond Terrace Cemetery is approximately 150m east, while Boomerang Park and the town centre of Raymond Terrace are approximately 250m and 1km to the north respectively. A Hunter Water sewage treatment plant sits approximately 400m south.

The town centre of Raymond Terrace is the closest commercial zoned land to the site and provides several services including supermarkets, take away food and drinks premises, retail stores and health services facilities. A bus stop is located immediately adjacent the site on Phillip Street. This bus stop provides a loop service to the town centre of Raymond Terrace, running approximately every hour from 6am to 6pm Monday to Friday, 9am to 5pm on Saturday and does not run on Sundays.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal seeks consent for the following:

- Demolition of three existing single storey dwellings on the site and any related ancillary structures and fencing.
- Vegetation removal.

- Minor earthworks to create a level building footprint, including retaining.
- Construction of multi dwelling housing comprising of 13 units. The multi dwelling housing will be used for social and affordable housing, with six (6) dwellings to be used for social housing and seven (7) dwellings to be used for affordable housing. Refer to **Figure 2**.
- A 3 into 2 lot Torrens title subdivision, with the affordable and social housing to be located on their own lot.
- Civil works including the installation of stormwater infrastructure.
- Internal landscaping of the site.
- Provision of nine (9) car parking spaces, with seven (7) spaces allocated to the affordable housing and two (2) spaces allocated to the social housing.

An overview of the separate components of the proposal is provided below.

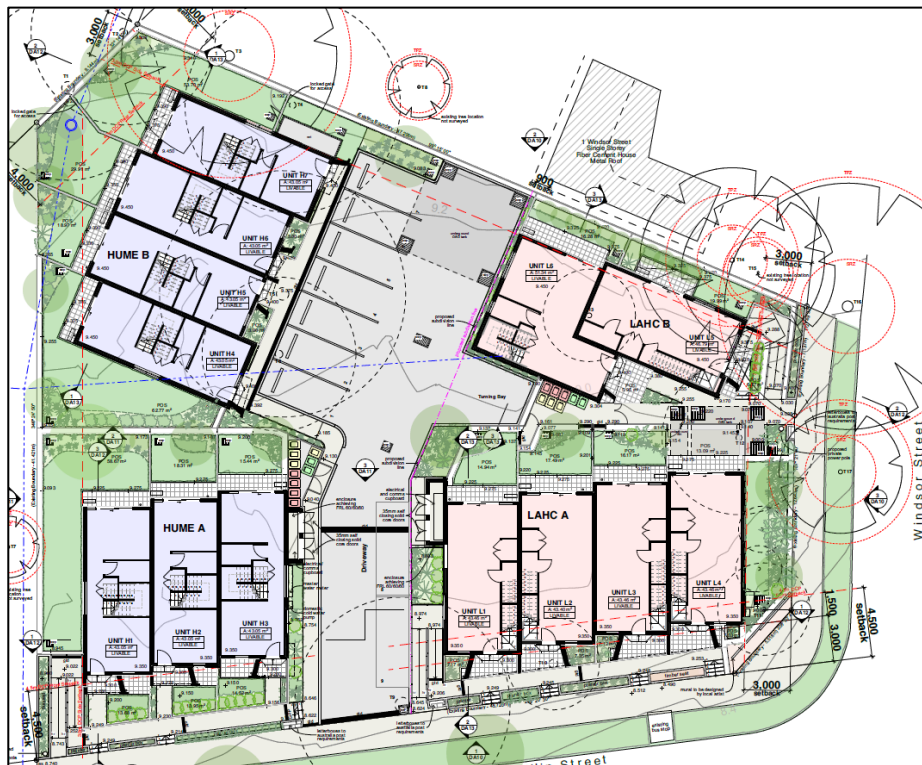


Figure 2: Proposed site plan

Table 1: Development Data

Control	Proposal
Site area	1,792.6m ²
GFA	1,075.01m ²
FSR (retail/residential)	N/A
Clause 4.6 Requests	Yes – The application proposes a lot size of 666.6m ² for the multi-dwelling housing on proposed Lot 1. This represents an 11.12% variation to the minimum lot size requirement of 750m ² specified under Clause 4.1B of the PSLEP 2013.

No of dwellings	13
Max Height	<u>Hume Building A</u> 6.9m <u>Hume Building B</u> 6.8m <u>LAHC Building A</u> 7.54m <u>LAHC Building B</u> 7.103m
Landscaped area	<u>Entire Lot</u> 430.1m ² = 24% <u>Lot 1 – Hume Housing</u> 290.81m ² = 25.8% <u>Lot 2 – LAHC Housing</u> 139.31m ² = 20.9%
Car Parking spaces	Nine (9)
Setbacks	<u>Lot 1 – Hume Housing</u> South – 4.5m from Hume Building A West – 3m from Hume Building A & 2.4m from Hume Building B North-west – 5m from Hume Building B North-east – 3m from Hume Building B East – 8m from Hume Building A & 12.7m from Hume Building B to proposed boundary line <u>Lot 2 – LAHC Housing</u> South – 2.9m from LAHC Building A West – 2.1m from LAHC Building A North-west – 0.3m from LAHC Building B North – 2.35m from LAHC Building B East – 3m from LAHC Building A & 3.8m LAHC Building B

Social and Affordable Housing

The proposal seeks to redevelop land currently owned by the NSW Government, specifically being owned by NSW Land and Housing Corporation (Homes NSW). The proposal would demolish three (3) existing detached social housing dwellings to be replaced with 13 multi dwelling units, with six (6) to be used for social housing and seven (7) to be used for affordable housing. The development is proposed to be undertaken in partnership with Hume Community Housing (Hume), who would own and operate the seven (7) affordable housing dwellings for a minimum of 15 years and would operationally manage both the affordable and social housing. The affordable and social housing dwellings are proposed to be located on separate allotments, as outlined below.

The proposed dwellings would feature a two storey design, split across four (4) separate building blocks. The dwellings would consist of the following layout:

Ground Floor

- Dining and kitchen area;
- Living room;
- Toilet facilities;
- Internal laundry facilities;
- Stairwell to first floor;
- Patio area; and
- Porch for nine (9) of the dwellings

First Floor

- Two bedrooms, each with a built-in-robe;
- Shared bathroom with shower;
- Hallway; and
- Stairwell to ground floor

The proposed ground and first floor plans can be seen in **Figures 3 & 4.**

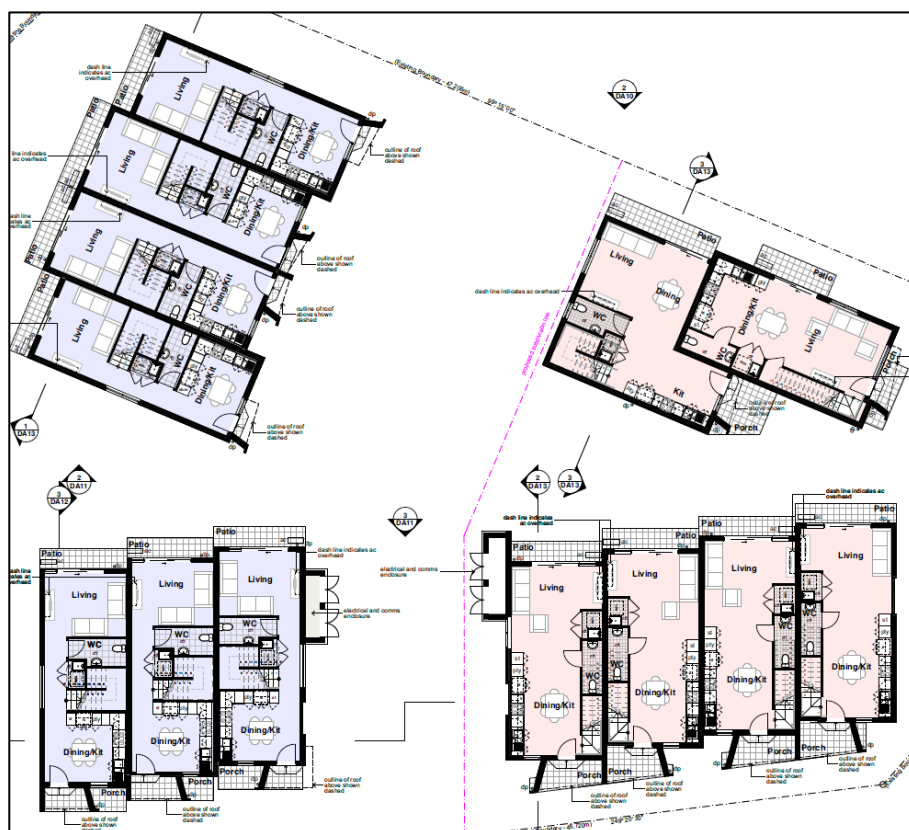


Figure 3: Proposed ground floor plan



Figure 4: Proposed first floor plan

Vegetation Removal

The application proposes to remove a total of eleven (11) trees located within the site and on adjacent properties to the north and the west. The proposed trees for removal consist of the following:

- 2x *Cinnamomum camphora* (Camphor Laurel)
- 1x *Eucalyptus sideroxylon* (Mugga Ironbark)
- 1x *Eriobotrya japonica* (Loquat)
- 2x *Grevillea robusta* (Silky Oak)
- 1x *Eucalyptus acmenoides* (White Mahogany)
- 1x *Banksia serrata* (Banksia)
- 1x *Cupressocyparis leylandii* (Leyland Cypress)
- 1x *Magnifera indica* (Mango), and
- 1x *Citrus limon* (Lemon)

Of the trees proposed for removal, the following trees are located on adjacent properties:

- 2x Camphor Laurels, located at 11 Edinburgh Street;
- 1x Mugga Ironbark located at 1 Windsor Street; and

It is noted that all adjacent properties are owned by Homes NSW and therefore additional owner's consent is not required for the removal of these trees. Furthermore, the trees proposed for removal have been assessed by Council's Environmental Planner who noted the proposed tree removal is not likely to result in any significant adverse impacts.

A Landscape Plan has been included with the application, which includes the planting of 16 canopy trees to offset the removal of mature vegetation from the site and adjoining properties. The following tree species are proposed to be planted on the site and in the adjoining road reserve:

- 5 x *Tristaniaopsis laurina* 'Luscious' (Water Gum)
- 5 x *Elaeocarpus reticulatus* 'Prima Donna' (Blueberry Ash)
- 2 x *Lagerstroemia indica* 'Sioux' (Crepe Myrtle)
- 2 x *Lagerstroemia indica* 'Tuscarora' (Crepe Myrtle), and
- 2 x *Waterhousea floribunda* 'Whisper' (Weeping Lilly Pilly)

In addition, shrubs, groundcovers, grasses and planter boxes are proposed throughout the site to provide additional landscape coverage. The proposed Landscape Plan can be seen in **Figure 5**.



Figure 5: Proposed landscape plan

Subdivision

The proposal involves the subdivision of the land to create two allotments, as seen in **Figure 6**. Lot 1 would have an area of 666.6m² and be retained by Homes NSW for the social housing component while Lot 2 would have an area of 1,126m² and be transferred to Hume for the affordable housing component. Hume would manage all 13 dwellings across both lots.

The subdivision would enable separate ownership of the social and affordable housing components by Hume and Homes NSW respectively. This would provide greater autonomy between the housing types and assist in orderly development and management of the lots in the future if required.

It is noted that the lot size for proposed Lot 1 does not comply with the minimum lot size requirement specified under Clause 4.1B of the Port Stephens Local Environmental Plan 2013. As such, a Clause 4.6 variation request has been lodged with the application and this is outlined further in the report.



Parking/Traffic

A new crossover is proposed to be constructed from Phillip Street to provide access to the rear affordable housing dwellings and on-site parking. A total of nine (9) at grade car parking spaces are proposed, with seven (7) located within a communal parking area to service the affordable housing dwellings and two (2) parallel parking spaces provided along the driveway entry to be allocated to two (2) of the social housing dwellings. An internal turning bay is also provided to ensure vehicles can enter and exit the site in a forward direction.

Pedestrian pathways are proposed adjacent to the driveway to enable access to the dwellings and to minimise pedestrian and vehicle conflicts.

State Environmental Planning Policy (Housing) 2021 (Housing SEPP)

The Housing SEPP provides additional provisions for affordable housing in certain areas. In relation to the proposed development, Division 1 under Chapter 2 does not apply as the development is not within 800m walking distance of land in a relevant zone or an equivalent land use zone. Furthermore, Division 6 does not apply as this Division outlines development permitted without consent for affordable housing.

As such, while the proposed development has been defined as affordable housing, the Housing SEPP does not apply in this instance.

Stormwater

Stormwater infrastructure is proposed for each allotment to allow them to operate independently. The stormwater system would consist of a 23.5m³ on-site detention tank

located on Lot 2 to cater for the affordable housing dwellings and a 12.5m³ on-site detention tank on Lot 1 to cater for the social housing dwellings. In addition, a 10,000 litre above ground rainwater tank is proposed for Lot 2 and a 5,000 litre below ground rain water tank is proposed for Lot 1 and each lot would be fitted with filtration devices to achieve water quality requirements.

To negate the need for drainage easements, the proposed development would also extend the existing in ground Council drainage system from Windsor Street to Phillip Street and construct a new kerb inlet pit adjacent to the Phillip Street entrance to allow Lot 2 to achieve a legal point of discharge.

Earthworks and Retaining Walls

Earthworks are proposed to raise the building footprints to the Flood Planning Level (FPL) of 9.2m AHD. The fill would range in height from 0 to 630mm and is concentrated towards the southern portion of the site, which is flood affected. Minor cut ranging in depth from 0mm to 330mm is also proposed to enable the installation of services and for access. The proposed Cut and Fill Plan can be seen in **Figure 7**.

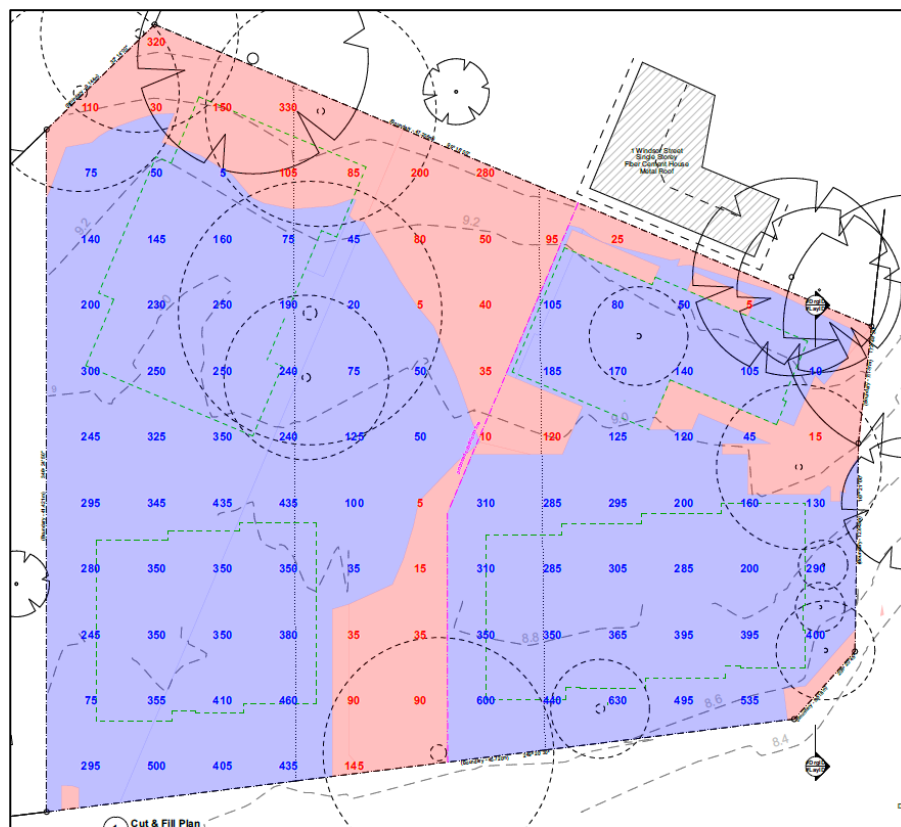


Figure 7: Proposed cut and fill plan

Retaining walls are required to contain the fill and would have a maximum height of approximately 0.85m. The use of built articulation, including a wooden public bus bench, and landscaping in the form of planter boxes has been incorporated into the design to soften the impact of the retaining and to create a desirable streetscape, refer to **Figures 8 & 9**. Due to the location of fill along Phillip Street, accessible ramps have been incorporated into the design to enable equal access to the property. The ramps ensure mobility impaired visitors can equitably access the development and to ensure residents can continue to use the dwellings should their mobility needs change throughout occupation.



Figure 8: Partial elevation from Phillip Street showing proposed retaining

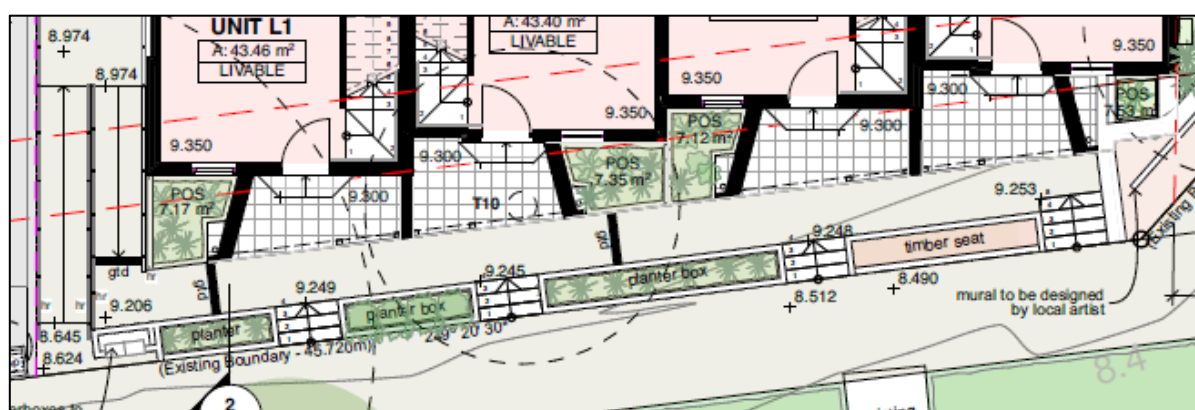


Figure 9: Partial site plan showing proposed planters

2.2 Background

One pre-lodgement meeting was held on 27 June 2023 prior to the lodgement of the application. A summary of the key issues and how they have been addressed by the proposal is outlined below.

- On-site parking** – It was advised during the meeting that it was preferred for each dwelling to be provided at least one on-site car parking space. It was noted that if a variation was sort, sufficient justification and a Traffic Impact Assessment (TIA) was to be provided, including details of alternate methods of travel. Additionally, it was requested that swept paths be included with the application to demonstrate vehicles can enter and exit the site in a forward direction. The development contains a parking shortfall of four (4) spaces with justification for the shortfall detailed in the application and provided TIA. Additionally, swept paths have been provided demonstrating ingress and egress to the site can be achieved in a forward direction. This is discussed further against Chapter B8 of the Port Stephens Development Control Plan (PSDCP).
- Bushfire** – It was noted that as the site is identified as bush fire prone land it was requested that a Bushfire Threat Assessment (BTA) be provided with the application. A BTA was prepared by Newcastle Bushfire Consulting and the application was referred to the NSW Rural Fire Service as integrated development. This is discussed further in s4.46 of the Environmental Planning and Assessment Act 1979.
- Flooding** – In the meeting it was identified that the site is partially located within the Flood Planning Area and the proposed development would need to demonstrate

compliance with Clause 5.21 of the PSLEP and Chapter B5 of the PSDCP. The application has been supported by a Flood Risk Management Plan which identifies the flood risk of the site and suitable management strategies, including shelter in place provisions. This is discussed further against 5.21 of the PSLEP and Chapter B5 of the PSDCP.

- *Tree removal* – It was noted in the meeting that the application would need to be supported by an Arborist Report to address tree removal, including any required tree removal on adjoining properties. The application was supported by an Arborist Report and a Landscape Plan was provided which included replacement tree plantings.
- *Drainage* – The meeting noted that a stormwater management plan that caters for all storm events up to and including the 1% AEP storm event and includes stormwater quality improvement devices (SQIDs) should be provided with the application. The application included a detailed Stormwater Management Plan which was assessed by Council's Development Engineer and is discussed in more detail under Chapter B4 of the PSDCP.
- *Private open space and solar access* – The meeting noted that the plans provided included some private open space within the front setback of the building and that Council's preference is for private open space be located behind the building line to allow for the privacy of occupants. Any variation would be assessed on merit and would need to be supported by detailed justification. The plans provided with the application include an area of private open space behind the building line for all units. Additionally, shadow diagrams have been provided detailing solar access to the units and the private open space and this is discussed further below in the report.
- *Minimum lot size* – The plans provided with the meeting included a Subdivision Plan which complied with Clause 4.1B of the PSLEP. The Subdivision Plan lodged with the application includes a variation to this Clause and this has been addressed under Clause 4.6 of the PSLEP.

The development application was lodged on **27 August 2024**. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

Table 2: Chronology of the DA

Date	Event
27 August 2024	DA lodged
29 August 2024	DA referred to external agencies and internal staff
4 September – 18 September 2024	Exhibition of the application
1 October 2024	Supportive referral from NSW RFS received
4 October 2024	Request for Information from Council issued to applicant
18 November 2024	Response to request for information received by Council from applicant
18 November 2024	Panel initial briefing
4 December 2024	Request for information from Council issued to applicant

20 December 2024	Partial response to request for information received by Council from applicant
17 January 2025	Partial response to request for information received by Council from applicant
21 January 2025	Final response to request for information received by Council from applicant
7 February 2025	Council Assessment Report finalised

2.3 Site History

The site has historically been used for low density residential purposes. There are no records of any historical applications lodged over the site on Council's electronic records. Nonetheless, historical aerial imagery indicates that the site was developed between 1958 and 1966, and has been used for social housing provided by the NSW Government.

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 (Housing) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *Port Stephens Local Environmental Plan 2013*

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	<p>Chapter 2: Vegetation in non-rural areas The proposal requires the removal of or impact to 11 trees located on the site or on adjoining properties.</p> <p>Chapter 4: Koala Habitat Protection 2021 The site is mapped as mainly cleared koala habitat and the Arborist Report provided with the application did not identify any preferred koala feed trees for removal.</p>	Y
State Environmental Planning Policy (Sustainable Buildings) 2022	<p>Chapter 2: Standards for residential development – BASIX Given the proposal involves the erection of a BASIX affected building, this chapter applies.</p>	Y
State Environmental Planning Policy (Housing) 2021	<p>Chapter 2: Affordable Housing Division 1 – Division 1 of the Housing SEPP applies to certain in-fill affordable housing developments. However, for this division to apply, the development is required to be within 800m walking distance of land in a relevant zone or equivalent land use zone. The proposed development does not meet this criteria and therefore Chapter 2 does not apply.</p> <p>No other Chapters within this SEPP apply to the proposed development.</p>	N/A
State Environmental Planning Policy	<p>Chapter 2: State and Regional Development <i>Section 2.19 (1) and Clause 5 of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021</i></p>	Y

(Planning Systems) 2021	declares the proposal regionally significant development as the development is affordable housing with a capital investment value of more than \$5 million.	
SEPP (Resilience & Hazards)	Chapter 4: Remediation of Land Section 4.6 – The site has no record of previous contamination, has no evidence that potentially contaminating activities have occurred on the site and the proposed development is not considered a potentially contaminating activity.	Y
LEP	Port Stephens Local Environmental Plan 2013 <ul style="list-style-type: none"> • Clause 2.3 – Permissibility and zoning objectives – The proposal is permissible under the PSLEP 2013 • Clause 2.6 – Subdivision consent requirements – The proposal would not result in a principal dwelling and secondary dwelling being situated on separate lots and is therefore permissible. • Clause 2.7 – Demolition requires development consent – The proposal includes demolition • Clause 4.1 – Minimum subdivision lot size – The subject site has a minimum lot size requirement of 500m². The proposal includes subdivision which exceeds the minimum lot size requirement. • Clause 4.1B – Minimum lot sizes for dual occupancies, multi-dwelling housing and residential flat buildings – the proposal includes multi-dwelling housing and therefore a minimum lot size of 750m² applies. The proposal includes a lot with an area of 666.6m². A clause 4.6 variation request has been submitted to Council. • Clause 4.3 – Height of buildings – The subject site has a maximum building height of 9 metres. The proposal has a maximum height of building of 7.54 metres which complies with this clause. • Clause 4.6 – Exceptions to development standards – A request to vary the minimum lot size under clause 4.1B has been received. • Clause 5.10 – Heritage conservation – There are no local or state heritage items on the site. An AHIMS search was conducted with the assessment which did not identify any Aboriginal items or Aboriginal places on the site or in proximity to the site. The site is also not in proximity to sensitive landscape features that may indicate the presence of potential Aboriginal items. 	Y

	<ul style="list-style-type: none"> • Clause 5.21 – Flood planning – The site is flood prone land. The relevant planning level (FPL) for the site is 9.2m AHD, concentrated on the southern 50% of the site. The flood affected portions of the site are proposed to be filled to meet the FPL. Council's Development Engineer has supported the proposal from a flood perspective. • Clause 7.1 – Acid sulfate soils – The site is mapped as containing Class 4 Acid Sulfate Soils (ASS). The Cut and Fill plan prepared by Stanton Dahl Architects shows that cut within the Class 4 area would have a maximum depth of 330mm. The Geotechnical and Acid Sulfate Soil Investigation Report prepared by NEO Consulting Pty Ltd noted that construction works in the form of foundation piles would exceed more than 2m below existing ground level. As such, an Acid Sulfate Soils Management Plan was prepared for the proposal as part of the report. • Clause 7.2 – Earthworks – The earthworks are considered to be ancillary to the proposed development and not considered likely to impact neighbouring properties. • Clause 7.5 – Airspace operations – The proposal would not penetrate the Limitation or Operations Surface • Clause 7.6 – Essential services – The site has connection to reticulated water, sewer and electricity. Additionally, vehicular access is achieved via a new crossover from Phillip Street and a Stormwater Management Plan has been provided with the application which includes an extension of the public stormwater system. 	
DCP	<p>Port Stephens Development Control 2014 Section B – General Controls</p> <ul style="list-style-type: none"> • B1 – Tree management – Tree removal is required and therefore this chapter applies. • B2 – Flora and fauna – The proposal is in proximity to core koala habitat and therefore this chapter applies. No preferred koala feed trees are proposed to be removed and therefore would be no adverse impacts on koala habitat. • B3 – Environmental management – The proposal involves earthworks in the form of both cut and fill. 	Y

	<p>These works are not considered likely to have a significant impact on the site or adjoining sites. The proposal is for residential use of the site and therefore would not generate ongoing adverse noise or air quality impacts.</p> <ul style="list-style-type: none"> • B4 – Drainage and water quality – A Stormwater Management Plan was prepared by Greenview Consulting Engineers. The plan was designed to capture all stormwater via a pit and pipe network throughout the site to an on-site detention system, with stormwater filtered through water quality treatment devices prior to discharge to the public system. The Stormwater Management Plan also proposes the extension of Council's in-ground public system to enable both lots to operate and discharge to the public system independently. Overall, Council's Development Engineer supported the stormwater design. • B5 – Flooding - The site is partially flood prone land. The development area affected by flooding is proposed to be constructed to 9.2m AHD which is consistent with the FPL. The proposal is not expected to significantly impact flood behaviour. • B6 – Williamstown RAAF Base aircraft noise and safety – The subject site is located within the Bird Strike Group B area and within the 45m height trigger on the Obstacle Limitation Map. The development does not exceed the height trigger and would not generate organic waste so as to increase bird strike risk. • B8 – Road network and parking – There are no significant impacts expected to the surrounding road network from the proposed development. The proposal includes a swept path analysis demonstrating all vehicles can enter and exit the site in a forward direction from all on-site parking spaces. A TIA was provided with the proposal that found the surrounding road network has sufficient capacity to support the proposed development without the need for additional upgrades. <p>A total of 9 car parking spaces are provided on-site, which represents a parking shortfall of 4 spaces, per Figure BU. The parking shortfall is justified within the TIA, with on-street parking and public transport links readily available adjoining the site.</p> <p>Section C – Development Types</p>	
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	<ul style="list-style-type: none"> • C1 – Subdivision – Chapter C1 of the PSDCP applies to the proposal. The proposal is consistent with the requirements of this Chapter, with the subdivision providing suitable lot arrangements and sizes, street tree plantings and a gravity drained stormwater system. • C5 – Multi-dwelling housing or seniors housing – Chapter C5 of the PSDCP applies to the proposal. The proposal is generally consistent with the requirements of this Chapter. Variations to landscaping and setbacks are proposed, however, these variations are minor in nature, due to the sites irregular shape and the proposed development is still considered to satisfy the objectives of the DCP. <p>Similarly, private open space and solar access is provided for each unit and is generally consistent with the controls within the DCP. Minor variations are proposed, however, are considered acceptable in this instance.</p> <p>Natural ventilation, streetscape and privacy, car parking and garages, and site facilities and services are all provided in accordance with the requirements of this Chapter.</p> <ul style="list-style-type: none"> • C8 – Ancillary structures – Chapter C8 applies to the proposal as retaining walls are proposed. The proposed retaining is consistent with the requirements of this Chapter. 	
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Consideration of the relevant SEPPs is outlined below

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2: Vegetation in non-rural areas

This chapter aims to protect the biodiversity values and preserve the amenity and other vegetation in non-rural areas of the State. This chapter applies to the proposed development as the site is zoned R2 Low Density Residential.

The chapter further provides that Council may issue a permit for tree removal if it does not exceed the Biodiversity Offsets Scheme (BOS) threshold. If a development does seek to exceed the BOS threshold, clearing must be approved by the Native Vegetation Panel. The development does not include the removal of vegetation that exceeds the BOS clearing threshold and therefore no referral to the Native Vegetation Panel is required. Additionally, a permit is not required as the clearing is proposed as part of a Development Application.

Chapter 4: Koala habitat protection 2021

This chapter aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

The site is mapped as mainly cleared koala habitat. Section 4.8 of the policy applies to land where there is an approved koala plan of management and states that Council's determination of a development application must be consistent with the plan of management that applies to the land. Port Stephens Council has an approved koala plan of management being the Comprehensive Koala Plan of Management (CKPoM) which includes performance criteria for development applications. The performance criteria within the CKPoM requires development to minimise the removal and degradation of koala habitat, minimise the removal of preferred koala feed trees and make provisions for the long term management of koala habitat, including restoration and enabling the safe movement of koalas. Furthermore, under the CKPoM the site is mapped as mainly cleared koala habitat. The proposal does not involve the removal of any koala feed trees and is not identified as being within a koala corridor or habitat buffer. As such, the development is considered to be consistent with the performance criteria of the CKPoM and is considered to be consistent with this policy.

State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 2: Standards for residential development - BASIX

State Environmental Planning Policy (Sustainable Buildings) 2022 (Sustainable Buildings SEPP) applies to the proposal. The objectives of this Policy are to ensure that the performance of the development satisfies the requirements to achieve water and thermal comfort standards that will promote a more sustainable development.

The application is accompanied by BASIX Certificate No. 1753984M_02 prepared by Greenview Consulting Pty Ltd dated 20 January 2025 committing to environmentally sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal, energy and materials commitments as required by the Sustainable Buildings SEPP. The proposal is consistent with the Sustainable Buildings SEPP subject to the recommended conditions of consent.

State Environmental Planning Policy (Planning Systems) 2021

Chapter 2: State and Regional Development

The proposal is regionally significant pursuant to Section 2.19 (1) as it satisfies Clause 5 of Schedule 6 of the Planning Systems SEPP as the proposal is affordable housing and has a capital investment value of more than \$5 million. Accordingly, the Hunter and Central Coast Regionally Planning Panel is the consent authority for the application.

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 review of historical records and aerial imagery has been conducted to understand how the site has been previously used.

The assessment of historical uses and aerial imagery determined that the site was historically vegetated bushland before being developed for residential purposes between 1958 and 1966.

Since then, the site has been continually used for residential purposes, as has the land immediately surrounding the site. As such, potential sources of contamination are considered low. As the proposal does not involve a change of use, the site is considered suitable in its current state and a condition has been recommended for an unexpected finds protocol.

Port Stephens Local Environmental Plan 2013

The relevant local environmental plan applying to the site is the *Port Stephens Local Environmental Plan 2013* ('the LEP'). The aims of the LEP are:

- (a) to cultivate a sense of place that promotes community well-being and quality of life,*
- (b) to provide for a diverse and compatible mix of land uses,*
- (c) to protect and conserve environmental values,*
- (d) to facilitate economic growth that contributes to long-term employment,*
- (e) to provide opportunities for housing choice and support services tailored to the needs of the community,*
- (f) to conserve and respect the heritage and cultural values of the natural and built environments,*
- (g) to promote an integrated approach to the provision of infrastructure and transport services,*
- (h) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts.*

The proposal is consistent with these aims, as the proposal would cultivate a sense of place to promote community well-being and quality of life, contributes to the provision of diverse land uses, and through providing opportunities for housing choice by providing infill affordable and social housing.

Zoning and Permissibility (Part 2)

The site is located within the R2 Low Density Residential zone pursuant to Clause 2.2 of the LEP, refer to **Figure 10** below.



Figure 10: Zoning map

According to the definitions in Clause 1.4 (contained in the Dictionary), the proposal satisfies the definition of multi dwelling housing 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 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 protect and enhance the residential amenity and character of the area
- To ensure development is carried out in a way that is compatible with the flood risk of the area

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

- The proposal would provide social and affordable housing to provide for the needs of the community
- The proposal would replace aging housing with a modern development to reinforce and enhance the residential amenity and character of the area
- The development has been designed so as to be compatible with the flood risk of the area

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

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

<i>Control</i>	<i>Requirement</i>	<i>Proposal</i>	<i>Comply</i>
Minimum subdivision Lot size (CI 4.1)	500m ²	The proposal complies with the minimum subdivision lot size requirement of 500m ² , with lot sizes of 1,126m ² & 666.6m ² proposed.	Yes
Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings (CI 4.1B)	750m ²	The proposal does not comply with the minimum lot size for multi dwelling housing development standard in Clause 4.1B of the LEP, with Lot 1 proposed to be 666.6m ² . Accordingly, a Clause 4.6 variation request has been provided with the application.	No
Height of buildings (CI 4.3(2))	9 metres	The proposal complies with the height of buildings development standard, with a maximum building height of 7.54m proposed.	Yes
Exceptions to development standards (CI 4.6)	Development consent may, subject to this clause, be granted	The proposal does not comply with the minimum lot size for multi dwelling housing development standard in Clause 4.1B of the LEP.	Yes

<i>Control</i>	<i>Requirement</i>	<i>Proposal</i>	<i>Comply</i>
	for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.	Accordingly, a Clause 4.6 variation request has been provided with the application for non-compliance. The Clause 4.6 assessment is at Attachment B .	
Heritage (CI 5.10)	Clause 5.10 specifies the requirements for consent and associated assessment requirements for impacts relating to European and Aboriginal heritage	<p>There are no local or state heritage listed items on the site and the site is not within a heritage conservation area.</p> <p>Additionally, a search of the Aboriginal Heritage Information System (AHIMS) did not identify any known Aboriginal objects or places on the site or in proximity to the site. The development is not in proximity to any sensitive landscape features, exhibits evidence of previous ground disturbance and does not involve any substantial excavation more than 2m below existing ground level. As such, the development is not expected to impact Aboriginal heritage and an unexpected finds condition has been recommended.</p>	Yes
Flood Planning (CI 5.21)	Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development complies with the following matters identified in 5.21(2): (a) is compatible	<p>The site is partially located on flood prone land, with approximately 50% of the site being identified as a Low Hazard Flood Fringe area. Therefore this clause applied.</p> <p>A Flood Risk Management Report was prepared for the proposal by Greenview Consulting. The report identifies the proposal as being consistent with this clause in that –</p> <ul style="list-style-type: none"> • The proposed development is located within a low hazard flood fringe area, and is predominately 	Yes

<i>Control</i>	<i>Requirement</i>	<i>Proposal</i>	<i>Comply</i>
	<p>with the flood function and behaviour on the land, and (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and (d) incorporates appropriate measures to manage risk to life in the event of a flood, and (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses</p> <p>Section 5.21(3) requires that the consent authority must consider the following matters—</p> <p>(a) the impact of the development on projected changes to flood behaviour as a result of climate change, (b) the intended design and</p>	<p>identified as a H1 hazard area with some small areas likely being a H2 hazard area, per the NSW Flood Risk Management Manual. Under the NSW Flood Risk Management Manual, the H1 flood hazard area is considered generally safe for vehicles, people and buildings, while the H2 area is generally safe for buildings, however, is unsafe for small vehicles. Furthermore, development in the flood fringe area is not considered to have any significant impact on the pattern of flood flows and/or flood levels. Therefore, given the flood category of the site, the proposed development is compatible with the flood function and behaviour of the land.</p> <ul style="list-style-type: none"> • As discussed above, development within flood fringe areas is not considered to have a significant effect on the pattern of flood flows and/or flood levels. Additionally, the proposed dwellings are located in similar areas already occupied by existing dwellings. As such, the development is not considered to adversely affect flood behaviour. • The proposed development would raise the finished floor levels (FFLs) of the development to 9.2 metres AHD, which is consistent with the Flood Planning Level (FPL) and is above the Probable Maximum Flood Event (PMF Event), which is 8.9 metres AHD for 35 & 37 Phillip Street and 9.0 metres AHD for 31 Phillip Street. As such, the development would not adversely affect the safe occupation or evacuation of people as residents would be able to safely shelter in place 	

<i>Control</i>	<i>Requirement</i>	<i>Proposal</i>	<i>Comply</i>
	<p>scale of buildings resulting from the development, (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood, (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion</p>	<p>until flood waters recede, which would approximately occur within a 4 hour period. Furthermore, the majority of the surrounding roads and sites are not flood affected and therefore evacuation routes, if required, would have sufficient capacity to cater for the proposed development.</p> <ul style="list-style-type: none"> • The proposed development incorporates appropriate measures to manage risk to life by ensuring the FFL of all dwellings are raised to the FPL and are above the PMF Event. This enables residents to safely shelter in place until flood waters recede, which would be approximately 4 hours. Additionally, as the development is above the PMF event it would not be affected by flood waters and a condition has been recommended requiring the preparation of a Shelter-in-place Strategy. • The development would not cause excess erosion, siltation, destruction of riparian vegetation or a reduction in the stability or watercourses, noting the site is impacted by overland flows not riverine flooding. • The report takes into account the potential impacts of climate change, noting increased rainfall events are unlikely to increase the PMF event above the 300mm of freeboard, which has already been considered in the FFLs of the development. <p>For the reasons discussed above, the development is considered to suitably incorporate measures that minimise the risk to life and property and would not adversely impact flood behaviours and Council's Development Engineer supported the</p>	

<i>Control</i>	<i>Requirement</i>	<i>Proposal</i>	<i>Comply</i>
		proposed development from a flood perspective. For these reasons, the proposed development is considered to be consistent with the requirements of this clause.	
Acid sulphate soils (CI 7.1)	<p>The site is mapped as containing potential Class 4 Acid Sulfate Soils (ASS).</p> <p>Under Clause 7.1, on land mapped Class 4 Acid Sulfate Soils, consent is required for works more than 2 metres below the natural ground surface or works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.</p>	<p>As per cl.7.1(2), development consent is required where works more than 2 metres below the natural ground surface in areas containing Class 4 ASS are proposed. The Cut and Fill Plan prepared by Stanton Dahl Architects notes that excavation would have a maximum depth of 330mm and would not exceed the 2m limit. Nonetheless, the geotechnical report prepared by NEO Consulting Pty Ltd, notes that foundation piles for the buildings slab would exceed more than 2 metres below the natural ground surface. As such, ASS testing was undertaken by NEO Consulting Pty Ltd. The testing found that the soils on-site have a 'Low' reaction rate. Nonetheless, given piers could extend 4 – 5 metres below the natural ground surface an Acid Sulfate Soils Management Plan (ASSMP) was prepared as part of the Geotechnical Investigation, should ASS be exposed during works.</p> <p>The proposal therefore meets the requirements of this Clause.</p>	Yes
Earthworks (CI 7.2)	<p>Under Clause 7.2(3) before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the</p>	<p>Earthworks are required to facilitate the proposed development. Earthworks are required to construct a level building platform and given the sites flood prone nature, to raise portions of the land to the flood planning level for the site (9.2m AHD) whilst also including cut for the installation of services, including underground stormwater detention tanks.</p> <p>The proposed earthworks would include fill to a maximum height of 630mm above natural ground level and cut to a maximum depth of 330mm below natural ground level.</p>	Yes

<i>Control</i>	<i>Requirement</i>	<i>Proposal</i>	<i>Comply</i>
	<p>locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<p>The proposal is considered to be consistent with the requirements of this clause in that:</p> <ul style="list-style-type: none"> • A condition of consent has been imposed requiring the preparation and implementation of an Erosion and Sediment Control Plan to minimise impacts on drainage patterns and soil stability and to minimise impacts on adjoining properties. • A condition has been recommended that requires all imported and exported soil to be VENM or a material as identified as being subject to a resource recovery exemption by the NSW EPA • The proposed earthworks facilitate development of the site. • The earthworks are not in proximity to any waterways or environmentally sensitive areas and the site is not located within a drinking water catchment area. • The proposed works are not expected to disturb any relics and an unexpected finds condition has been recommended. • The earthworks are minor in nature and as the site is located within a low hazard flood fringe area, would not adversely impact flood behaviour. 	
Essential services (CI 7.6)	Cause 7.6 provides that development consent must not be granted to	The site has connection to reticulated water, sewer and electricity. In addition, the proposal includes a new driveway crossover from Phillip	

Control	Requirement	Proposal	Comply
	development unless the consent authority is satisfied that services that are essential for the development are available or that adequate arrangements have been made to make them available when required.	<p>Street to ensure suitable vehicular access is provided.</p> <p>In regard to stormwater management, the proposal includes the installation of an on-site stormwater system and the extension of Council's underground system to Phillip Street to ensure both proposed lots can gravity drain to the public system.</p> <p>As such, the proposal is considered to have access to, or has made adequate arrangements, servicing and satisfies the requirements of this clause.</p>	

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

Clause 4.6 Request

The minimum lot size for multi dwelling housing pertaining to the site is 750m² under Clause 4.1B of the LEP. The proposal includes subdivision creating a lot with a total area of 666.6m², which represents an 11.12% variation to the development standard, refer to **Figure 11** below.



Figure 11: Subdivision plan showing lot size variation

Preconditions to be satisfied

Clause 4.6(3) of the LEP establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard. Clause 4.6(2) provides this permissive power to grant development consent for a development that contravenes the development standard is subject to conditions.

It is noted that in September 2023, the NSW Government published amendments to Clause 4.6 of the Standard Instrument which changes the operation of the clause across all LEP's. The amendment included savings provisions that allow for DA's made on or before 1 November 2023 to be determined as if the changes had not commenced. The DA was lodged after 1 November 2023 (being 27 August 2024) and therefore has been assessed against the amended Clause 4.6 provisions.

The preconditions are:

1. Tests to be satisfied pursuant to CI 4.6(3)(a) – this includes matters under CI 4.6(3)(a) and (b) in relation to whether compliance with the development standard is unreasonable and unnecessary in the circumstances of the development and whether there are sufficient environmental planning grounds to justify contravening the development standard.

These matters are considered in **Attachment B** for the proposed development, having regard to the applicant's Clause 4.6 request.

(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 State Environmental Planning Policy*

The proposed instruments is considered below:

Draft Remediation of Land State Environmental Planning Policy

The proposed Remediation of Land SEPP is intended to repeal and replace Chapter 4 of SEPP Resilience and Hazards 2021. The draft SEPP, which was exhibited from 25 January to 13 April 2018, is currently under consideration.

The proposed SEPP seeks to provide a state-wide planning framework to guide the remediation of land, including outlining provisions that require consent authorities to consider the potential for land to be contaminated when determining development applications; clearly lists remediation works that require development consent; and introducing certification and operational requirements for remediation works that may be carried out without development consent.

Consideration has been given to the suitability of the site with respect to potential land contamination under SEPP Resilience and Hazards 2021 – Chapter 4 elsewhere within this report. The subject site has been identified as suitable for the proposed development.

There are no other draft environmental planning instruments that apply to the proposal.

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

The following Development Control Plan is relevant to this application:

- *Port Stephens Development Control Plan 2014*

Chapter B1 – Tree Management

The objective of this chapter is to give effect to State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP) by listing those trees or other vegetation that require approval for removal or pruning. It is noted that the proposed development seeks consent for the removal of 11 trees and that the clearing does not exceed the BOS clearing threshold as part of a Part 4 application. Additionally, no tree removal permit is required as the works form part of a development application. The application was supported by an Arborist Report, prepared by Abacus Tree Services. The report considered the tree removal based upon the vegetation's retention value, encroachment of the development into the tree protection and structural root zone and the health and conditions of the trees. The report identified 11 total trees for removal. Of the 11 trees proposed for removal three (3) are able to be removed without Council approval in accordance with Figure BA as they comprise of tree species grown for fruit production. The remaining eight (8) trees require approval, which is recommended to be granted under this development consent. Of the eight (8) trees which require approval, five (5) are native species. The report also found that five (5) trees could be retained and incorporated into the development. A Landscape Plan was also provided which includes compensatory plantings and this is discussed in further detail under Chapter B2 below.

Chapter B2 – Flora and Fauna

This chapter applies to development that has the potential to impact native flora and fauna, contains a biosecurity risk, and contains land mapped as koala habitat. The development seeks to remove native vegetation and therefore this chapter applies.

Section B2.A – Ecological Impact

The objectives of this section are to:

- To avoid and minimise impacts on native flora
- To protect and enhance native flora, fauna, vegetation communities, and significant habitat on site

The application proposes to remove 11 trees, of which five (5) are native. The vegetation removal was considered as part of the Arborist Report which determined which vegetation can be feasibly retained and which vegetation would require removal. It was noted that the vegetation removal is located within an established residential area and would not result in significant ecological impacts. Additionally, none of the trees proposed for removal contained hollows or contained habitat for threatened species. As such, the vegetation removal would not have significant impacts on native flora or local biodiversity.

Section B2.B – Koala Habitat

The objective of this section is to:

- To encourage the proper identification, management and conservation of Koala habitat in accordance with Council's Comprehensive Koala Plan of Management (CKPoM).

The site is mapped as mainly cleared koala habitat and does not involve the removal of any koala feed trees. While the site is in proximity (150m) to core koala habitat, the site is not identified as a koala corridor and has no records of any koala sightings. As such, the proposal is considered to be consistent with this section as it would not impact koala habitat.

Section B2.C – Compensatory Requirements

The objective of this section is to:

- To facilitate the compensatory replacement of important biodiversity features which cannot be avoided and are proposed to be removed under a tree permit or development consent.

As discussed above, the application does not propose to remove any koala feed trees and therefore no compensatory plantings are required under Figure BB. However, the application does propose to remove native vegetation, of which five (5) have a height greater than 3m and a diameter greater than 300mm. As such, ten (10) replacement trees are required under B2.11. The proposed Landscape Plan includes 16 native trees which meets this requirement. Of the 16 trees proposed, three (3) trees are proposed as street tree plantings along Phillip Street. As such, the development satisfies its compensatory planting requirements.

Section B2.D – Biosecurity risk (weeds)

The objective of this section is:

- To reduce the negative impact of biosecurity risks (weeds) on the economy, community and environment by eliminating or restricting their geographical spread.

The site does not contain any weeds and therefore this section does not apply. Overall, the proposed development is consistent with this Chapter.

Chapter B3 – Environmental Management

Chapter B3 contains provisions relating to earthworks and noise impacts which have been assessed below.

B3.A – Air Quality

The development is not a use that would adversely impact surrounding areas in terms of air quality and therefore an Air Quality Impact Assessment was not prepared for the development. Notwithstanding, minor air quality impacts may occur during construction and a condition has been recommended requiring a Construction Management Plan be prepared that includes measures to help manage dust during construction.

B3.B – Noise

Section B3.B identifies that an Acoustic Report is required for development that has the potential to produce offensive noise. The application, being for multi dwelling housing, is not considered a land use that would produce offensive noise and therefore an Acoustic Report has not been prepared. Some minor noise impacts may occur during the construction of the development and an Acoustic and Vibration Assessment prepared by PKA Acoustic

Consulting was provided with the application. Conditions of consent have been recommended relating to complying with the recommendations within the report, construction hours and the preparation of a Construction Management Plan which includes noise measures.

B3.C – Earthworks

The application does not propose cut that exceeds 2m in depth, however, the total area to be filled would exceed 100m². As such, a Cut and Fill plan has been provided with the proposal, as seen in **Figure 7** above. Furthermore, a condition has been recommended for fill to consist of VENM or any other waste material subject to a resource recovery exemption issued by the NSW EPA.

As such, the proposal satisfies the requirements of this Chapter.

Chapter B4 – Drainage and Water Quality

This Chapter applies to development that:

- *Increases impervious surfaces; or*
- *Drains to the public drainage system; or*
- *Involves a controlled activity within 40m of waterfront land*

The proposed development would increase impervious surfaces and drains to the public drainage system. As such, this Chapter applies.

B4.A-B4.C – Stormwater Drainage Plan, On-site Detention / Infiltration and Water Quality

These sections require development applications to be supported by a Stormwater Management Plan that includes a legal point of discharge, hydrological calculations, a written description of the stormwater management system, adequate on-site detention and water quality improvement devices.

The application was supported by a Stormwater Management Plan prepared by Greenview Consulting. The stormwater system has been designed as follows:

- All stormwater runoff from proposed Lot 2, including the parking area and driveway, would be captured via a pit and pipe network and directed to an underground on-site detention tank containing stormwater quality improvement devices. Overflow from the on-site detention tank would gravity drain to Phillip Street via a new kerb inlet pit, with Council's underground drainage system extended to Phillip Street to connect to the kerb inlet pit. Roofwater from the buildings would also drain to a rainwater tank which would provide reuse internally in accordance with the BASIX commitments. Overflow from the rainwater tank would be connected to the on-site detention tank.
- All stormwater runoff from proposed Lot 1 would be captured via a pit and pipe network and directed to an underground on-site detention tank fitted with stormwater quality improvement devices. Overflow from the on-site detention tank would be gravity drained to an existing kerb inlet pit in Windsor Street. Roofwater from the buildings would also be connected to an underground rainwater tank in accordance with the BASIX commitments.

Council's Development Engineer reviewed the proposed Stormwater Management Plan and supported the design from a water quality and quantity perspective.

Chapter B5 – Flooding

This Chapter applies to all development on flood prone land. The subject land is mapped as being within the Flood Planning Area. The site is partially identified as being within a low hazard flood fringe area. Approximately eight (8) of the dwellings are identified as being within the Flood Planning Area, with the remaining five (5) dwellings located entirely or predominately on flood free land.

B5.A – Development on all Flood Prone Land

Figure BI of the PSDCP identifies suitable land uses by flood hazard category. Under Figure BI, residential accommodation is considered suitable subject to development controls in the low hazard flood fringe area. Additionally, control B5.2 requires development to be located on land with the lowest flood risk if multiple categories are specified to the site. While portions of the site are flood free, this is predominately located towards the northern portion of the site, and therefore it is not feasible or reasonable to locate the development entirely within this area.

Figure BJ of the PSDCP identifies the required FFL for certain development types. For residential accommodation, habitable rooms are required to be at the FPL and non-habitable rooms at the adaptable minimum flood level and flood refuge to be at the PMF event. It is noted that the adaptable minimum floor level and FPL are the same at 9.2 metres AHD while the PMF event is lower at 8.9 metres AHD for 35 & 37 Phillip Street and 9.0 metres AHD for 31 Phillip Street. The proposed development includes a minimum FFL of 9.2 metres AHD which complies with the requirements of Figure BJ.

Additionally, Figure BJ requires open car parking spaces to be at the current day 1% AEP flood level, which is 8.9 metres AHD. It is noted that car parking spaces would predominately be located at or above the current day 1% AEP level. Two (2) spaces would be below the 1% AEP at 8.8 metres AHD. While this is below the 1% AEP, vehicles would not become unstable or more at risk at this level, noting that the PMF Event is 100mm higher at 8.9 metres AHD where the parking is located. Additionally, flooding and parking was reviewed by Council's Development Engineer who did not note any concerns or issues.

The proposed development is considered to be compliant with Control B5.4 for a flood compatible design, as all building elements would be at the FPL which is above the PMF event.

Fencing, electrical features, and hazardous materials would be consistent with the DCP requirements, with appropriate conditions of consent recommended where required.

B5.B – Development on all Flood Prone Land Other Than Minimal Risk Flood Prone Land

The proposed development is not located within a floodway or flood storage area and therefore the proposed development does not require a flood impact and risk assessment.

The development has considered climate change impacts and therefore a reduced planning horizon is not required.

The proposed driveway is consistent with the flood immunity of Phillip Street and therefore satisfies control B5.12 and earthworks have been assessed against the PSLEP and Chapter B3 above.

Egress from the development to the public road satisfies B5.12 and therefore a full on-site refuge assessment is not required. Nonetheless, as flood durations would be less than 6 hours, the site is not surrounded by a floodway, the dwellings are located above the PMF event, have

more than 2m² of area per person and would have sufficient access to water, residents are considered to be able to safely shelter in place in their dwellings during a flood event.

Furthermore, the proposal was supported by Council's Development Engineer from a flooding perspective. As such, the development is considered to satisfy the requirements of this Chapter.

Chapter B6 – Williamtown RAAF Base Aircraft Noise and Safety

This Chapter applies to development situated within the 2025 Australian Noise Exposure Forecast, bird strike zone, extraneous lighting area or the RAAF Base Williamtown Obstacle Limitation map. The development is situated within bird strike zone B and Obstacle Limitation Map and therefore Section B6.D applies.

B6.D – Impacts on operation of aircraft

While the development is situated within a bird strike zone, the proposal is not a development type listed in Figure BN of the DCP. Subject to a recommended advisory note regarding the management of organic waste, the proposed development is considered unlikely to increase bird strike risk.

Additionally, while the development is situated within the Obstacle Limitation Map, a 45m limit applies to the subject site. The development is less than 45m in height and therefore further assessment or comments from the Department of Defence are not required. As such, the development satisfies the requirements of this Chapter.

Chapter B8 – Road Network and Parking

This Chapter applies to development with the potential to impact on the existing road network or create demand for on-site parking. The proposed development would create demand for on-site parking and therefore this Chapter applies.

B8.A – Traffic Impacts

This section requires developments to provide details of parking, outlines when a Traffic Impact Assessment (TIA) is required and when a Construction Management Plan that includes traffic measures is required. The proposed development includes details of on-site parking arrangements and while it does not trigger the threshold for a TIA under B8.2, as a parking shortfall is proposed, a TIA has been prepared to support the application pursuant to B8.6. On-site parking requirements and the TIA are discussed in the following section.

B8.B – On-site parking provisions

The objectives of this section are to:

- *To ensure development provides adequate on-site parking, loading and servicing spaces*
- *To ensure that vehicle access is in a safe location and has minimal impacts on existing transit movements*
- *To ensure driveways have adequate sight distances for traffic and pedestrians on footpaths*

Figure BU of this section prescribes parking requirements. The parking required and amount of parking provided for the proposed development is outlined below in **Table 5**.

Table 5: On-site Parking Requirements

<i>Use</i>	<i>Requirement</i>	<i>Proposed</i>	<i>Comply</i>
Multi dwelling housing	1 car space for one and two bedroom dwellings & 1 visitor space for every 3 dwellings (13 parking spaces + 4 visitor parking spaces)	9 parking spaces and no visitor parking spaces	No

As shown in the table above, the proposed development includes nine (9) off-street car parking spaces, seven (7) of which would be allocated to the affordable housing dwellings and two (2) of which would be allocated to the social housing dwellings, with parking spaces allocated to specific dwellings where necessary. As such, the development has a parking shortfall of four (4) residential parking spaces and four (4) visitor parking spaces. The shortfall in resident parking only applies to the social housing component. In accordance with control B8.6 a shortfall in parking may be accepted where a TIA is provided in certain circumstances. The proposal has been supported by a TIA prepared by Greenview Consulting which provides justification for the parking shortfall. A summary of this is provided below.

The TIA took into account available on-street parking and public transport links in the review of the parking required for the proposed development. A review of aerial imagery on 23/10/2023, 26/02/2024, 29/02/2024, 24/04/2024, 11/05/2024, and 16/05/2024 found that there was in excess of 12 available on-street parking spaces within 30m of the proposed development. As such, this provides suitable alternate parking arrangements to cater for the 4 resident parking spaces and 4 visitor parking spaces. Furthermore, it is noted that no off-street parking is provided for the 3 dwellings currently on the site. Therefore, there is already an existing shortfall of 3 parking spaces and the proposed development does not substantially increase the existing shortfall.

In addition, a public bus stop is available within the Phillip Street bus route immediately adjacent the site. Refer to **Figure 12** for the service characteristics:

Day of Operation	First Service	Last Service	# Services	Frequency
Monday to Friday	6:04am	5:29pm	12	1 per hour
Saturday	9:21am	5:17pm	5	1 per two hours
Sunday / Public Holidays	N/A	N/A	0	0

Figure 12: Bus 141 timetable

While this bus stop does not meet the definition of an ‘accessible area’ per the Housing SEPP, which requires buses to run from 6am – 9pm, the bus stop does provide services to the Raymond Terrace town centre, improving the overall accessibility of the development and further justifying the parking shortfall. As such, the provision of 9 off-street parking spaces is considered sufficient to cater for the proposed development and the parking shortfall is recommended to be supported on merit.

This section also requires internal driveways to be constructed from concrete, the provision of walking routes through the parking areas and for parking to be located behind the building line. The proposed parking arrangement is consistent with these controls.

Ultimately, the requirements of this section are considered to have been satisfied.

B8.C – On-site parking access

The objectives of this section are to:

- *To ensure that vehicle access is located in a safe location, where it least impacts on existing transit movements*
- *To ensure driveway exits maximise intersection sight distances for traffic and pedestrians on footpaths*

The proposal includes a new driveway crossover via Phillip Street. Swept paths have been provided demonstrating vehicles can enter and exit the site in a forward direction from all parking spaces. Additionally, as the driveway does not provide dual access, a condition has been recommended for the installation of signage and line marking to minimise conflicts between vehicles entering and exiting the site at the same time. As such, the requirements of this section are considered to be satisfied.

B8.F – Electrical vehicle infrastructure

The development has not provided detail of electrical vehicle infrastructure. Nonetheless, as the proposed development is for social and affordable housing, electrical vehicle infrastructure is not deemed necessary.

Overall, the development is considered to be consistent with the requirements and objectives of this Chapter.

Chapter C1 – Subdivision

This Chapter applies to development that is defined as subdivision. The application proposes to subdivide the site into two lots and therefore this Chapter applies.

C1.A All subdivision – Lot size and dimensions

The proposed Subdivision Plan includes lots with a suitable size and dimensions in accordance with this section.

C1.B All subdivision – Street trees

The provided Landscape Plan includes the planting of three (3) street trees satisfying this section.

C1.C All subdivision – Solar access

Where possible lots and private open space has been orientated to provide one axis within 30 degrees east and 20 degrees west of true solar north. Solar access is discussed in more detail under Chapter C5.

C1.D All subdivision – Public scale drainage

This section requires all lots to be gravity drained to the public system and requires the creation of interallotment drainage where a lot does not drain directly to the kerb. Both lots are able to be gravity drained to the public system and neither lot requires interallotment drainage. The proposed stormwater management system is discussed in more detail under Chapter B4.

C1.E-C1.G – Major subdivision

These sections apply to major subdivision. The development does not propose major subdivision and therefore assessment against these sections is not required.

Ultimately, the proposed development is consistent with this Chapter.

Chapter C5 – Multi Dwelling Housing or Seniors Housing

This Chapter applies to development defined as multi dwelling housing or seniors housing. The proposed development is defined as multi dwelling housing and therefore this Chapter applies.

C5.A – Landscaping

The objectives of this section are to:

- To enhance the appearance and amenity of developments through the retention and/or planting of large and medium sized trees
- To encourage landscaping between buildings for screening
- To ensure landscaped areas are consolidated and maintainable spaces that contribute to the open space structure of the area
- To add value and quality of life for residents and occupants within a development in terms of privacy, outlook, views and recreational opportunities
- To reduce energy consumption through microclimate regulation
- To reduce air borne pollution by reducing the heat island effect
- To intercept stormwater to reduce stormwater runoff

This section applies landscaping rates dependent on the developments scale and zoning. Specifically, this sections prescribes a landscaping coverage of 20% of the site being deep soil planting. To be counted as part of the landscape coverage, the landscape area must have minimum dimensions 1.5m x 3m.

Across the entire site the proposed development includes approximately 336.65m² of deep soil landscaping coverage or 18.8%. This is split across 88.13m² on proposed Lot 1 or 13.2% and 248.5m² on proposed Lot 2 or 22.1%. As such, the site overall has a deep soil landscaping shortfall of 1.2%, proposed Lot 1 has a shortfall of 6.8% and proposed Lot 2 exceeds the requirement by 2.1%.

However, when taking into account landscaping coverage that is not deep soil or does not meet the minimum dimensions, the coverage is increased to 430.1m² or 24% for the entire site, 139.31m² or 20.9% for proposed Lot 1 and 290.81m² or 25.8% for proposed Lot 2. Furthermore, the development would include the plantings of street trees, increasing canopy coverage that would improve the amenity for future residents. The site is also constrained by bushfire mapping and General Terms of Approval (GTAs) issued by the NSW Rural Fire Service which requires the site to be managed as an Inner Protection Area (IPA). This limits the feasibility of providing additional deep soil planting and canopy trees.

Public reserves, including Kia-Ora Park located immediately to the south and Boomerang Park approximately 500m walking distance to the north also provide vegetated areas which can be used by future residents. Noting that the overall deep soil planting coverage represents only a minor variation to the required percentage, the bushfire constraint of the site, access to public reserves and that the coverage is achieved when including areas of landscaping that are not

considered deep soil, the proposed development is considered to satisfy the objectives of this section and the variation is recommended to be supported on merit.

C5.B – Height

A height limit of 9m is specified under the PSLEP which the development complies with, as discussed under Clause 4.3. Additionally, floor to ceiling heights would exceed 2.4m.

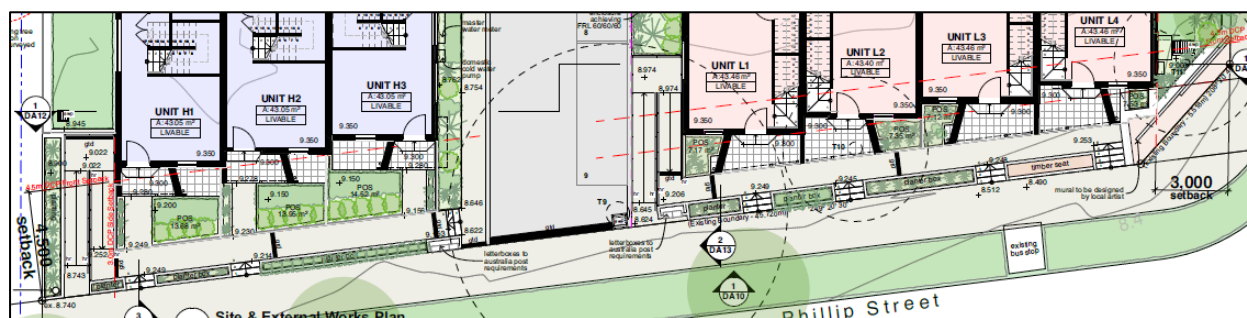
C5.C – Setbacks

The objectives of this section are to:

- *To ensure development provides continuity and consistency to the public domain*
- *To ensure adequate space between buildings to enable effective landscaping*
- *To alleviate impacts on amenity including privacy, solar access, acoustic control and natural ventilation*
- *To reduce the visual bulk of buildings from the street*
- *To maintain the rhythm and built form on the street*

The subject site features an irregular shape and as such, side and rear setbacks are not clearly delineated. Due to this, a merits based assessment has been undertaken in determining side and rear boundaries based upon the developments characteristics. An overview of the setbacks is provided below.

In accordance with C5.6 the lesser of a minimum setback of 4.5m from the front property line or the average existing building line applies for the front setback. In relation to the proposal, the 4.5m distance is the lesser requirement and applies. Proposed Hume Building A features a 4.5m setback to Phillip Street, LAHC Building A features a 2.9m setback to Phillip Street and LAHC Building B features a 3.8m setback to Windsor Street, refer to **Figures 13 & 14**.



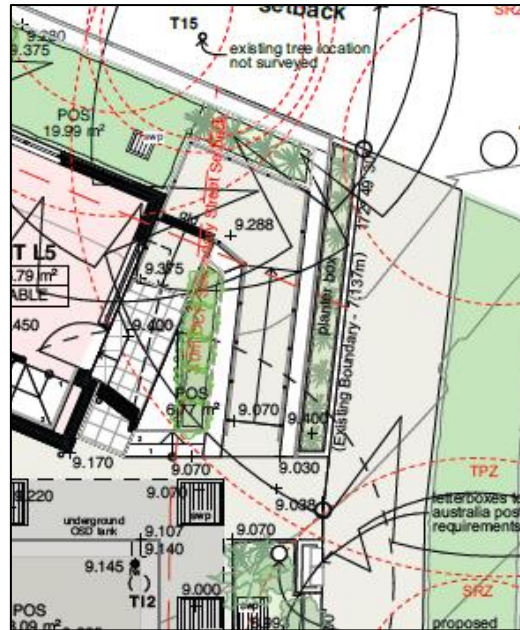


Figure 14: LAHC Building B Front Setback

As such, Hume Building A complies with the front setback requirement while LAHC Building A and Building B feature a 1.6m and 0.7m variation respectively. The setback variations are recommended to be supported on merit, noting the site is a corner lot, with a secondary setback of 3m applying to the LAHC Building A. As such, the variations greater a gradual transition from the secondary setback requirement to the full 4.5m setback, creating a more consistent streetscape character and desirable built form outcome. Furthermore, the setback variation enables increased private open space behind the building line and increased solar access to the dwellings and the private open space. Furthermore, landscaping and built infrastructure, including a public bus seat, has been incorporated into the proposals design which helps soften any impacts from the variation. For these reasons, the proposed variation is considered to be consistent with desired built form of the area and would create an attractive streetscape outcome.

Control 5.10 allows encroachments of up to 1.5m into the front setback area for architectural features such as an entry porch. The proposed development includes entry porches that encroach a maximum of 1.5m into the front setback area and are therefore compliant with this control.

This Chapter requires a minimum 3m secondary setback for corner lots. A 3m secondary setback is proposed for LAHC Building A which complies with this control.

Control C5.11 requires a 0.9m side boundary setback for any part of the building at or below 5.5m in height and C5.12 requires a minimum 3m side boundary setback for any part of the building above 5.5m in height.

In considering the lots shape and the proposed buildings layout, the western setback from Hume Building A and LAHC Building A, and the north-eastern setback from Hume Building B and LAHC Building B are considered to be the side setbacks. A 3m ground and upper floor setback is proposed for Hume Building A & B which complies, while a setback of 2.1m and 2.35m is proposed for the upper and ground floors of LAHC Building A & B respectively, refer to **Figures 15 - 17**.

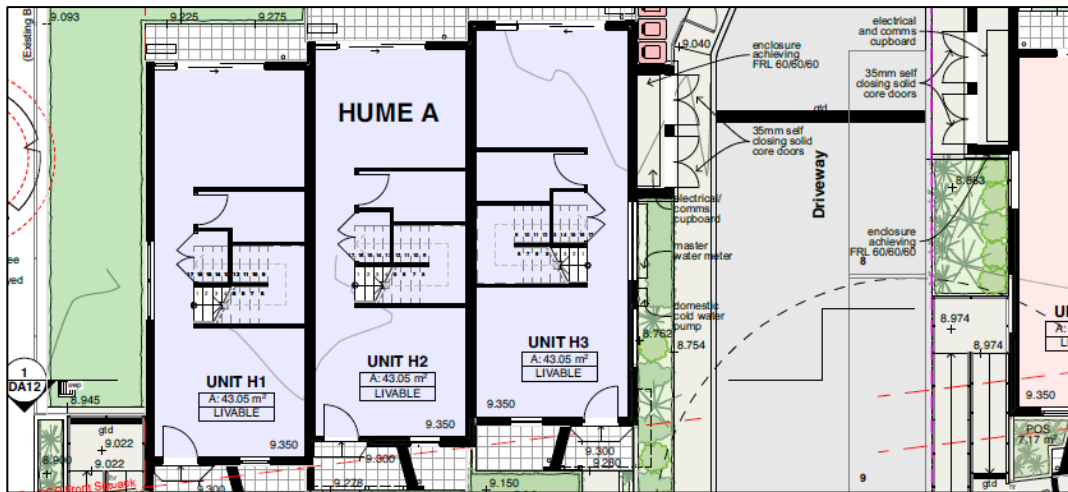


Figure 15: Hume Building A & LAHC Building A Side Setback

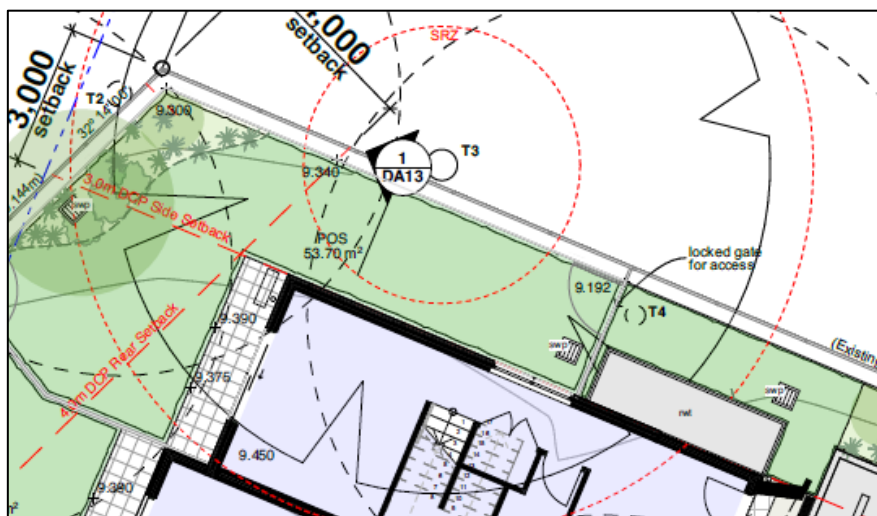


Figure 16: Hume Building B Side Setback

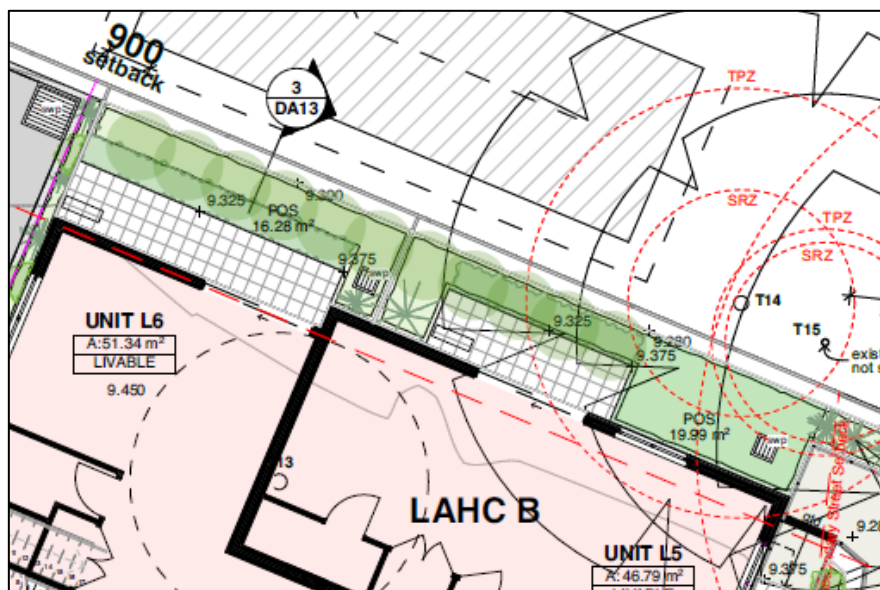


Figure 17: LAHC Building B Side Setback

This represents a variation of 0.9m and 0.65m to the upper floor setback requirement, with the ground floor setback complying. The variation is recommended to be supported for LAHC Building A, noting the western side boundary adjoins the proposed driveway and therefore would have no material impact on any adjoining properties or the streetscape character. The variation is also recommended to be supported for LAHC Building B as it enables increased solar access into the private open space to the south, provision of a bin storage area behind the building line and would not result in any adverse privacy or overshadowing impacts to the adjoining lot to the north.

Control 5.14 prescribes a ground floor rear setback of 3m or 25% of the average length of the side boundaries and C5.15 prescribes a 4m minimum setback for upper floors. It is noted that 25% of the average length of the side boundaries would be approximately 5m. As this would result in the ground floor requiring a larger setback than the upper floor, this is considered unreasonable and the 3m rear setback has been applied instead.

Based upon the buildings configurations, the northern setback for Hume Building A and LAHC Building A and the north-western setback of Hume Building B and LAHC Building B are considered to be the rear setback. Hume Building A features a ground and upper floor rear setback of approximately 25m which complies and LAHC Building A features a ground and upper floor rear setback of approximately 12.3m which complies. Hume Building B features a rear setback that varies from 2.4m to 6m, representing a maximum variation of 1.4m and LAHC Building B has a rear ground and upper floor setback of 0.3m from the new proposed boundary line, refer to **Figures 18 & 19**.

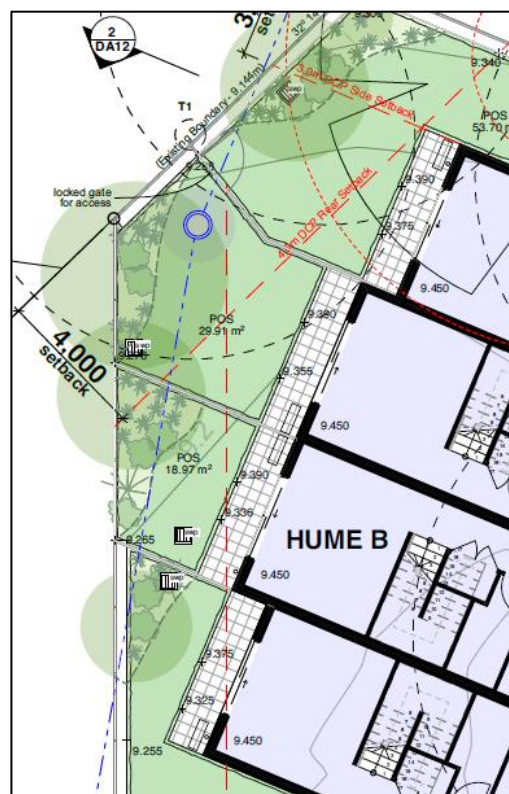


Figure 18: Hume Building B Rear Setback

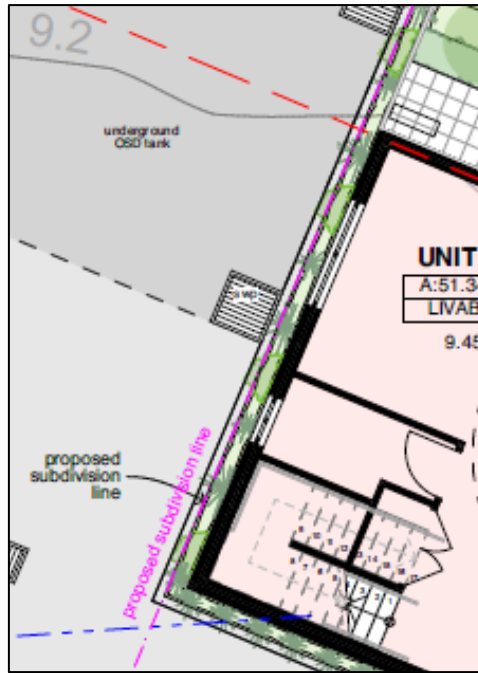


Figure 19: LAHC Building B Rear Setback

The variation for Hume Building B has is recommended to be supported on merit, noting it is primarily due to the lots irregular shape, with the majority of the building complying with the setback requirement. As such, there would be no significant adverse impacts as a result of the variation. Similarly, the setback variation for LAHC Building B adjoins the new proposed lot boundary and car parking area. As such, there is approximately 14m of separation between any other dwellings and the elevation does not overlook any private open space. As such, there would be no adverse impacts as a result of the variation and is recommended to be supported on merit.

The proposed driveway is generally setback more than 0.9m and contains landscaped areas in accordance with Control C5.18.

Based upon the assessment above, the proposed setbacks are considered appropriate for the sites context and character and would not result in any adverse impacts to the amenity of adjoining properties or the streetscape character. Any variations are supported with sufficient justification and enable improved built form and amenity outcomes. As such, the objectives of this section are considered to have been satisfied.

C5.D – Natural Ventilation

This section requires development to be orientated to capture and use prevailing winds, providing habitable rooms with a suitable depth to support natural ventilation, and to enable doors and windows to maximise natural ventilation. All buildings and dwellings have been designed to enable cross ventilation and therefore the requirements of this section have been satisfied.

C5.E – Streetscape and Privacy

This section requires developments to ensure active streetscapes and to provide passive surveillance and privacy.

All proposed dwellings that have street frontage provide direct and legible pedestrian access from the street, doorways have covered access and are located forward of the designated

parking spaces, windows and walls are located to avoid noise sources and upper floor windows are considered unlikely to result in adverse privacy impacts as they are related to the dwellings bedrooms or hallways. Furthermore, the proposed development contains a colour scheme that expresses the building massing and a façade that delineates separate dwellings, fronts both street frontages and does not contain any large unbroken roof ridgelines or blank walls, refer to **Figure 20**. As such, the development is consistent with the requirements of this Section.



Figure 20: Render showing material and facade design

C5.F – Noise

The windows and doors have generally been designed to be orientated away from noise sources, such as parking areas and roads, and the use of party walls have been minimised where possible. As such, the development is considered to be consistent with this Section.

C5.G – Car Parking and Garages

Control C5.37 requires common driveways to have a minimum width of 3.6m. The proposed driveway has a minimum width of 3.6m which complies with this requirement.

Additionally, the driveway area includes landscape plantings, changes in alignments and separated pedestrian access. As such, the development is considered to satisfy C5.38 – C5.41.

C5.H – Private Open Space

This section requires private open space with solar access to be provided to allow the opportunity for passive and active outdoor recreation.

The proposed dwellings contain two bedrooms and therefore under C5.42 are required to provide 16m² of private open space for each dwelling. This private open space is required to have minimum dimensions 4m x 4m, have direct access to internal living areas, be located behind the building line and have a northerly aspect. Units H1, H2 and H4 – H7 all contain areas of private open space which meet or exceeds the requirements. Unit H3 is generally compliant, however, does not have dimensions 4m x 4m, being approximately 4.2m x 3.6m and has a total area of 15.44m². However, given the minor nature of the variation, it is considered a suitable size and layout to enable passive and active outdoor recreation and is

recommended to be supported on merit. Units L2 and L3 feature private open space that complies with the requirements. Units L5 and L6 features generally compliant private open space, however, do not contain dimensions 4m x 4m. Nonetheless, given the increased width of the private open space, being 9m and 6.5m respectively, this is considered a suitable area for passive and active outdoor recreation. Units L1 and L4 provide 14.94m² and 13.09m² of private open space respectively. While this does not comply with the dimension or total area requirements, given the variation is minor in nature and the majority of units comply, the variation is recommended to be supported on merit. Additionally, there a local public reserves in the immediate vicinity that provide substantial open space for active and public recreation. This includes Kia-Ora Park immediately adjacent the site to the south and Boomerang Park, which is approximately 500m walking distance to the north. As such, the location of public reserves in the vicinity would further improve the amenity of the residents and ensures that they have suitable areas available for passive and active recreation. For these reasons, the private open space requirements are considered to be satisfied.

This section also requires developments to be provided with suitable solar access. Under C5.46, a minimum of two hours of sunlight is to be provided to the private open space area between the hours 9am – 3pm mid-winter. An assessment of the proposed dwellings compliance with this control is provided below in **Table 6**.

Table 6: Solar Access Provisions

Unit Number	Solar Access in Mid-Winter	Comply (Y/N)
Unit H1	Six hours	Y
Unit H2	Three hours	Y
Unit H3	Four hours	Y
Unit H4	Four hours	Y
Unit H5	Five hours	Y
Unit H6	Six hours	Y
Unit H7	Six hours	Y
Unit L1	Three hours	Y
Unit L2	Two hours	Y
Unit L3	One hour	N
Unit L4	Three hours	Y
Unit L5	Four hours	Y
Unit L6	Two hours	Y

As shown in the table above, all units receive a minimum of 2 hours of sunlight to their private open space, with the exception of Unit L3 which receives one hour of sunlight. Nonetheless, the variation is recommended to be supported on merit, noting that Unit L3 would receive approximately 2.5 hours of sunlight to their living area on the ground floor. As such, the dwelling is considered to receive sufficient solar access to ensure good amenity for future residents. Additionally, as discussed above, there is large public recreation areas located in the immediate locality that would provide areas for solar access for residents.

Control C5.47 requires a minimum of 50% of the private open space of adjoining dwellings to not be affected by any shadow for a minimum of three hours between 9am – 3pm in mid-winter. Given the orientation of the lot, the development would not significantly overshadow adjoining dwellings private open space and is compliant with this control. As such, the development is considered to be consistent with the requirements of this Section.

C5.1 – Site Facilities and Services

This section requires developments to provide appropriate facilities and services and ensure they are appropriately located.

Water tanks and air conditioning units have been located to minimise noise impacts on adjoining properties or appropriate conditions of consent have been recommended. Similarly, separate waste storage areas have been proposed for both lots and the location of the waste storage areas is behind the building line and suitably screened. These areas have also been located away from the private open space of the proposed dwellings to minimise potential adverse amenity impacts such as air quality impacts.

Mail boxes and street/unit numbers have been located next to the pedestrian access points and are clearly legible from the street and gas and electricity would be provided in accordance with the relevant authority's requirements.

While clothes drying areas have not been noted on the plans, each dwelling is provided sufficient space and solar access to provide free standing clothes drying areas.

It is noted that 8m² of storage has not been provided in accordance with C5.54. Nonetheless, storage provisions within the dwellings is considered suitable, with each bedroom provided a walk in robe, pantries provided in the kitchen and each dwelling provided a linen closet. As such, the storage provided is considered to meet the needs of future residents.

Ultimately, the proposed development is considered to be consistent with the requirements of this Chapter.

Chapter C8 – Ancillary Structures

The development includes retaining walls and therefore this Chapter applies.

Control 8.22 states that retaining walls are to have maximum height of 1m. The proposed retaining walls have a maximum height of approximately 850mm and comply with the control. C8.23 states a masonry construction is required when within 0.9m of the property boundary and greater than 0.6m in height. The proposed retaining walls are of a masonry construction and a condition has been recommended that they are designed by a suitably qualified engineer. Additionally, all retaining is contained within the property in accordance with C8.24. As such, the development complies with this Chapter.

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):

- *Port Stephens Local Infrastructure Contributions Plan 2020 (PS LIC Plan)*

Under the PS LIC Plan, S7.11 contributions apply to the proposed use and there are no exemptions for the proposed use. A condition has been recommended requiring that a monetary contribution is to be paid to Council pursuant to section 7.11 of the EP&A Act prior to the issue of the construction certificate or subdivision certificate, whichever occurs first.

(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

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

- S61(1) requires that if a development application includes the demolition of a building, the consent authority must consider the Australian Standard AS 2601—2001: *The Demolition of Structures*. Appropriate conditions have been recommended to address demolition requirements.

These provisions of the EP&A Regulation 2021 have been considered and are addressed in the recommended draft conditions (where necessary).

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.

Built Environment

The site is surrounded by predominately single storey low density residential developments, with a two storey medium density residential development located on the adjacent western lot. It is noted that the area is identified within Council's Local Housing Strategy as a key area for in-fill housing and that developments in the immediate locality are generally older housing stock that would require re-development in the near future. As such, the development represents a contemporary residential development, that is consistent with the residential character of the area and helps establish a desired future character should nearby lots be developed. Materials, facades, massing and articulation have been incorporated into the buildings design to create visual interest and create an attractive streetscape character. Setbacks proposed are generally consistent with the existing built environment and development controls and would not adversely impact the built environment of the area. Furthermore, the use of landscaping has been incorporated into the development to soften hardstand areas and a public bus bench has been built into the proposed retaining walls to improve the amenity of the public domain. As such, the proposed development is considered to have a positive impact on the built environment and is reflective of the land use structure and intended character of the land.

Natural Environment

The proposed development seeks to remove 11 trees in total, of which five (5) are native. Additionally, five (5) trees are proposed for retention. None of the vegetation proposed to be removed contains hollows, preferred koala feed trees or identified habitat for threatened species. As the vegetation is located within an established residential area, the tree removal is not expected to result in any significant adverse biodiversity impacts. A Landscape Plan

was also provided with the application which includes compensatory plantings, including street tree plantings.

Noting the above, the proposed development is considered unlikely to have any significant adverse impacts on the natural environment.

Social and Economic Impact

The application was supported by a Social Impact Assessment (SIA) prepared by Sarah George Consulting to understand the potential impacts of the proposed development. The SIA was prepared in accordance with the Department of Planning, Housing and Infrastructure's *Social Impact Assessment Guidelines for Significant Developments 2023*. In preparing the SIA, data from the Australian Bureau of Statistics, local crime data, social and affordable housing availability, and demographic statistics were considered and consultation with the community was undertaken.

The SIA found that the development would have an overall positive social impact through the provision of dedicated community housing, provision of modern and secure housing, employment generation during construction and ongoing maintenance and a contribution to the social and affordable housing stock in the Port Stephens LGA. In particular, the report noted that there has been a reduction in public housing stock within the Port Stephens LGA, declining from 2.8% to 1.9% from 2016 to 2021. As such, the development would help mitigate the impacts of reduced public housing stock. Additionally, the SIA noted that there would be positive impacts on minimising the contributing factors to domestic and family violence through the provision of secure affordable and social housing. While some negative impacts may occur during construction, primarily by noise disturbance and there would be a minor increase in traffic and demand for on-street parking on completion, these impacts were considered minimal and can be effectively managed.

Furthermore, discussions were held with NSW Police to identify any relevant matters. In the meeting, concerns were raised in relation to Crime Prevention Through Environmental Design (CPTED) and safety for emergency services attending the site. Specifically, in the original design it was noted that the entrance to Unit L5 had inadequate sightlines to the street and posed a safety risk to emergency services. As such, the design has been amended to improve sightlines and accessibility to Unit L5. Ultimately, no objections were raised by NSW Police.

For these reasons, the proposed development is anticipated to have positive social impacts.

The proposed development is also anticipated to result in positive economic impacts. The proposal would provide employment opportunities in the local construction industry during construction and further employment opportunities would be provided during the ongoing maintenance of the development. Furthermore, the provision of secure affordable and social housing would assist future residents in attaining employment which would have direct and indirect monetary inputs into the local economy. Ultimately, the proposed development is considered to result in positive economic impacts.

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

- The site is located within an established residential area and the development is consistent with the existing and desired character of the area.
- The site is conveniently located in a close proximity to essential services for future residents.
- There is a bus stop adjacent the site which would provide greater accessibility for future residents.
- The site is in close proximity to public parks and reserves.
- The site is identified as an area for in-fill housing within Port Stephens Council's Local Housing Strategy.
- The site does not contain any constraints that would significantly impact on or be impacted by the proposed development.
- Impacts from the proposed development have been appropriately assessed and mitigated as required.
- The development would not adversely impact the amenity of adjoining properties or the public domain.

Based on the above, the site is suitable to accommodate the proposal.

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

The proposal was notified in accordance with the Port Stephens Council's Communication and Engagement Strategy from 4 September 2024 to 18 September 2024. No submissions were received during this time.

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

The development is considered to be in the public interest as it would not have any significant adverse impacts on the built or natural environment, and has positive social and economic impacts. The proposal is consistent with the relevant of environmental planning instruments applying to the land and provides needed affordable and social housing.

In addition to the above, the proposal is consistent with the Port Stephens Local Housing Strategy which identified the need for in-fill housing in the Raymond Terrace area.

On this basis, the proposal is considered to be in the public interest.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to the following agency for comment as required by the EP&A Act and outlined below in **Table 7**.

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 7: Concurrence and Referrals to agencies

<i>Agency</i>	<i>Concurrence/ referral trigger</i>	<i>Comments (Issue, resolution, conditions)</i>	<i>Resolved</i>
Integrated Development (S 4.46 of the EP&A Act)			
NSW Rural Fire Service	S100B - Rural Fires Act 1997 bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes	A referral was received from the NSW Rural Fire Service who issued general terms of approval.	Y

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 8**.

Table 8: Consideration of Council Referrals

Officer	Comments	Resolved
Development Engineering	The application was referred to Council's Development Engineering team to review the proposal from a traffic, access, stormwater and flooding perspective. A request for information was requested from the initial referral and a response to the items was provided from the applicant. Following assessment of the additional information provided, the application was supported subject to conditions of consent which have been included in the recommended conditions of consent.	Y
Natural Systems	The application was referred to Council's Environmental Planning for review of the proposed vegetation removal. The referral found that the proposed vegetation removal was unlikely to result in any significant adverse environmental impacts and the application was supported with conditions. The conditions have been included in the recommended conditions of consent.	Y
Building Surveyor	The application was referred to Council's Building Surveyor to determine compliance with the Building Code of Australia (BCA). The referral found that the proposed development is capable of achieving compliance with the BCA and is unlikely to necessitate significant modifications to the proposal at a later date. Therefore, no objections were raised regarding the proposal subject to compliance with recommended conditions. These conditions have been included in the recommended conditions.	Y
Development Contributions	The application was referred to Council's Development Contributions Officer. It was determined that the proposal is	Y

Officer	Comments	Resolved
	subject to s7.11 contributions. A condition has been recommended.	
Waste	The application was referred to Council's Waste Management Officer who supported the application unconditionally.	Y
Spatial Services	The application was referred to Council's Spatial Services Officer who advised addressing would be provided at the subdivision certificate stage.	Y

There are no outstanding issues raised by Council officers and all officers have supported the application unconditionally or with recommended conditions of consent.

4.3 Community Consultation

The proposal was notified in accordance with the Port Stephens Council's Communication and Engagement Strategy from 4 September 2024 to 18 September 2024. No submissions were received during this time.

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 Flooding

Flooding was identified as a key matter during the assessment briefing with the HCCRPP. In particular, it was identified that further details regarding the flood characteristics of the site be provided to ensure the requirements of clause 5.21 of the PSLEP are addressed and to determine if the site is suitable for the proposed development. Council issued a request for information letter noting that further information was required regarding flooding to satisfy this section of PSLEP.

In response, an addendum to the original Flood Impact and Risk Assessment, prepared by Greenview Consulting was provided by the applicant. The letter concluded that the flood risk of the site primarily consisted of a H1 hazard category with small portions potentially being at the H2 hazard category. Furthermore, inundation of the site in the 1% AEP event would be of shallow depths, typically less than 200mm. Floodwaters were considered to rise and fall rapidly, within a four (4) hour period. Furthermore, as the development is located within a low hazard and flood fringe area, no changes to flood characteristics as a result of the proposed development were anticipated.

In taking these flood characteristics into account, the finished floor level of the development has been designed so as to be at the FPL of 9.2m AHD, which is also above the maximum PMF event level of 9.0m AHD. Given the finished floor level of the development, shallow inundation depths and short inundation time, 'shelter-in-place' is considered an appropriate response strategy for residents in a flood event. The addendum also considered the recently

released *Shelter-in-place Guideline for Flash Flooding* prepared by the Department of Planning, Housing and Infrastructure. The assessment found that the development is generally consistent with the considerations raised within this guidelines, further reaffirming that shelter-in-place is an appropriate emergency strategy and that the development is suitable for the flood characteristics of the site. The development was also referred to Council's Development Engineering section who did not raise any concerns from a flooding perspective. As such, the consent authority can be satisfied that the matters raised in Clause 5.21 of the PSLEP 2013 have been satisfactorily addressed.

5.2 Traffic and Parking

A Traffic Impact Assessment (TIA) was prepared for the development by Greenview Consulting as the development includes a parking shortfall. The application was initially lodged with a parking shortfall of six (6) spaces. The TIA found that there was approximately 12 on-street car parking spaces within 30m of the site that could suitably cater for the proposed shortfall and an existing bus stop on Phillip Street would further alleviate any potential impacts. Additionally, the development was considered to have only a minor impact on traffic in the area, with the existing road network sufficient to cater for any increased demand.

Notwithstanding, it was noted during the assessment that the parking shortfall would increase on-street parking and limit future development opportunities in the area. Council's Development Engineer also noted that the car parking area did not enable vehicles to enter and exit in a forward direction. As such, it was requested that additional off-street parking be provided and swept paths be provided to ensure vehicles can enter and exit the site in a forward direction. Amended plans were provided by the applicant which provided two additional off-street parking spaces, reducing the shortfall by 33%, and a turning bay was incorporated into the parking area to ensure vehicles can enter and exit the site in a forward direction from all parking spaces.

As a result, the application was supported by Council's Development Engineer for a traffic and parking perspective.

5.3 Streetscape Presentation

The streetscape presentation of the development was raised as a key matter during the preliminary briefing with the HCCRPP. In particular, concerns were noted around the extent of hardstand areas and encroachment into the front setback and how this would impact the streetscape presentation. It was identified that this would need to be balanced by good landscaped outcomes.

It was acknowledged by the applicant that the hardstand encroachment forward of the building line was associated primarily with access ramps. The access ramps were implemented into the design due to filling required to achieve the applicable flood controls. The ramps ensure equitable access into the development for visitors with differing mobility needs and to enable residents to continue living within the development should their mobility needs change. This is consistent with the LAHC design requirements, which state upper level dwellings without lift access are required to achieve the silver-level features of the *Liveable Housing Design Guideline* (LHDG) to allow for future adaptation. It is noted that step free access to all dwelling entrances is a requirement of the LHDG.

Furthermore, landscaping has been incorporated into the hardstand areas, with planter boxes extending the entire length of the retaining along Phillip Street and Windsor Street, with the exception of a timber seat adjacent the existing bus stop. The timber seat is considered to further improve the streetscape presentation and improves the accessibility of the site for

residents and also the broader community who utilise the bus stop, refer to **Figure 21**. Additional landscaping outcomes are achieved by the planting of street trees along the Phillip Street road verge, providing canopy coverage to help soften hardstand areas.

In considering the accessibility outcomes as a result of the hardstand areas and the implementation of high quality landscaped outcomes, the hardstand encroachment is considered to be acceptable and the proposed development is considered to have an overall positive outcome on the streetscape presentation of the locality.

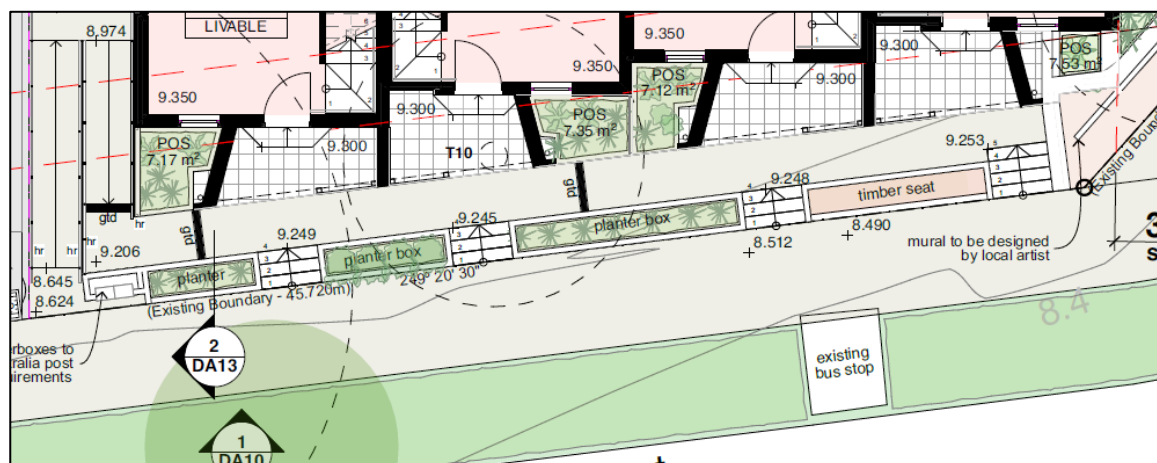


Figure 21: Partial site plan showing planters and bus seat

5.4 Private Open Space

Several concerns were raised regarding some of the dwellings private open space, including solar access, interaction with waste storage areas and fencing and security for future residents. Council initially noted that the private open space for Units L2-L6 and H2 were heavily impacted by shadows. Furthermore, during the preliminary briefing with the HCCRPP, it was noted that the northern elevation of Unit L4 was compromised by the bin storage area and its private open space was located forward of the front setback, reducing privacy and security for future residents.

In response, the applicant provided amended plans to address the concerns raised. Firstly, the proposed buildings massing and setbacks were altered slightly, allowing for increased solar access to the living areas of the dwellings and their private open space. The waste storage area for the social housing dwellings was also relocated to a screened location to provide a north facing hardstand courtyard for Unit L4, refer to **Figures 22 & 23**. This also allowed for additional landscaped area on the eastern façade to Windsor Street to provide additional privacy for the residents. Extended screening was also provided for the dwellings along Phillip Street to provide greater privacy and security. Overall, the design amendments are considered to sufficiently address the concerns raised.

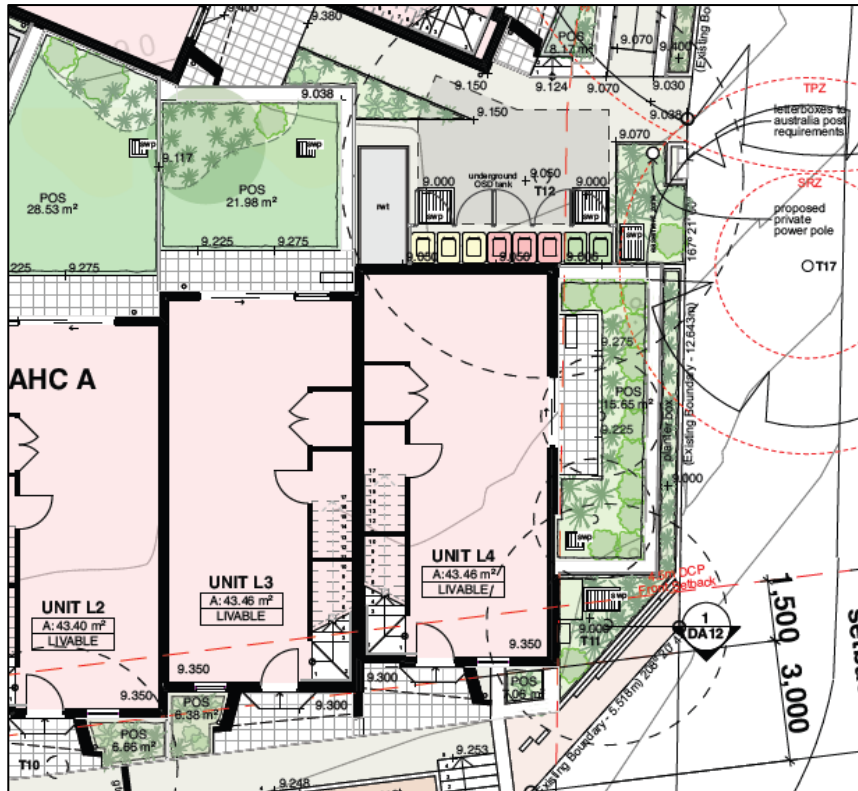


Figure 22: Partial site plan showing initial waste storage and Unit L4 private open space

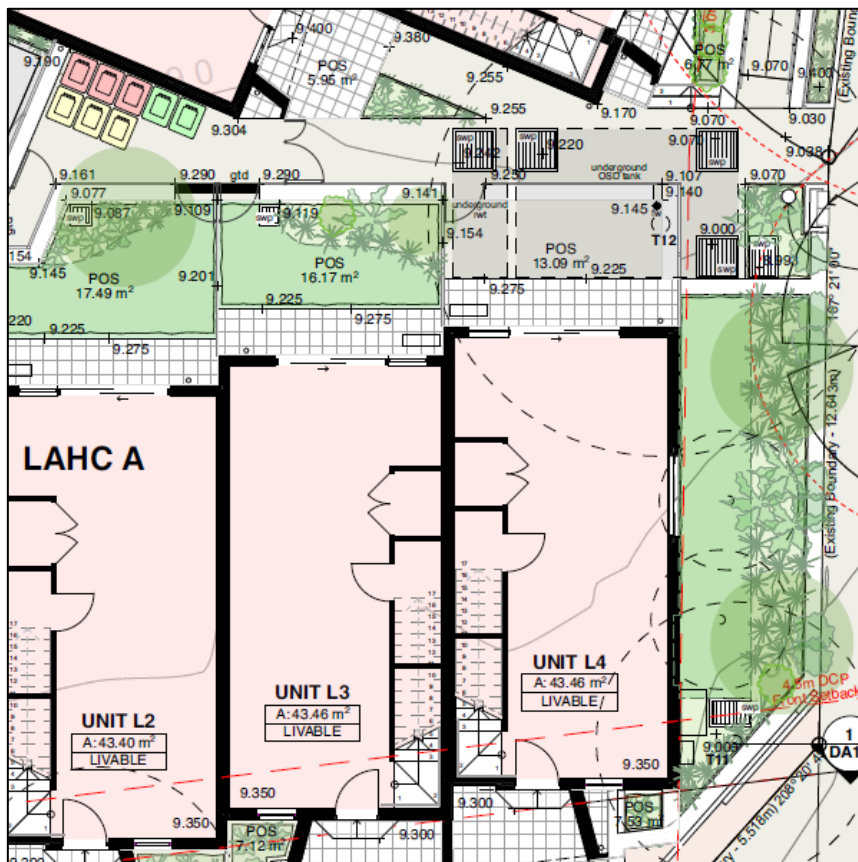


Figure 23: Reconfigured waste storage and private open space for Unit L4

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 and the key issues identified in this report, it is considered that the application can be supported.

It is considered that the key issues as outlined in Section 5 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 16-2024-420-1 for the demolition of three dwellings, vegetation removal, 3 into 2 lot Torrens title subdivision, construction of 13x multi-dwelling houses at 31, 35 and 35 Phillip Street, Raymond Terrace 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: Clause 4.6 Request
- Attachment C: Architectural Plans
- Attachment D: Civil Engineering Plans
- Attachment E: Landscape Plan
- Attachment F: Subdivision Plan
- Attachment G: Flood Risk Management Report
- Attachment H: Social Impact Assessment
- Attachment I: Vehicle Swept Paths
- Attachment J: Traffic Impact Assessment
- Attachment K: Bushfire Report
- Attachment L: Geotechnical and Acid Sulfate Soil Investigation Report
- Attachment M: Arborist Report
- Attachment N: Access Report
- Attachment O: Acoustic and Vibration Assessment
- Attachment P: BCA Performance Requirements Compliance Statement
- Attachment Q: Waste Management Plan
- Attachment R: Statement of Environmental Effects & Applicant's Clause 4.6 Request
- Attachment S: AHIMS Search Result
- Attachment T: BASIX Certificate