

**COUNCIL ASSESSMENT REPORT**  
NORTHERN REGIONAL PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSNTH-168 – (DA2022/00086)
<b>PROPOSAL</b>	Affordable housing project comprising 23 x 1 bedroom units in four separate but linked 2 storey buildings with one level of basement carparking comprising 24 parking spaces
<b>ADDRESS</b>	Lot 1 DP 863743 15 Watson Street, Bellingen
<b>APPLICANT</b>	Geolink Consulting Pty Ltd
<b>OWNER</b>	Royal Freemasons Benevolent Institution of NSW
<b>DA LODGEMENT DATE</b>	21 June 2022
<b>APPLICATION TYPE (DA, Concept DA, CROWN DA, INTEGRATED, DESIGNATED)</b>	Development Application
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Clause 2.19, Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> : Clause 2.19 provides that development specified in Schedule 6 is declared to be regionally significant development for the purposes of the Act. Schedule 6 includes development for the purpose of affordable housing that has a capital investment value of more than \$5m. The Act defines affordable housing as meaning housing for very low income households, low income households or moderate income households. Clause 4.5 of the Act designates the Northern Regional Planning Panel as the consent authority for regionally significant development.
<b>CIV</b>	\$5,996,515 (excluding GST)
<b>CLAUSE 4.6 REQUESTS</b>	<p>Clause 4.3 Height of buildings – the highest point of the proposed building is 11.01m above natural ground level, which exceeds the 10m maximum building height.</p> <p>Clause 7.1 Acid sulfate soils (ASS) – the north west half of the site is mapped as containing Class 4 ASS. Clause 7.1(3) provides that development consent must not be granted under this clause for the carrying out of works more than 2m below the natural ground surface unless an acid sulfate soils management plan (ASSMP) has been prepared for the proposed works in accordance with the <i>Acid Sulfate Soils Manual</i> and has been provided to the consent authority. The applicant requests that the preparation of an ASSMP be set as a condition of consent.</p>
<b>KEY SEPP/LEP</b>	State Environmental Planning Policy (Housing) 2021; State Environmental Planning Policy (Planning Systems) 2021; State Environmental Planning Policy (Resilience and Hazards) 2021; State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004; Bellingen Local Environmental Plan 2010.

<b>TOTAL &amp; UNIQUE SUBMISSIONS ISSUES SUBMISSIONS</b>	Nil
<b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>	Statement of Environmental Effects including Appendices A – N; Contamination Assessment; Geotechnical Assessment
<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)</b>	Nil
<b>RECOMMENDATION</b>	Conditional Approval
<b>DRAFT CONDITIONS TO APPLICANT</b>	Yes
<b>SCHEDULED MEETING DATE</b>	31 August 2022
<b>PLAN VERSION</b>	8 August 2022 Revision 2
<b>PREPARED BY</b>	Benson McCormack Architecture
<b>DATE OF REPORT</b>	16 August 2022

## EXECUTIVE SUMMARY

The application is on behalf of the Royal Freemasons' Benevolent Institution (RFBI) who seek to develop the site which contains a disused aged hostel for affordable/social housing. The demolition of the existing aged hostel has been approved via a previous development application submitted to Bellinghen Shire Council. The application is in direct response to a severe shortage of affordable housing in Bellinghen. It will also assist in retaining a diversity of housing options within the town.

This project is the first major affordable housing project in Bellinghen and follows significant community discussion and interest in improving housing affordability in Bellinghen, and particularly for those on low to middle incomes. According to an article in the Domain website from 13 November 2021, Bellinghen had the second highest annual growth in house prices in regional NSW with a median house price of \$779,500 being a 38% increase on the median house price at the same time in 2020 which was \$565,000.

There is concern within the community that unless the town is provided with more affordable housing options for those on low to middle incomes the celebrated eclectic diversity of the Bellinghen community may be in jeopardy.

The site is well located for affordable housing being close to schools, parks, the Bellinghen District Hospital, and all of the services provided in the Bellinghen CBD.

The proposed development presents as a complex of 4 x two storey residential flat buildings with a largely basement car park. It comprises 23 x one bedroom apartments with a basement car park that can accommodate 24 vehicles.

Following adjoining owner notification and advertising there have been no public submissions.

There was no requirement for agency referrals.

The 10m building height standard is proposed to be exceeded by 1.01m for a minor part of the development. Importantly the variation will have no impact on adjoining heritage items nor will it make any appreciable difference to the amenity of the street. The building could be made compliant by reducing the roof pitch and the floor to ceiling ratios, neither of which would be in the interest of its future residents nor the neighbourhood.

The proposal is consistent with the provisions of the Housing SEPP, noting that the Bellingen LEP has no floor space ratio. It should be noted that in relation to off street parking the SEPP provides a requirement of 0.4 spaces per 1 bedroom apartment and 0.5 spaces per 2 bedroom apartments.

It is not agreed that this off street parking allocation will be sufficient in a regional centre such as Bellingen which is not on a rail line and has relatively poor public transport. Regardless of the socio-economic disadvantage of the tenants it is more likely than not that each tenancy will have one vehicle.

This “shortfall” in parking will become apparent in a foreshadowed Stage 2 for the corner of Watson and Rawson Streets which intends to rely on the off street parking provision in the subject application.

But as the application complies with the parking provision set out in the SEPP there are no grounds to require additional off street parking despite the expressed misgivings.

The design quality of the proposed development is satisfactory.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(a) of the *EP&A Act*, DA2022/00086 is recommended for approval subject to the conditions contained at **Attachment A** of this report.

## **1. THE SITE AND LOCALITY**

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### **1.1 The Site**

- The site has a frontage of 50m to Watson Street, Bellingen and a variable depth which averages 41m. The site is slightly south and less than a 500m walk from the centre of the Bellingen CBD (cnr Hyde and Church Street) and is well located for the provision of affordable housing. The buildings align approximately east/west with southerly aspects for the apartments fronting Watson Street and more desirable northerly aspects for the apartments at the rear.
- The site contains the Bellorana Hostel building, a double storey brick building with smaller single storey brick buildings to the east and associated structures. The demolition of these existing buildings and structures on the site is the subject of another DA submitted to the Council (DA2022/0205).
- There is cross fall of approximately 3.95m from the southeast corner of the site to the northwest corner. The Watson Street frontage has a slope from the highest point at the southeast corner being approximately 16.5m AHD down to approximately 13.6m AHD at the front western corner.



## 1.2 The Locality

- The site falls within the southern extent of the Bellingen Conservation Area which includes the Bellingen CBD and surrounds as listed under Schedule 5 of the Bellingen LEP 2010. Under clause 5.1 of the LEP, the development must have regard to its effect on the heritage significance of the Bellingen Conservation Area and the adjoining heritage items being the Catholic Church; Catholic Church Hall and O'Sullivan Park which is located on the corner of Watson Street and Rawson Street and contains cultural plantings and remnant forest.
- The other adjoining and adjacent development in Watson Street is predominantly single dwellings of a fine-grained scale that in general terms contribute to the Conservation Area. A key architectural challenge for the project is to arrive at a building form which provides the required yield to make the project viable whilst acknowledging the scale of the buildings in the Conservation Area.
- This project is the first major affordable housing project in Bellingen and follows significant community discussion and interest in improving housing affordability in Bellingen, and particularly for those on low to middle incomes. According to an article in the Domain website from 13 November 2021, Bellingen had the second highest annual growth in house prices in regional NSW with a median house price of \$779,500 being a 38% increase on the median house price at the same time in 2020 which was \$565,000. There is concern within the community that unless the town is provided with more affordable housing options for those on low to middle incomes the celebrated eclectic diversity of the Bellingen community may be in jeopardy.



- In general terms the site is well located for affordable housing being less than 500m from the centre of the Bellinghen shopping precinct as well as being close (walking distance) to schools, sporting facilities, the hospital, churches, and a youth centre.
- The site relative to the township of Bellinghen is shown on the map below.



## 2. THE PROPOSAL AND BACKGROUND

### 2.1 The Proposal

- The proposal is for the repurposing of an existing hostel site (not in use) into an affordable housing development in two stages with this application being Stage 1 and comprising 23 x 1-bedroom units. Stage 2 which is not the subject of this application proposes to add an additional 12 x 1-bedroom units and 6 x 2-bedroom units.
- A separate DA has been submitted to the Council (DA2022/0205) in relation to the sites 15 Watson Street and 4 Rawson Street, Bellinghen for a boundary adjustment to create two new regular shaped lots. This DA also includes demolition of the existing buildings within one of the new lots being Lot 1, the subject of this application.
- A request for plan amendments to provide a roof covering for the common access way on the first floor as well as a covering of the first floor balcony on the northern elevation was agreed and this assessment pertains to the architectural plans by Benson McCormack Architecture being Revision 02 and dated August 2022. These plans are included as an Annexure to this report.

**Table 1: Development Data**

<b>Control</b>	<b>Proposal</b>
Site area	2,040m <sup>2</sup>
GFA	1,285m <sup>2</sup>
FSR (retail/residential)	0.63
Clause 4.6 Requests	Yes – height (exceeds by a maximum of 1.01m) Yes – request to allow preparation of an Acid Sulfate Soil Management Plan post consent as a condition
No of apartments	23
Max Height	11.01m
Landscaped area	612m <sup>2</sup>
Car Parking spaces	24
Setbacks	6.1m from the primary frontage (Watson Street) 9.9m minimum from the rear 0.9m minimum from side boundaries

The following is a photomontage of the proposed development as viewed from Watson Street looking west towards Rawson Street and showing the slope from the east down the street towards Rawson Street.



## 2.2 Background

A pre-lodgement meeting was held prior to the lodgement of the application on 22 February 2022 where various issues were discussed. The notes of the meeting are contained in Appendix L of the Statement of Environmental Effects. It should be noted that the meeting pertained to both Stage 1 and Stage 2 whereas this application only pertains to Stage 1. A summary of the specific issues raised by the applicant and how they have been addressed by the proposal is outlined below:

- Whether the Apartment Design Guide can be varied with respect to the internal area specified for the two bedroom apartments? (applicable to Stage 2 only) – it was advised that there was no flexibility to reduce the minimum internal area requirement established by the Apartment Design Guide being 50m<sup>2</sup> for a 1 bedroom apartment and 70m<sup>2</sup> for a 2 bedroom apartment.
- Will Council consider opportunities to formalise on-street car parking in lieu of on-site car parking – it was advised that Council's expectation is that car parking will be provided on-site and a voluntary planning agreement for on-street parking will only be considered once opportunities for on-site car parking have been explored and exhausted.
- Whether Council is amenable to separate development applications being lodged for the development – this was agreed.
- Height of buildings – the 10m building height for the site was noted.
- Heritage conservation – the provisions of the Bellingen LEP 2010 pertaining to the fact that the development must have regard to its effect on the heritage significance of the Bellingen Conservation Area were noted (the Conservation Area applies to the whole site the subject of the development application but does not apply to the foreshadowed Stage 2).
- Acid Sulfate Soils – it was noted that the land is mapped as containing class 4 & 5 acid sulfate soils and depending upon the scope of works the development application may be required to be accompanied by an acid sulfate soils management plan.
- Public utility infrastructure – it was noted that the development will need to ensure public utility infrastructure is or is to be provisioned.

The development application was lodged on **4 July 2022**. 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
4 July 2022	DA lodged
13 July 2022	Exhibition of the application

<b>4 August 2022</b>	Request for Information from Council to applicant
<b>31 August 2022</b>	Panel briefing
<b>8 August 2022</b>	Amended plans lodged on 8 August 2022 accepting the request from Council for a covering of the first floor north facing decks and for the first-floor walkway and foyer area to be covered/roofed.

## 2.3 Site History

- The site contains the existing but disused/vacant Bellorana Nursing Home which contained 39 beds.
- There is a foreshadowed development application to be lodged for Stage 2 on the corner of Watson Street and Rawson Street and adjoining this site which is proposed to comprise 6 x 2 bedroom apartments and 12 x 1 bedroom apartments in a three storey complex with no on-site parking. This is relevant to the current application particularly to the extent that Stage 2 is relying on the on-site parking being provided as part of this development application. For both stages the available on-site parking will be 24 spaces for a total of 41 apartments being 35 x 1 bedroom apartments and 6 x 2 bedroom apartments. The total number of apartments comprises 23 x 1 bedroom in Stage 1; 12 x 1 bedroom in Stage 2; and 6 x 2 bedroom in Stage 2.
- There is also a separate development application for a subdivision of the land by boundary adjustment and for the demolition of the existing Bellorana Nursing Home which was approved by Bellingen Shire Council.

## 3. STATUTORY CONSIDERATIONS

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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*
  - (iii) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
  - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*



- (b) *that apply to the land to which the development application relates, the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is not considered to be:

- Integrated Development (s4.46)
- Designated Development (s4.10)
- Requiring concurrence/referral (s4.13)
- Crown DA (s4.33) - written agreement from the Crown to the proposed conditions of consent must be provided

### **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 (Building Sustainability Index: BASIX) 2004*  
The SEPP relates to the BASIX scheme, which encourages sustainable residential development via achievement of energy and water saving targets. The BASIX Scheme aims to reduce the consumption of mains supplied potable water and reduce emissions of greenhouse gases and to improve the thermal performance of the building. The proposed development is within the category of dwellings the SEPP applies to and is accompanied by a BASIX certificate. The construction of the building in accordance with this certificate is a condition of development consent.
- *State Environmental Planning Policy (Housing) 2021*  
The principles of the Housing SEPP are directly relevant to the application as its principles include enabling diverse housing types, including purpose built rental housing; encouraging the development of housing that will meet the needs of more vulnerable members of the community; ensuring new housing development provides residents with a reasonable level of amenity; promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services et al.
- *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*  
The Policy aims to improve the design quality of residential apartment development in NSW. The SEPP applies to (Clause 4) development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if –

(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and  
(c) the building concerned contains at least 4 or more dwellings.  
Accordingly, SEPP No 65 does apply.

- State Environmental Planning Policy (Planning Systems) 2021  
The SEPP states that development specified in Schedule 6 is declared to be regionally significant development for the purposes of the Act. Development for affordable housing that has a capital investment of more than \$5m is declared regionally significant development in Schedule 6. The capital investment value of the development is \$5,996,515 excluding GST and pursuant to Section 4.2 of the EP&A Act, the consent functions are to be exercised by a Regional Planning Panel.
- State Environmental Planning Policy (Resilience and Hazards) 2021  
The object of the SEPP is to provide a state-wide planning approach to the remediation of contaminated land. It aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.
- Bellingen Local Environmental Plan 2010  
The site is zoned R1 General Residential with residential flat buildings being a permissible use of the land with development consent. The site is located within the Bellingen Conservation Area.

A summary of the key matters for consideration arising from these State Environmental Planning Policies and the Bellingen Local Environmental Plan 2010 are outlined in **Table 3** and considered in more detail below.

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

EPI	Matters for Consideration (Brief summary)	Comply (Y/N)
BASIX SEPP	No compliance issues identified subject to imposition of conditions on any consent granted.	Yes
State Environmental Planning Policy (Housing) 2021	Chapter 2: Affordable Housing Infill affordable housing, boarding houses, boarding houses – Land and Housing Corporation, supportive accommodation, Residential flat buildings—social housing providers, public authorities and joint ventures, Residential development—Land and Housing Corporation Chapter 3: Diverse Housing Secondary dwellings, Group Homes, Co-living housing, build-to-rent housing, Housing for Seniors and people with a disability, short-term rental accommodation, manufactured home estates and caravan parks.	Yes
SEPP 65	<ul style="list-style-type: none"> <li>• <b>Clause 30(2)</b> - Design Quality Principles - The proposal is consistent/ with the design quality principles of context and neighbourhood scale; built form and scale; density; sustainability; landscape; amenity; safety; housing diversity and social interaction; and aesthetics. The</li> </ul>	Yes

	proposal is consistent with the Apartment Design Guide requirements for deep soil zones; floor to ceiling heights; minimum internal areas; minimum balcony depth and area; car parking, communal open space....	
State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and Regional Development <ul style="list-style-type: none"> <li>Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 5 of Schedule 6 as it comprises affordable housing with a capital investment value of more than \$5 million.</li> </ul>	Yes
SEPP (Resilience & Hazards)	Chapter 4: Remediation of Land <ul style="list-style-type: none"> <li>Section 4.6 - Contamination and remediation has been considered and the proposal is satisfactory subject to a condition requiring a certificate demonstrating that the site is clear of any contamination post demolition.</li> </ul>	Yes
Proposed Instruments	No compliance issues identified.	Yes
LEP	<ul style="list-style-type: none"> <li>Clause 2.3 – The land is zoned R1 General Residential and the development is consistent with the zone objectives and is a permissible use with consent.</li> </ul>	Yes
DCP	The Bellingen Shire Development Control Plan 2017 makes provision for multiple dwelling construction in Chapter 2 and makes specific provision for a range of dwelling sizes to accommodate changing housing needs; to improve housing affordability in the Bellingen Shire; and to encourage and support the provision of more affordable dwelling types. The application directly and positively responds to these objectives. The application meets the DCP standards pertaining to setbacks; vehicular access; private open space; clothes drying; generally complies with all other standards and has a relatively minor breach of the building height plane.	Yes

Consideration of the relevant SEPPs is outlined below.

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

State Environmental Planning Policy – Building Sustainability Index BASIX– 2004 ('BASIX 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.0007732084 prepared Jamie Bonnefin of Certified Energy dated 20 May 2020 committing to environmentally sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP achieving for Unit 101 (south facing ground floor) 7.1 stars for energy efficiency and for unit 207 (north facing first floor) 7.9 stars. The proposal is consistent with the BASIX SEPP subject to the recommended conditions of consent.

State Environmental Planning Policy (Housing) 2021

Under the Housing SEPP, the proposal is defined as infill affordable housing and needs to comply with Part 2 development for affordable housing, Division 1 in-fill affordable housing.

The proposal is consistent with the provisions of the SEPP, noting that the Bellingen LEP has no floor space ratio. It should be noted that in relation to off street parking the SEPP provides the requirement is 0.4 spaces per 1 bedroom apartment and 0.5 spaces per 2 bedroom apartments.

It is not agreed that this off street parking allocation will be sufficient in a regional centre such as Bellingen which is not on a rail line and has relatively poor public transport. Regardless of the socio-economic disadvantage of the tenants of the development it is more likely than not that each tenancy will have one vehicle. This “shortfall” in parking will become apparent in the proposed Stage 2 which relies on the off street parking provision in the subject application which is stage 1.

But as the application complies with the onsite parking provision set out in the SEPP there are no grounds to require additional on site parking despite the expressed misgivings.

#### *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*

The application meets the requirements of SEPP 65 and satisfactorily addresses Clause 29 of the Environmental Planning and Assessment Regulation 2021 which provides how the application addresses the required objectives and design principles. It should be noted that Bellingen Shire Council does not have a constituted Design Review Panel.

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

The application requires determination by the Northern Regional Planning Panel.

#### Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 5 of Schedule 6 of the Planning Systems SEPP as the proposal is development for affordable housing. Accordingly, the Northern Regional Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

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

This SEPP is relevant to the extent that a clearance certificate will be required following the demolition of the existing, vacant nursing home which is situated on the land. The demolition of this nursing home is the subject of a separate development consent issued by Bellingen Shire Council.

#### *Bellingen Local Environmental Plan 2010*

The relevant local environmental plan applying to the site is the *Bellingen Local Environmental Plan 2010* ('the LEP'). The aims of the LEP include giving effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents. The proposal is consistent with these aims as the proposal is specifically addressing a key priority of the Council being the provision of affordable housing.

#### *Zoning and Permissibility (Part 2)*

The site is located within the R1 General Residential Zone pursuant to Clause 2.2 of the LEP. An extract of the Council's zoning map which incorporates the site bounded by a red line is shown below.



According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of a residential flat building which is a permissible use with consent in the Land Use Table in Clause 2.3. The Housing SEPP 2021 applies because the site is within 800m walking distance of the Bellingen B2 Local Centre zone and because 100% of the housing will be “affordable housing”.

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*
- *To provide for a variety of housing types and densities*
- *To ensure that the height and scale of buildings are compatible with a low density character*

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

- It directly responds to the provision of a greater housing diversity within Bellingen
- It directly responds to the provision of affordable housing for people on low incomes
- The building height and scale, whilst being larger than the small detached dwellings in Watson Street, is similar to the existing nursing home and the adjoining school/church complex

#### *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.

The proposal does not comply with the development standard/s in Part 4 of the LEP and accordingly, a Clause 4.6 request has been provided with the application for the exceedance of the maximum 10m building height standard and in relation to the lodgement of an Acid Sulfate Soil Management Plan prior to the issue of a development consent.



**Table 4: Consideration of the LEP Controls**

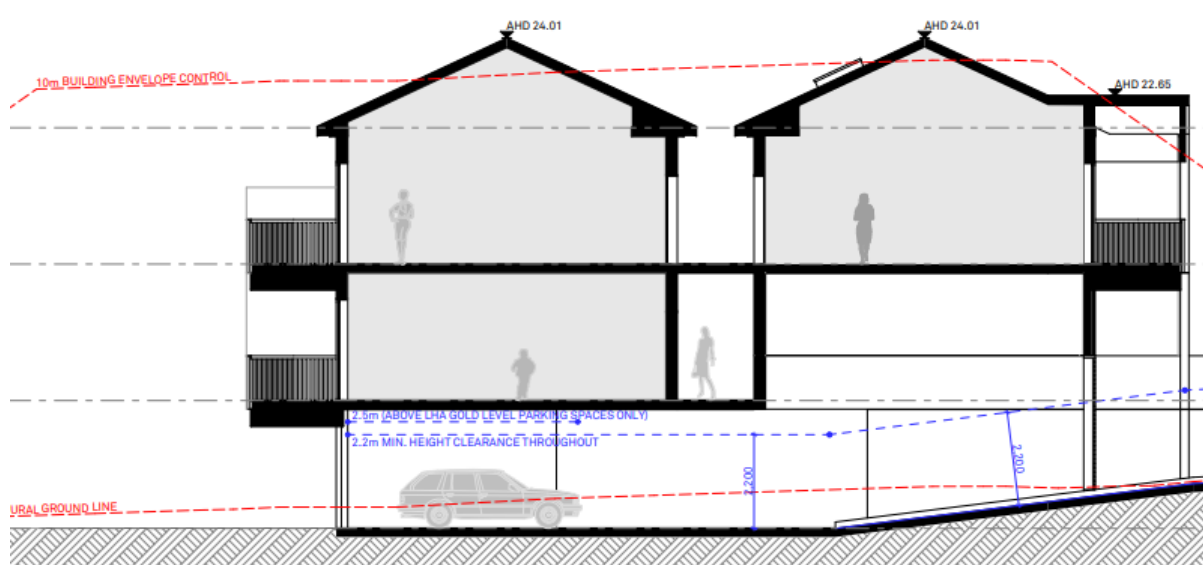
<b>Control</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Comply</b>
Minimum subdivision Lot size (CI 4.1)	n/a		Yes
Height of buildings (CI 4.3(2))	10 metres	11.01 metres – but the majority of the building is less than 10 metres in height; does not interfere with curtilage of the adjoining St Marys Catholic Church Complex	No
FSR (CI 4.4(2))	n/a	0.63	Yes
Land acquisition (CI 5.1/5.1A)	n/a		Yes
Heritage (CI 5.10)	Consideration of effect on Bellingen Heritage Conservation Area	Yes – proposal has been the subject of a satisfactory Statement of Heritage Impact – no significant impact	Yes
Acid sulphate soils (CI 6.1)	Preparation of an Acid Sulfate Soil Management Plan prior to the issue of development consent	No - but a geotechnical assessment prepared by Regional Geotechnics concludes (page 5) that based on the results of assessment the site soils are not considered to be either actual or potential ASS and an ASS management plan is therefore not required.	No
Flood planning (CI 6.3)	General Flood Planning Level for the site ranges from 13.4m to 14.3m. The basement carpark has to have a level of at least 12.4m.	The basement carpark is at 12.5m and the ground floor level is 15.5m.	Yes
Stormwater Management (CI 6.4)	Bellingen Shire DCP 2017 requires stormwater controls to ensure development does not create any increase in peak discharges at the	The development will result in a decrease in the impervious area.	Yes

	downstream property boundary		
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The proposal is generally consistent with the LEP.

#### *Clause 4.6 Request – Building Height*

The 10m building height standard is proposed to be exceeded by 1.01m for a minor part of the development as shown in the section below. Importantly the variation will have no impact on adjoining heritage items nor will it make any appreciable difference to the amenity of the street. The building could be made compliant by reducing the roof pitch and the floor to ceiling ratios, neither of which would be in the interest of its future residents nor the neighbourhood.



#### *Preconditions to be satisfied*

Clause 4.6(4) 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.

The two preconditions include:

1. Tests to be satisfied pursuant to CI 4.6(4)(a) – this includes matters under CI 4.6(3)(a) and (b) in relation to whether the application of the development standard is unreasonable and unnecessary in the circumstances of the case and whether there are sufficient environmental planning grounds to justify contravening the development standard and whether the proposal is in the public interest (CI 4.6(a)(ii)); and
2. Tests to be satisfied pursuant to CI 4.6(b) – concurrence of the Planning Secretary. In this case the determining authority being the Northern Regional Planning Panel has delegated authority to determine the requested variation.

These matters are considered below for the proposed development having regard to the applicant's Clause 4.6 request

The requested variation is equivalent to 10.1 per cent of the development standard for a relatively minor section of the roof line. It is agreed that the proposed redevelopment of the site to create a mainly two storey affordable housing development near the Bellingen town centre is an important opportunity for housing diversity to support people on low incomes. It would be both unreasonable and unnecessary to pursue strict compliance with the 10m building height standard.

The proposed two storey plus basement car park development:

- makes efficient use of the site;
- does not conflict with the Bellingen Heritage Conservation Area;
- provides for ESD initiatives;
- supports the revitalisation of the site and the delivery of housing supply and choice in a well serviced and accessible location; and
- is financially viable.

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

There are no known proposed instruments which have been the subject of public consultation under the EP&A Act that are relevant 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:

- *Bellingen Shire Council Development Control Plan 2017* ('the DCP')

The DCP contains aims which are specifically relevant to the application including to encourage a high standard of residential development that is respectful to the amenity of neighbours, the character of the locality and the natural and built environment within which it is located. The DCP also aims to encourage the provision of a range of dwelling sizes to accommodate changing housing needs; and to encourage and support the provision of more affordable dwelling types.

The application achieves the DCP's setback requirements with a relatively minor breach of the Building Height Plane Envelope which is discussed separately in the report.

Vehicular access is generally compliant except in relation to a provision which requires any driveway servicing more than three dwellings to be centrally located with the development site rather than abutting neighbouring boundaries. This was not achieved due to the slope of the land but noting that the adjoining lot which is adjacent to the driveway is owned by the same developer.

In relation to urban design the DCP provides that any elevation of a building shall not exceed 10m in length without being broken by a change in external walls and rooflines. This provision is not entirely practical for the nature of this development; however the proposal has a high level of articulation in the front (Watson Street) and rear elevations with separate buildings, balconies, awnings and detail pertaining to each of these elements.

The application is generally compliant with all other requirements of the DCP including the requirements for universal housing (Liveable Housing Design Guidelines).

The summary table in relation to DCP compliance on page 14 of the Statement of Environmental Effects is accepted for the purposes of the application assessment.

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):

- *Bellingen Shire Council S7.12 Contributions Plan*

Clause 1.4 of the Contributions Plan provides that an exemption from contributions or levies for development for the sole purpose of providing affordable housing or social housing by a social housing provider. The proposal meets this criterion and hence contributions are not applicable.

It should be noted that this exemption constitutes an effective donation by Bellingen Shire Council of \$59,965 in support of social housing.

In relation to contributions for the provision of water and sewerage services (Section 64 of the Local Government Act) the now disused Bellorana Watson Street Hostel had a 39 bed capacity. The Section 64 Determinations of Equivalent Tenements (ET) Guidelines published by the Water Directorate in May 2009 provide an ET requirement of 0.5 ET per bed for water and 0.75 ET per bed for sewer.

Therefore, the ET credit for the existing 39 bed hostel would be 19.5 ET for water and 29.25 ET for sewer. This compares to the ET requirement for the proposed 23 one bedroom apartments of 9.2 ET for water (23 units x 0.4 ET) and 11.5 ET for sewer (23 units x 0.5 ET). Therefore, the proposed development has a lesser demand on the Council's water and sewerage infrastructure than the hostel it is replacing.

In summary there is no requirement for any developer contributions.

**(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 no matters being relevant to the proposal:

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the 2021 EP&A Regulation are relevant to the proposal and in relation to fire safety there is a recommended condition of consent.

These provisions of the 2021 EP&A Regulation 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.

There are recommended conditions of development consent in relation to off-site matters.

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

- Context and setting – The proposal is generally consistent with the context of the site, comprising in that the character and amenity of the locality and streetscape, scale, mass, form, character etc of surrounding development, and potential impacts on adjoining properties. Special mention needs to be made of the appropriateness of the site for affordable/social housing and the fact that is utilising a now redundant former hostel.
- Access and traffic – The application poses no access or traffic issues. However concern is expressed that the foreshadowed Stage 2 application is intending to rely on the off street parking provided in Stage 1. The off street parking requirements of the Housing SEPP are acknowledged and accepted but are not regarded as appropriate for a regional centre such as Bellingen where it is difficult for a household to exist without private transport (ie, a car).
- Public Domain – the proposal does not impact on the public domain. It has good access to public infrastructure and to the Bellingen CBD.
- Utilities – all utilities are available at the site.
- Heritage – there has been an assessment of the development in relation to the Bellingen Conservation Area. The proposed development does not have a significant impact on the conservation values of the St Marys Church and School complex or the Bellingen Conservation Area. Plantings within the St Mary's School, the height of the school buildings and the surrounding topography will limit the visual impact of the new buildings when viewed from Park Street.
- Other land resources – no implications
- Water/air/soils impacts – a contamination report and an assessment of the existence of acid sulfate soils has been undertaken
- Flora and fauna impacts – no significant impacts
- Natural environment – the basement carpark will require the excavation of approximately 2,446m<sup>3</sup> of material. Appropriate conditions of consent are recommended to ensure any damage to Council's local road system is made good.
- Noise and vibration – the geotechnical report indicates that the basement carpark will not require the removal of any rock. Standard conditions in relation to minimising noise and vibration from construction activities are recommended.
- Natural hazards – the potential impact of flooding on the site has been considered and levels checked. The site is not within a mapped area of bushfire hazard.



- Safety, security and crime prevention – the application has not specifically addressed CPTED (Crime Prevention Through Environmental Design) principles. The nature of the development with common access areas provides for reasonable passive surveillance. However, there are risks pertaining to the basement carpark and fire stairs. It is recommended that a safety and security plan which addresses lighting, carpark security, apartment security and the provision of CCTV be submitted prior to the issue of a construction certificate.
- Social impact – the proposed development will have a positive impact through the provision of housing opportunities for people on lower incomes or who otherwise experience socio-economic disadvantage. The location of the development will mean that the future tenants will have good access to public infrastructure and support services.
- Economic impact – revitalising the disused former hostel site with residential accommodation will have a positive economic impact on the Bellingen CBD.
- Site design and internal design – the proposal is appropriate for the existing hostel site, noting that the 2,040m<sup>2</sup> site area is significantly larger than the detached dwelling allotments on the southern side of Watson Street.
- Construction – it is recommended there be a consent condition pertaining to mitigating the potential impacts of the construction.
- Cumulative impacts – the proposal will not result in any adverse cumulative impacts and directly supports the Council's objectives to increase housing choice and improve housing affordability.

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 proposal is a suitable use of the site for the reasons discussed in this report. There are adequate services and open space in the vicinity. There is a watercourse adjacent to Rawson Street and the land immediately to the west of the site is identified as flood fringe. The habitable floors of the development are at or above 15.5m AHD which exceeds the General Flood Planning Level (including 500mm freeboard) of between 13.4m and 14.3m. The conceded flood planning level for the carpark is a minimum of 12.4m which is achieved by the basement level being at 12.5m AHD.

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

There were no public submissions.

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

The application is in the public interest for the reasons discussed in this report.

## **4. REFERRALS AND SUBMISSIONS**

## 4.1 Agency Referrals and Concurrence

There were no agency referrals.

In relation to Section 2.48 concerning the development likely to affect an electricity transmission or distribution network it is noted that a referral is required for development within 5m of an exposed overhead electricity power line. The overhead reticulation line is on the southern side of Watson Street with a feeder pole on the northern side of the street which is located within the footpath area. As the development is set back more than 6m from the front boundary there is no referral requirement.

**Table 5: Concurrence and Referrals to agencies**

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
<b>Concurrence Requirements (s4.13 of EP&amp;A Act)</b>			
Environment Agency Head (Environment, Energy & Science Group within DPIE)	S7.12(2) - <i>Biodiversity Conservation Act 2016</i>	N/A	N/A
Rail authority for the rail corridor	Section 2.98(3) - <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>	N/A	N/A
<b>Referral/Consultation Agencies</b>			
RFS	S4.14 – EP&A Act Development on bushfire prone land	N/A	N/A
Electricity supply authority	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	N/A	N/A
Rail authority	Section 2.97 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development land that is in or adjacent to a rail corridor.	N/A	N/A
Transport for NSW	Section 2.121 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>	N/A	N/A

	Development that is deemed to be traffic generating development in Schedule 3.		
Design Review Panel	CI 28(2)(a) – SEPP 65 Advice of the Design Review Panel ('DRP')	Bellingen Shire Council does not have a Design Review Panel. The provisions of SEPP 65 are further considered in this report.	Yes
<b>Integrated Development (S 4.46 of the EP&amp;A Act)</b>			
RFS	S100B - <i>Rural Fires Act 1997</i> bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes	N/A	N/A
Natural Resources Access Regulator	S89-91 – <i>Water Management Act 2000</i> water use approval, water management work approval or activity approval under Part 3 of Chapter 3	N/A	N/A

## 4.2 Council Officer Referrals

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

**Table 6: Consideration of Council Referrals**

Officer	Comments	Resolved
Engineering	Council's Engineering Officer reviewed the submitted stormwater concept plan and considered that there were no objections subject to conditions.	Yes

## 4.3 Community Consultation

The proposal was notified in accordance with the DCP/Council's Community Participation Plan from 13 July 2022 until 29 July 2022. The notification included the following:

- An advertisement in the local newspaper [name of publication] (where applicable);
- Notification letters (11) sent to adjoining and adjacent properties.
- Notification on the Council's website.

The Council received zero (0) submissions.

## **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 Building Height**

The issue is addressed in the report. The requested height variation of 1.01m only relates to two minor parts of the building and is not significant.

## **6. CONCLUSION**

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

## **7. RECOMMENDATION**

That the Development Application DA2022/00086 for the construction of 23 affordable housing units at 15 Watson Street, Bellingen 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: Architectural Plans (as uploaded to portal)
- Attachment C: Clause 4.6 Request (as uploaded to portal)

## **Attachment A: Draft Conditions of Consent**

### General Conditions

1. Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.
  - Statement of Environmental Effects by Geolink dated 21/06/2022 incorporating Appendices A – N as modified by architectural plans by prepared by Benson McCormack Architecture being Revision 02 and dated August 2022
  - Contamination Assessment prepared by Regional Geotechnical Solutions and dated 15 July 2022
  - Geotechnical Assessment prepared by Regional Geotechnical Solutions and dated 6 July 2022
  - Any plans and / or documentation submitted to satisfy the Conditions of this consent. In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails. Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time. [Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development]
2. The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate. The development will require a Fire Safety Schedule and the western wall of the development, including its windows, will need to be fire rated. [Reason: To ensure the development is constructed in accordance with appropriate standards]

### Prior to the Issue of a Construction Certificate

3. The applicant is to ensure that the person liable pays the long service levy as calculated at the date of this consent to the Long Service Corporation or Council under section 34 of the Building and Construction Industry Long Service Payments Act 1986 and provides proof of this payment to the certifier. Note: the Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level to which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply. [Reason: To ensure the Long Service Levy is paid].
4. No building work shall commence until a construction certificate has been issued for the work and Council has been notified that a Principal Certifying Authority has been appointed. Note. Building work includes the partial demolition of a building. [To ensure the legality of the development]
5. The applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters: location and materials for protective fencing and hoardings to the perimeter on the site; provisions for public safety; pedestrian and vehicular site access points and construction activity zones; details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site;



protective measures for on-site tree preservation (including in accordance with AS 4970-2009 protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable); details of any bulk earthworks to be carried out; location of site storage areas and sheds; equipment used to carry out all works; a garbage container with a tight-fitting lid; dust, noise and vibration control measures; location of temporary toilets. The applicant must ensure a copy of the approved construction site management plan is always kept on-site during construction. [Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.]

6. The applicant is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier: a) the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book), and b) the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust). The applicant must ensure the erosion and sediment control plan is always kept on-site during site works and construction. [Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.]
7. A detailed stormwater management plan and computer modelling demonstrating compliance with Level 3 stormwater treatment requirements as per Chapter 12 of the Bellingen Development Control Plan 2017 shall be submitted and endorsed by Council. [Reason: To ensure that stormwater treatments are designed to meet the needs of the receiving environment]
8. The development must meet the requirements of the Liveable Housing Design Guidelines and Chapter 13 of the Bellingen Shire Council Development Control Plan 2017 wherein all units are required to satisfy Liveable Housing Guidelines Silver Level universal design features and a total of 20% of units are required to satisfy requirements to incorporate Liveable Housing Guidelines Gold Level universal design features. Details indicating compliance shall be submitted to, and endorsed by, the principal certifying authority prior to the issue of a construction certificate. [Reason: To ensure the provision of adequate parking, access, and facilities for people with disabilities].
9. The applicant must submit the following written evidence of service provider requirements to the certifier: a) a letter of consent from Essential Energy demonstrating that satisfactory arrangements can be made for the installation and supply of electricity - that the development as proposed to be carried out is satisfactory, or if it is not, what changes are required to make the development satisfactory to them. [Reason: To ensure relevant utility and service providers requirements are provided to the certifier.]
10. Council must be provided with details from a registered surveyor or suitably qualified and experienced engineer indicating the size of the sewer service line from the existing sewer network located in Park St through to lot 1DP863743. Should the line be identified as less than 150mm the line shall be upgraded to a minimum 150mm diameter network. All costs associated with these works are the responsibility of the proponent. An approval is to be obtained under Section 68 of the Local Government Act 1993 to carry any required sewerage works. [To prevent risks to public health and ensure legality of development.]
11. Prior to the issue of a Construction Certificate a separate consent pursuant to the Roads Act 1993 shall be issued for works required within the road reserve. The

application shall include detailed design drawings for the construction of the required access. The drawings shall contain as a minimum:

- The distance of the vehicle access point relative to the nearest side property boundary corner point.
- A profile to accommodate the ground clearance template for a B95 vehicle given in Appendix C of AS2890.1.
- Surfacing Requirements in accordance with Table 5.1 of the Bellingen Shire Council Development Control Plan 2017 – Minimum Surface Requirements.
- The vehicular accesses designed generally in accordance with AS2890.1 and Council standards modified as appropriate to suit the site conditions.
- Works to prevent the major overland flow from flowing into the undercroft car park.
- The relocation of the of the existing concrete footpath on the north east corner of Watson and Rawson St to fully within the road reserve.

Note: A Roads Act Consent requires payment of an application fee as per Council's Fees and Charges Schedule current at the time of application  
[To ensure that vehicular access to and egress from the development site is designed and constructed to Council's standards]

12. The proponent shall provide the principal certifying authority construction details indicating:
  - a. The undercroft car park has been designed to be free draining and no lower than 11.9m AHD.
  - b. The driveway access and car parking has been designed to comply with AS2890.1 including:
    - i. Undercroft car parking designed to accommodate the B99 vehicle template.
    - ii. The minimum vehicle head room clearance of 2.2m at the ramp grade change as indicated in figure 5.3 of AS2890.1

[To minimise the likely impacts of the development in respect of utilities, safety, drainage, the public interest and security. To provide adequate safety and lighting with an aim to reduce energy cost through lamp efficiency]
13. A Site Waste Minimisation and Management Plan consistent with Chapter 14 of the Bellingen Shire Development Control Plan 2010 shall be submitted to and endorsed by the principal certifying authority. [Reason: To ensure that construction and ongoing waste is managed appropriately and sustainably]
14. The proponent is to submit to Council a letter confirming their intent for the development to be used as affordable housing as defined in State Environmental Planning Policy (Housing) 2021 (as at August 2022) for a period of at least 15 years commencing on the day an occupation certificate is issued and that the affordable housing will be managed by a registered community housing provider. Further the proponent is to provide an undertaking that this requirement will be communicated to any future owner or owners of the development.
15. A safety and security plan supporting the principles of crime prevention through environmental design be submitted prior to the issue of a construction certificate. The plan is to include consideration of lighting, basement carpark security, apartment security and appropriate locations for the provision of CCTV.

#### Prior to the Commencement of Works

16. The proponent shall submit and have endorsed by Council a dilapidation report of the public infrastructure in the vicinity of the site (including roads, kerbs, footpaths, nature

strip, street trees and furniture) and submit a copy of this report to Council. The dilapidation report is to include any local road which is being used as a route for the disposal of the estimated 2,446m<sup>3</sup> of fill. The proponent shall:

- a. Repair, or pay the full costs associated with repairing, any public infrastructure that is damaged during works; and
- b. Relocate or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.  
[To ensure that works do not degrade public infrastructure]

17. No work shall occur within the road reserve until a separate consent for the work has been issued in pursuance to the Roads Act 1993. This will require a separate application to be made to Council for a Roads Act consent and requires payment of an application fee as per Council's Fees and Charges Schedule current at the time of application. [To ensure the legality of the development]
18. That the proponent provide the principal certifying authority with a clearance certificate from a consultant expert in contamination assessment which certifies that the site is clear of any contamination post demolition.
19. The proponent is to consult with the owners of the adjoining property, 14 Park Street (Trustees of the Roman Catholic Church) in relation to the excavation which is to occur close to the boundary and the arrangements to be made in relation to any vegetation on their side of the boundary, whose roots may be damaged by the excavation. The proponent is to provide evidence of this consultation to the principal certifying authority.
20. Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site). [Reason: To ensure runoff and site debris do not impact local stormwater systems and waterways]
21. The proponent shall give at least two (2) days written notice to Council of the date work is intended to commence and the details of the appointed principal certifying authority (PCA). Where the PCA is not Council, the proponent shall also give a minimum two (2) days' notice to the PCA of the intention to commence work. [To inform the relevant authorities and facilitate auditing]
22. A sign must be erected in a prominent position on the site showing the name, address and telephone number of the principal certifier for the work and showing the name of the principal contractor (if any) and a telephone number on which that person may be contacted outside working hours, and stating that unauthorised entry to the work site is prohibited. Any such sign is to be maintained while the building work is being carried out but must be removed when the work has been completed. [Reason: Prescribed condition EP&A Regulation]
23. Before the commencement of any site work, the principal certifier must ensure the measures for tree protection detailed in the construction site management plan are in place. [Reason: To protect and retain trees]
24. Before carrying out any water supply, sewerage or stormwater drainage work, an approval under section 68 of the Local Government Act 1993 must be obtained for those activities. [Reason: to ensure the legality of the development]

### During Works

25. Building work must be carried out in accordance with the requirements of the BCA [Reason: Prescribed condition EP&A Regulation]
26. While building work is being carried out the applicant is to ensure that any noise does not exceed an LAeq 915min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out [Reason: To protect the amenity of the neighbourhood]
27. While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:
  - a. All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed
  - b. All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA. [Reason: To ensure soil removed from the site is appropriately disposed of and soil imported to the site is safe for future occupants.]
28. If any deposit, artefact, object, or material evidence defined as a relic under the Heritage Act 1977 or an Aboriginal object is identified as having been uncovered due to development activities all work shall cease immediately in that area and the Heritage Council NSW shall be advised of the discovery. [To conserve items having interest due to age or association with the past]
29. The principal certifier must ensure that building work or vegetation removal is only carried out between 7.00am to 6.00pm Monday to Friday and 8.00am to 1.00pm on Saturday with no work on Sundays, except where there is an emergency. Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods, or materials must not be delivered to the site outside the approved hours of site works. Any variation to the hours of work requires Council's approval.
30. Whilst building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate approved by this consent, for the development to which the consent applies. [Reason: to ensure BASIX commitments are fulfilled in accordance with the BASIX certificate prescribed under the EP&A Regulation]
31. While vegetation removal, excavation and building work is being carried out, the applicant must ensure the measures required by the approved construction site management plan and the erosion and sediment control plan are implemented at all times. The applicant must ensure a copy of these approved plans is kept on site at all times and available to Council officers upon request (Reason: To ensure the required site management measures are implemented during construction)
32. All plumbing work shall be carried out by a licensed plumber and drainer in accordance with the Plumbing Code of Australia and relevant Australian Standards [Reason: To ensure that plumbing works are legally and safely carried out]
33. While building work is being carried out, any such work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in

accordance with this consent and the relevant construction certificate. [Reason: To require approval to proceed with the building work following each critical stage inspection]

34. While building work is being carried out, the applicant must pay any costs incurred because of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area). [Reason: To ensure payment of approved changes to public infrastructure]
35. As the development involves an excavation that extends below the level of the adjoining land, the person having the benefit of the development consent must protect the adjoining property from possible damage from the excavation. [Reason: Prescribed condition under the EP&A]
36. A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times during development work and shall be readily available for perusal by any officer of Council or the principal certifying authority. [Reason; To ensure the development is carried out in accordance with the plans and specifications to which the development consent relates]
37. While building work is being carried out, a registered surveyor is to measure and mark the positions of the following and provide them to the principal certifier – a) all footings/foundations and b) at other stages of construction – any marks that are required by the principal certifier [Reason: To ensure buildings are sited and positioned in the approved location.
38. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every twenty (20) persons employed at the site. [Reason; To prevent risks to public health and to protect waters and land resources from adverse impacts related to effluent treatment and disposal].
39. While building work, demolition or vegetation removal is being carried out, the principal certifier must be satisfied all waste management is undertaken in accordance with the approved waste management plan.
40. All works must comply with:
  - a. The conditions of this consent
  - b. Council endorsed design drawings
  - c. Water Services Association of Australia Sewerage Codes
  - d. Bellingen Shire Council Standard Conditions for Engineering Works Associated with Developments
  - e. Development Control Plan 2017
  - f. Contemporary industry standards [Reason; to ensure work is carried out to an acceptable standard]

#### Prior to Occupation Certificate

41. Prior to the issue of an occupation certificate, a compliance certificate prepared by a suitably qualified and practicing Civil Engineer (that being either an engineer eligible for admission as either a Chartered Professional Engineer CPEng or a Registered Professional Engineer, RPEng) shall be submitted to Council. The compliance certificate shall certify:



- 1) Construction of the required Level 3 stormwater treatment requirements pursuant to Section 12.6.1 of Chapter 12 – Stormwater of the “Bellinghen Shire Development Control Plan 2017. [Reason: the likely impacts of the development in respect of traffic, utilities, drainage and public interest]
42. Prior to the issue of an occupation certificate and for the life of the development the required Level 3 stormwater treatment requirements pursuant to Section 12.6.1 of Chapter 12 – Stormwater of the Bellinghen Shire Development Control Plan 2017 shall be installed and maintained. [To ensure that stormwater systems are maintained and functional]
43. A positive covenant shall be created under the *Conveyancing Act 1919* that burdens the developed lot and requires the Association to ensure that it will keep, protect, maintain, test, and repair any installed Level 3 stormwater treatment devices within the Association Property so that they remain in working order. The covenant shall only be amended, released or varied with the consent of Council and shall be described on the plan of subdivision and accompanying administration sheet and instrument to the satisfaction of Council prior to the issue of an occupation certificate [Reason: To ensure that stormwater systems are maintained and functional]
44. A Restriction as to User shall be created under the *Conveyancing Act 1919* that burdens the developed lot to require that the developed lot be used for the purposes of “affordable housing” as defined in the State Environmental Planning Policy (Housing) 2021 as at 12 August 2022 for a period of at least 15 years commencing on the day the occupation certificate is issued.
45. Prior to the issue of an occupation certificate all stormwater from roof and hard stand structures shall be conveyed in a controlled and nuisance free manner to a legal point of discharge that:
  - a. does not affect adjoining properties
  - b. is directed away from any buildingsThe legal point of discharge shall be either the kerb invert of Watson Street or approved interallotment drainage. [Reason: To ensure that stormwater is delivered to a legal point of discharge]
46. All works shall be constructed in accordance with the required Road Act Consent Approval in pursuance to the Roads Act 1993. [Reason: To ensure that vehicular access to and egress from the development site is designed and constructed to Council's standards.
47. Prior to the issue of an occupation certificate the proponent shall repair any public infrastructure deemed damaged because of the works. [Reason: To ensure that works do not degrade public infrastructure]
48. Prior to the issuing of a subdivision certificate the proponent shall submit certification from a registered surveyor to the principal certifying authority certifying that:
  - a. All services and drainage lines are wholly contained within the respective lot and easements. [Reason: To ensure the development is appropriately located and designed]

49. The recommendations of the safety and security plan supporting the principles of crime prevention through environmental design are to be implemented.

#### Ongoing Use and Occupation

50. During occupation and ongoing use of the building, the applicant must provide an annual fire safety statement to Council and the Commissioner of Fire and Rescue NSW in accordance with clause 177 of the EP&A Regulation. [Reason: To ensure annual checks on fire safety measures.]

51. During occupation and ongoing use of the building, the applicant must ensure all subsequently installed noise generating mechanical ventilation system(s) or other plant and equipment that generates noise are in an appropriate location on the site (including a soundproofed area where necessary) to ensure the noise generated does not exceed 5dBa at the boundary adjacent to any habitable room of an adjoining residential premises. [Reason: To protect the residential amenity of neighbouring properties.]

During occupation and ongoing use of the building, the applicant must ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) are regularly maintained, to remain effective and in accordance with any positive covenant (if applicable). [Reason: To protect sewerage and stormwater systems.]

52. All vehicles entering and exiting the undercroft car park shall do so in a forward direction at all times [Reason: To provide safe vehicular movements]
53. The development is to be used as affordable housing as defined in State Environmental Planning Policy (Housing) 2021 (as at August 2022) for a period of at least 15 years commencing on the day an occupation certificate is issued with the affordable housing to be managed by a registered community housing provider.