



COUNCIL ASSESSMENT REPORT

NORTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSNTH-183 – BELLINGEN - DA2022/00130
PROPOSAL	Demolition of existing buildings and construction of a new residential flat building comprising 3 x 3 storey linked buildings accommodating 12 x 1 bedroom apartments and 6 x 2 bedroom apartments. It is Stage 2 of an affordable housing development with Stage 1 comprising 23 x 1 bedroom apartments with basement parking for 24 vehicles on adjoining land being approved by the Northern Regional Planning Panel on 12 September 2022. Stage 2 is reliant on the off street parking provided as part of Stage 1.
ADDRESS	15 Watson Street, Bellingen (Lot 1 DP 863743) and 4 Rawson Street, Bellingen (Lot 4 DP 21520)
APPLICANT	Royal Freemasons' Benevolent Institution (RFBI)
OWNER	Royal Freemasons' Benevolent Institution (RFBI)
DA LODGEMENT DATE	11/10/2022
APPLICATION TYPE (DA, Concept DA, CROWN DA, INTEGRATED, DESIGNATED)	Development Application
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: <i>development that has a capital investment value of more than \$5m for any of the following purposes - affordable housing.</i>
CIV	\$5,060,818 (excluding GST)
CLAUSE 4.6 REQUESTS	A variation to the provisions of Clause 4.3 (Height of Buildings) of the Bellingen Local Environmental Plan (BLEP) 2010 is sought because the proposed maximum building height exceeds the 10m height control that applies to the entire Bellingen Shire by a maximum 2.6m. The land is zoned R1 General Residential under the BLEP 2010.
KEY SEPP/LEP	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Housing) 2021</i> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> • <i>State Environmental Planning Policy (Planning Systems) 2021</i>

	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development</i> • <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> • <i>Bellingen Local Environmental Plan 2010</i> • <i>Bellingen Shire Development Control plan 2017</i>
TOTAL & SUBMISSIONS ISSUES SUBMISSIONS	<p>6 submissions – 5 objections plus 1 submission from St Mary's Primary School expressing concerns about site management during construction with a request to formalise the use of Watson Street as a drop off and afternoon pick up zone with appropriate signage.</p> <p>Key issues in submissions are:</p> <ul style="list-style-type: none"> • Building height • Loss of privacy • Loss of outlook (view of treescape) • Devaluation of adjoining/nearby properties • Excessive traffic and congestion • Overbearing scale • Noise and light pollution • Not in character with 1 storey neighbourhood • Lack of off street parking • Site management during construction (dust, asbestos, truck movements) • Conflict with use of Watson Street by St Marys School as a drop off/pick up zone
DOCUMENTS SUBMITTED FOR CONSIDERATION	<p>Statement of Environmental Effects</p> <p>Architectural Drawings (Revision B)</p> <ul style="list-style-type: none"> ○ Floor Plans – GA – Basement Plan ○ Floor Plans – GA – Ground Plan ○ Floor Plans – GA – Level 1 Plan ○ Floor Plans – GA – Level 2 Plan ○ Floor Plans – GA – Roof Plan ○ Elevations – North & South Elevation ○ Elevations – East & West Elevation ○ Sections – Section A + B ○ External Finishes Schedule <p>Architectural Drawings (Revision A)</p> <ul style="list-style-type: none"> ○ Site Context Plans ○ Site Analysis ○ Site Plan ○ Staging Diagram ○ Demolition Plan ○ Excavation and Fill Plan ○ Communal Open Space Area (COS) ○ Deep Soil Zones ○ Solar Access Analysis ○ Natural Ventilation Analysis ○ Private Open Space Area (POS) ○ Storage ○ Shadow Diagrams ○ Building Height Plan (DCP)

	<ul style="list-style-type: none"> Building Height Plan (LEP) <p>Montage (from outside 14 Watson Street mostly viewing Stage 1)</p> <p>Montage (from corner Rawson and Watson Streets)</p> <p>Landscape Plan</p> <p>Clause 4.6 Request to Vary LEP Development Standard (Height)</p> <p>Stormwater Management Plan</p> <p>Statement of Heritage Impact</p> <p>Access Review Report</p> <p>Site Waste Minimisation Management Plan</p> <p>Contamination Assessment</p> <p>Capital Investment Value Report</p> <p>SEPP 65 Report</p> <p>BASIX</p> <p>Pre-lodgement Meeting</p> <p>Construction Noise and Vibration Assessment</p> <p>Traffic Impact and Car Parking Statement</p> <p>AHIMS</p> <p>Geotechnical Assessments</p>
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)	Not applicable
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	18 April 2023
PLAN VERSION	March 2023 Revision B
PREPARED BY	Michael Coulter
DATE OF REPORT	27 March 2023

EXECUTIVE SUMMARY

- The application is for the demolition of existing buildings and the construction of a residential flat building (affordable housing) to accommodate 12 x 1 bedroom and 6 x 2 bedroom apartments being Stage 2 of an affordable housing project at 15 Watson Street and 4 Rawson Street, Bellingen. The site has an area of 1,130m². The application is a permissible use with consent of this land which is zoned R1 General Residential in the Bellingen Local Environmental Plan 2010. Because the application is for affordable housing it is subject to the provisions of *State Environmental Planning Policy (Housing) 2021*.

Key issues are:

- *Building Height* - The building exceeds the 10m height limit in Clause 4.3 of the Bellingen LEP 2010 by up to 2.6m being the peak of the gable roof. More generally most, if not all, of the building's roof exceeds the 10m building height standard. The 10m building height standard applies to the whole of the Bellingen local government area. A clause 4.6 variation request has been lodged in relation to this.
- *Bulk and Scale* - The building breaches the building height plane envelope in the Bellingen Development Control Plan 2017. Notwithstanding the 10m building height standard the building height plane envelope cannot be met by a 3 storey building on a site of these dimensions. The aim of the control is to minimise the adverse impacts of bulk and scale; to focus larger elements of buildings towards the centre of the site and to preserve reasonable levels of solar access to surrounding properties.
- *Off Street Parking* - This proposed Stage 2 of an affordable housing project relies on 24 off street parking spaces provided as part of the approved 23 x 1 bedroom apartments in Stage 1. Therefore, there will be a total of 24 off street parking spaces for a total of 41 apartments. Whilst this parking provision exceeds the minimum requirement in the SEPP Housing 2021 there is a query whether this is adequate for a regional town like Bellingen which has relatively poor public transport.
- *Submissions* - Objections from neighbours and nearby residents to the proposed development identifying the issues listed above.
- *Heritage Advice* - The Council's Heritage Adviser similarly believes the application to be out of character with the established character of the locality and states a 2 storey development would be more appropriate for the site.
- *Lack of Affordable Housing* - The lack of affordable housing in Bellingen and the limited opportunities for redevelopment to allow this to occur within walking distance of the town's CBD. The lack of opportunity arises from heritage controls and a shortage of sites to accommodate the larger building form necessary to achieve the required capital and operational economies.
- *Social Dimension of Housing* - In relation to character the submissions refer to physical character, but the character of a place also has an important social dimension and in this respect the proposal directly addresses the provision of housing for people who are marginalised or otherwise do not have the financial capacity to own a \$1m property or to pay \$600 or more per week in rent.

Whilst the respective weighting of the physical building form and desired social outcomes is subjective, this assessment cannot weigh the "aesthetic" of a maximum 2.6m height exceedance related to a roof over the social benefits of 18 dwellings which are to be allocated to those who otherwise would unlikely be able to afford to live in the precinct.

This conclusion is also based on the height exceedance having no real adverse impacts on neighbouring property in terms of overshadowing or view loss. Stages 2 does have apartments with a northern outlook over adjoining property, but it meets the required setback in the Apartment Design Guide in terms of privacy.

A further consideration is that opportunities for affordable housing in Bellingen within proximity to the town's services are limited due to heritage controls and the lack of large sites which can accommodate a larger building form.

In terms of mitigating the height and scale of the building the submitted landscape plan and the montages, particularly for the corner of Rawson and Watson Streets, indicate quite dense plantings. It will be critical that this landscaping plan is implemented and maintained to achieve the desired outcomes.

It is recommended that the consent be conditioned to require the construction of the road shoulder on the western side of Rawson Street between Watson Street and Park Street so as to maximise the available on-street parking. A design needs to be prepared to indicate how this on-street parking can be maximised, for example by the provision of angled parking.

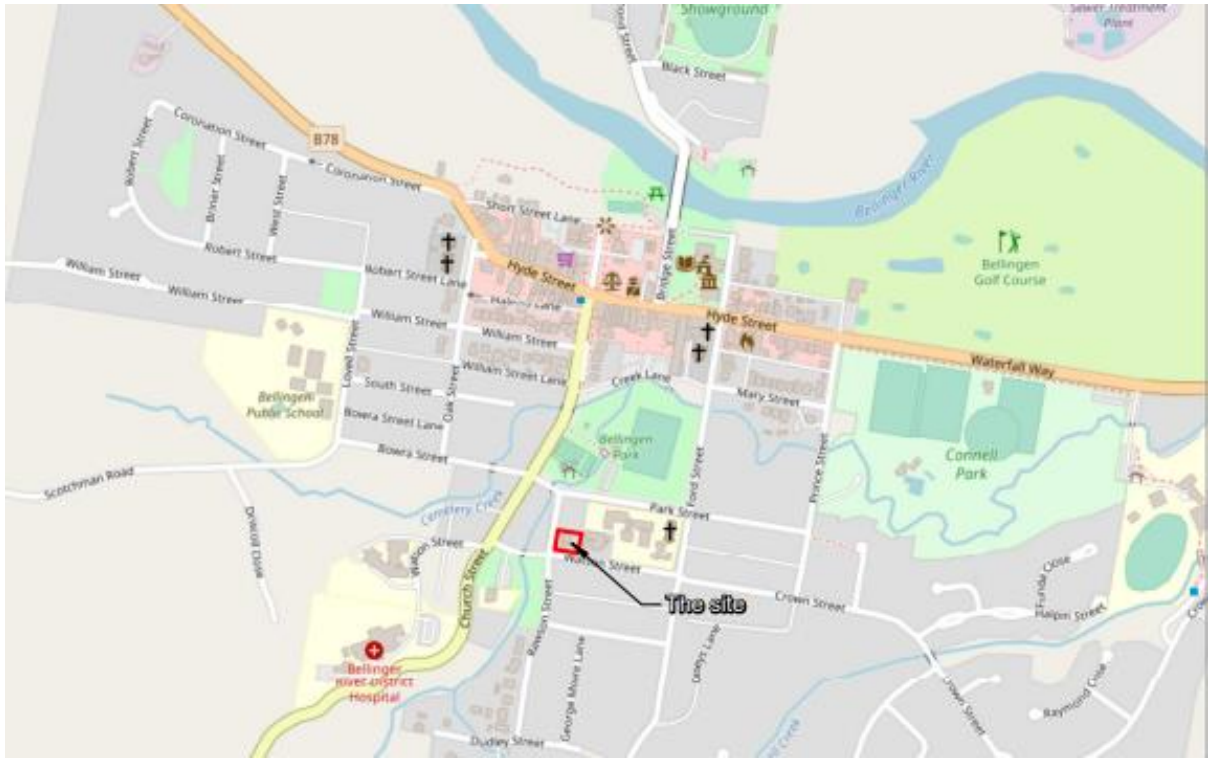
Pursuant to Section 4.16(1)(b) of the *EP&A Act*, DA2022/00130 is recommended for approval subject to the conditions contained at **Attachment A** of this report.

1. THE SITE AND LOCALITY

1.1 The Site

- The site is nearly square with a frontage to Rawson Street of 30.58m (the western elevation), a rear boundary of 30.59m (the eastern elevation), a frontage to Watson Street of 36.51m (the southern elevation) and a northern boundary of 37.42m. The site area is 1,130m² (as per the recently approved subdivision by boundary adjustment DA2022/00081). A single storey building associated with the former Bellorana hostel is located on the corner of Watson and Rawson Streets, whilst a single storey dwelling, and garage occupy the northern half of the site. Ornamental shrubs and trees are scattered across the site.
- It adjoins 15 Watson Street being the Stage 1 approval of the affordable housing development comprising 23 x 1 bedroom apartments with basement parking for 24 vehicles approved by the Northern Regional Planning Panel on 12 September 2022. At the date of writing the demolition of the former Bellorana Hostel located at 15 Watson Street was largely complete.
- The site adjoins (but is not within) the Bellingen Conservation Area with other general heritage items in proximity. The site is diagonally opposite O'Sullivan Park which is a listed heritage item (no. 103) for its cultural plantings and remnant forest. Also in the vicinity are the heritage items associated with the St Mary's Catholic Church and Church Hall (no. 174) and a dwelling at 8 Watson Street (no. 103).
- The site is well located in relation to the services available in Bellingen being 400m from the shopping/business precinct in Hyde Street (Waterfall Way), as well as being close to schools, parks, a youth centre, and the Bellingen District Hospital.

- Location map



- Aerial photograph of the site



- Photos of the site



View of Rawson Street frontage looking east showing existing buildings



View of site from intersection of Rawson and Watson Streets looking north-east

1.2 The Locality

- The Watson and Rawson streetscape context is characterised by single storey dwellings on lots of approximately 600m². Dwellings are set back from the street in generous landscaped grounds. The setbacks, informal grass verges and landscaping in the road reserve contribute to the character of the streetscape.
- The site adjoins the approved Stage 1 comprising a 2 storey development of 23 x 1 bedroom apartments with basement parking for 24 vehicles.
- Putting aside the differences between the dominant granular streetscape of single storey dwellings on larger lots and the massing and scale of the proposed affordable housing, the site is otherwise well located for affordable/social housing being within 400m of nearly all the services a household could require in a town. It is also reasonably close to the available public transport.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal seeks consent for the demolition of the existing buildings and the construction of a new residential flat building (affordable housing) comprising 3 x 3 storey linked buildings to accommodate a total of 12 x 1 bedroom apartments and 6 x 2 bedroom apartments being a total of 18 dwellings. This Stage 2 application proposes to rely on the 24 off street parking spaces provided as part of the approved Stage 1 development.

Flood modelling indicates the site has potential flood affectation from the adjoining watercourse with general flood planning levels (GFPL/minimum floor height) of between 13.8m close to the intersection of Watson and Rawson Streets and 13.3m at the NW corner of the site and 12.9m close to the NE corner. Accordingly, the ground floor level of the proposed development has been fixed at 13.8m AHD being the highest GFPL for the site. The centre of the site has a natural ground level of approximately 13m meaning that the ground floor level of the development will be approximately 800mm above natural ground. This contributes to the proposed height exceedance as does the hipped/gabled roof form.

Specifically, the proposal involves:

- Demolition of the building located on 15 Watson Street, Bellingen that was used as part of the Bellorana Nursing Home as well as the demolition of the dwelling and shed on 4 Rawson Street, Bellingen. The application will also require the removal of the trees and shrubs from the site.
- Construction of three linked 3 storey buildings comprising 12 x 1 bedroom units and 6 x 2 bedroom units.
- The provision of associated infrastructure – stormwater, utility connections
- The provision of landscaping

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

Table 1: Key Development Data

Control	Proposal
Site area	1,130m ²
GFA	1,140.6m ²
FSR (retail/residential)	1:1 (note: there is no FSR prescribed for the site under the Bellingin LEP 2010)
Clause 4.6 Requests	Yes – for a height exceedance of 2.4m-2.6m at the top of the roof gable (10m maximum building height)
No of apartments	18 (12 x 1 bedroom + 6 x 2 bedroom)
Max Height	12.6m
Landscaped area	383m ²
Car Parking spaces	0 (relies on 24 off street spaces provided in Stage 1). In total it is proposed to provide 24 off street parking spaces in a basement beneath Stage 1 for all 41 apartments in Stages 1 & 2 (35 x 1 bedroom & 6 x 2 bedroom)
Setbacks	4.5m from Watson Street; 3m from Rawson Street; 6m from northern boundary; 4m from eastern boundary



Ground floor plan – typical of all levels – 2 bedroom apartments fronting Rawson St



North Elevation





Montage indicating Rawson/Watson Street corner with the western elevation to the left and the southern elevation to the right.



Montage indicating the Watson Street frontage of Stages 1 & 2 – Stage 2 is located to the left of the car in the entrance to the basement carpark.

2.2 Background

A pre-lodgement meeting was held with the applicant's representatives on 22 March 2022 where various issues were discussed. A summary of the key issues and how they have been addressed by the proposal is outlined below:

- Applicant queried if Apartment Design Guide can be varied with respect to internal area specified for 2 bedroom apartments? Council advised compliance is non-discretionary for a minimum 50m² for a 1 bedroom apartment and 70m² for a 2 bedroom apartment. The proposal provides for these minimum floor areas.
- Applicant asked if Council would consider opportunities to formalise on-street car parking in lieu of on-site car parking? Council advised that car parking is to be provided on-site. The proposal meets the SEPP requirements for off street parking.
- Will Council consider separate development applications for Stages 1 & 2. This was agreed and separate applications have been lodged.
- Agreed demolition of Bellorana Nursing Home to be included in application.

- Council representatives advised building height not to exceed 10 metres. The submitted plans indicate a maximum building height of 12.6m at the top of the roof gable.
- Council representatives advised under clause 5.10(4) of the Bellinghen Local Environmental Plan 2010 the application must have regard to its effect on the heritage significance of the Bellinghen Conservation Area and the adjoining heritage items.
- Applicant advised the flood planning level for the site ranges from 13.8m to 12.9m. The ground floor level of the proposed development is at 13.8m AHD which is the highest GFPL for the site and as such is compliant with Council's requirements.
- The pre-lodgement meeting also discussed acid sulfate soils, earthworks, the proximity of the watercourse and the provision of public utility infrastructure. The applicable controls pursuant to the Bellinghen Development Control Plan 2017 were discussed together with the applicable SEPP's; the provisions of the Bellinghen Shire Community Participation Plan; the fact that Section 7.12 contributions cannot be levied and that credits would apply to the existing development for the purposes of calculating Section 64 water and sewerage headworks contributions.
- It was noted that 15 Watson Street and 4 Rawson Street should be amalgamated.
- In concluding remarks it was noted that the Council extends its in-principal support to the activation of the site with affordable housing and looks forward to a development application that is proportionate to the heritage setting and environmental constraints of the property.

The development application was lodged on **26 October 2022**.

The Northern Regional Planning Panel conducted a site visit on 10 March 2023 and undertook a briefing meeting on 15 March 2023. The key matters discussed at the briefing meeting were:

- *Proposal noted as demolition of existing buildings and construction of new residential flat buildings (affordable housing)*
- *Panel has undertaken a recent site inspection*
- *Proposed floor level is above FPL*
- *Cl4.6 variation – placement of fill has not been identified in final height – calculated as 12.4m (2.4m above the 10m height limit)*
- *5 submissions received – raising concerns in relation to height, bulk, scale and proposed formalised school pickup/drop off in Watson Street*
- *Potential opportunities for parking in neighbouring area – albeit subject to funding and construction*
- *Height and bulk – view impact assessment to be provided*
- *Landscaping plan to be provided*
- *Recommendations from heritage statement to be implemented, including hip roof, mortar colour, windows and landscaping elements*

A chronology of the development application since lodgement is outlined as follows including the Panel's involvement (briefings, deferrals etc) with the application:

Table 2: Chronology of the DA

Date	Event
26 October 2022	DA lodged
27 October 2022	DA referred to external agencies
1 February 2023	Exhibition of the application
16 January 2023	Request for information from Council to applicant
10 March 2023	Northern Regional Planning Panel inspects site
15 March 2023	Northern Regional Planning Panel Briefing
24 March 2023	<p>Amended plans lodged providing for:</p> <ul style="list-style-type: none"> ○ Replacement of the gable roof form with a hip and ridge form equivalent to Stage 1 to remove the long ridge and vertical lines extending above the walls. ○ Articulation of the patios forward to add depth to the front façade of the buildings and provide for decorative gable roofs above each patio which will break up the horizontal line of the fascia and gutter. ○ Installation of tall and narrow windows on the bedroom walls to break up the rectangular brick wall visible on each side of the apartment blocks ○ Planting of taller native palm trees that will extend up to the first and second floors to partially obscure the face brick bedroom walls and ○ Use of a darker grey mortar to break up the monotone colour of the “Chillingham White” face brick walls. ○ The amended plans dated March 2023 were received by Council under CI 38(1) of the <i>Environmental Planning and Assessment Regulation 2021</i> (‘2021 EP&A Regulation’) on 24 March 2023. ○ Accompanying the amended plans were montages from viewing points outside 14 Watson Street and the corner of Rawson and Watson Streets. ○ A landscape plan and documentation for Stage 2 was submitted.

2.3 Site History

- On 1 August 2022 Bellingen Shire Council approved a subdivision (DA2022/81) by boundary adjustment to create two new regular shaped lots to contain the separate Stages 1 and 2. The 1 August 2022 approval

included approval for the demolition of the existing Bellorana Nursing Home on the new proposed Lot 1.

- Stage 1 of the Bellinghen Affordable Housing Project comprising 23 x 1 bedroom apartments with basement parking for 24 vehicles on adjoining land was approved by the Northern Regional Planning Panel on 12 September 2022. Stage 2 is reliant on the off street parking provided as part of Stage 1.
- More recently on 28 September 2022 Bellinghen Shire Council approved a Section 4.55(1A) modification to Stage 1 (DA2022/00086) to permit the stormwater generated by both Stage 1 and 2 to be collected and directed to the approved bioretention area for combined treatment. The modification was required to the approved landscaping plan. The reason for the modification was that as part of the design process for Stage 2, it was determined that it would be more efficient to consider and design a system for the combined stormwater generated by both stages, as opposed to designing two separate systems. The amended stormwater design still represents a Level 3 development design criteria for stormwater management as specified in Chapter 12 of the Bellinghen Shire DCP 17.
- On 16 March 2023 Bellinghen Shire Council received an addendum to a previous submission by the St Marys School advising that Watson Street has been designated as a safer alternative for pick up and drop off for students to reduce the traffic flow at the front of the school on Park Street, which currently caters to 5 different schools for direct bus routes along with transfers from different bus routes. There is limited parking on Park Street and parents are also picking up students at this time. The school wished to highlight the negative impact on St Marys School of street parking on Watson Street by residents and visitors of Stages 1 and 2 of the affordable housing development. The School requests that the Council introduce a no parking zone between 8am and 9am and also between 3pm and 4pm in Watson Street to support the safe passage of their students.

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),*

- (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.

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*
- *State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *Bellingen Local Environmental Plan 2010;*

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 (BASIX) 2004	A BASIX certificate no. 1336079M dated 4/10/2022 has been issued for the DA. No compliance issues identified subject to imposition of conditions on any consent granted.	Yes
State Environmental Planning Policy (Housing) 2021	Chapter 2: Affordable Housing All of the gross floor area (GFA) is to be used for affordable housing; the development is within 400m of the local centre; there is no applicable floor space ratio (FSR); the Royal Freemasons Benevolent Institution (RFBI) classifies as a social housing provider; there is a compliant landscaped area and deep soil zone; compliant solar access; compliant off street parking provision; meets the minimum internal floor area specified in the Apartment Design Guide (ADG) for	Yes

	each type of apartment; to be used for affordable housing for at least 15 years and to be managed by a registered community housing provider.	
State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development	<ul style="list-style-type: none"> • Clause 30(2) - Design Quality Principles - The proposal is consistent with the design quality principles and the proposal is consistent with the ADG requirements. 	Yes
State Environmental Planning Policy (Planning Systems) 2021	<p>Chapter 2: State and Regional Development</p> <ul style="list-style-type: none"> • Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 5 of Schedule 6 as it comprises affordable housing. 	Yes
State Environmental Planning Policy (Resilience & Hazards) 2021	<p>Chapter 4: Remediation of Land</p> <ul style="list-style-type: none"> • Section 4.6 - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions. The proposal includes the demolition of existing buildings including the single storey weatherboard dwelling, which is likely to have been constructed in the interwar period and the Bellorana building which was constructed in the 1970's. With the possibility of asbestos being present a Stage 1 and 2 Site Contamination Assessment concluded that the site can be made suitable for residential development subject to recommendations in the report. It is agreed with the Statement of Environmental Effects that a consent condition should require a clearance certificate from the proponent to demonstrate the site is clear of contamination post demolition. 	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	<p>Chapter 2: Infrastructure</p> <ul style="list-style-type: none"> • Essential Energy has advised that existing overhead powerlines are impacted by the proposal. The plans provided do not show the distances from Essential Energy's infrastructure. A safe distance of 5.0m clearance (horizontal distance) is required from the low voltage overhead powerlines located across the Rawson Street frontage. • Section 2.48(2) (Determination of development applications—other development) – electricity transmission - the proposal is satisfactory subject to conditions addressing the matters raised by Essential Energy. 	Yes
Proposed Instruments	No compliance issues identified.	Yes
Bellingen LEP 2010	<ul style="list-style-type: none"> • Clause 2.3 – The site is zoned R1 General Residential, and the proposal is permissible with consent. It directly addresses the zones first two listed objectives being firstly 	No

	<p>to provide for the housing needs of the community and secondly to provide for a variety of housing types and densities.</p> <ul style="list-style-type: none"> • Clause 4.3 – The development is contrary to the provisions of this clause which concerns the height of buildings. The whole Bellingen local government area has a maximum building height of 10m. The submitted plans indicate a maximum building height of 12.6m at the top of the roof gable. A Clause 4.6 request to vary this standard has been submitted. • Clause 5.10 – Heritage Conservation - provides that the consent authority may, before granting consent, on land that is within the vicinity of a heritage item or heritage conservation area, require a heritage management document to be prepared that assesses the extent to which the development would affect the heritage significance of the heritage item or conservation area. A Statement of Heritage Impact has been provided. Amended plans have been provided which incorporate the recommendations of this report. • Clause 5.21 – Flood Planning – proposed filling (approximately 800mm) will achieve the General Flood Planning Level of 13.8m AHD. • Clause 7.1 – Acid Sulfate Soils – the site is mapped as containing Class 4 acid sulfate soils but there is no work 2m below natural ground and a geotechnical assessment has concluded an acid sulfate soils management plan is not required. • Clause 7.2 – Earthworks – conditions required concerning soil erosion and sediment control. • Clause 7.4 – Water – pertains to the watercourse to the west of the site and minimising impact. • Clause 7.9 – Public Utility Infrastructure – essential public infrastructure is available or can be made available to the proposed development. 	
Bellingen DCP 2017	<ul style="list-style-type: none"> • Chapter 2 – Multiple Dwelling Construction – setbacks OK; breaches the building height plane envelope (shown on the plans); compliant vehicular access; elevations exceed 10m in length; buildings address the street; complies with Universal Housing; does not comply with minimum balcony area requirement (8m² instead of 10m²); provides for outdoor clothes drying; generally complies with privacy requirements but not possible to have all living areas on ground floor. 	No

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. 1336079M prepared by Certified Energy 1 dated 4 October 2022 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. The proposal is consistent with the BASIX SEPP subject to the recommended conditions of consent.

State Environmental Planning Policy (Housing) 2021

The SEPP requires that development consent must not be granted unless the consent authority has considered whether the design of the residential development is compatible with-

- (a) *the desirable elements of the character of the local area or*
- (b) *for precincts undergoing transition – the desired future character of the precinct.*

This qualitative test is at the core of this application assessment.

The character of the precinct is single storey dwellings on lots of approximately 600m², well set back from the street and located in generous landscaped grounds.

However, the Council's LEP provides for a 10m building height limit which is significantly different to the existing neighbourhood character. The 10m height limit potentially provides for a 3 storey building with floor to floor levels of 3.1m.

The roof component of the proposed development exceeds this height limit by up to 2.6m.

The height exceedance is at its maximum at the apex of the gable roofs with the exceedance being less across the remainder of the roof structure.

A factor in the height exceedance is the need for the ground floor to be approximately 800mm above natural ground level to meet the GFPL.

The proposed development meets the locational criteria in the SEPP being within 800m of the B2 Local Centre zone which straddles Hyde Street (the Waterfall Way).

Compliance with the SEPP's requirements are listed below.

16(1)(b) At least 20% of the gross floor area of the building will be used for the purposes of affordable housing	Complies – 100% of floor area to be used for affordable housing
16(1)(d) All of part of the development is within 800m	Complies – 280m to the B2 zoning south of Hyde Street
17. FSR – additional FSR allowed	Complies – there is no FSR. The FSR for the Stage 2 proposal is approximately 1:1.
18(2)(a) Min site area of 450m ²	Complies – site area is 1,130m ²
18(2)(b) Min 35m ² of landscaped area per dwelling	Complies – in conjunction with Stage 1
18(2)(c) At least 30% of the site area is landscaped	Complies – 34% of site is landscaped area
18(2)(d) Deep soil zone on at least 15% of the site where deep soil zone has min dimensions of 3m and if practicable at least 65% of zone is located at rear of site	Complies – 33% of site is deep soil zone meeting the min. dimension of 3m. At least 65% of deep soil zone is located at the rear.
18(2)(e) Living rooms and private open spaces in at least 70% of dwellings receive at least 3 hours of direct solar access between 9 and 3 midwinter	Complies - 14 out of 18 apartments (77.8%) comply with solar access requirements

18(2)(f) off street parking at 0.4 spaces per one bedroom apartment and 0.5 spaces per two bedroom apartment	Complies – Stage 1 being 23 x 1 bedroom apartments requires 10 off street parking spaces. Stage 2 requires 8 off street parking spaces. A total of 18 off street parking spaces are required compared to the 24 provided.
18(2)(h) minimum internal area specified in the Apartment Design Guide	Complies – one bed units have a minimum of 56.9m ² and two bed units have a minimum of 76.3m ²
19(3) Development consent must not be granted to development to which this Division applies unless the consent authority has considered whether the design of the residential development is compatible with (a) the desirable elements of the character of the local area, or (b) for precincts undergoing transition – the desired future character of the precinct.	<p>Complies – this qualitative test is at the core of this application assessment. The scale of the development is different to the precinct however the 10m height limit, which is standard across the LGA, suggests there is scope for larger building forms.</p> <p>The proximity of the site to the Bellingen CBD, as well as other services such as schools, the Bellingen Hospital, available public transport, and parks makes the site ideal, in locational terms, for affordable housing.</p> <p>A further consideration is that other opportunities for affordable housing in Bellingen are limited by the extent of the heritage conservation area and individual heritage items. Also relevant is that 100% of the proposed development is for affordable housing.</p> <p>Putting aside the physical elements of local character, a desirable social element of the local area has, until relatively recently, been its capacity to provide affordable housing.</p> <p>Detached housing in this precinct is no longer “affordable” as demonstrated by a real estate listing for 9 Rawson Street, Bellingen which was observed at the time of writing this report. At an asking price of \$890,000 for a 3 bedroom, single bathroom, single garage brick home set on 683m² property the advertisement had a banner headline of “Prime Location” only a short walk from the heart of town with a rental forecast of \$600 per week.</p> <p>The affordable housing application directly addresses this desirable future social character. It is not so responsive to the physical character but considering the building height limit of 10m provides for a similar building form the application is considered compliant.</p>
20. SEPP 65 – Design Quality of Residential Apartments applies	Complies – refer to separate assessment
21. Development consent must not be granted unless the consent authority is satisfied that for a period of at least 15 years the affordable housing component will be used as affordable housing.	Complies – the proposed development is to be used for affordable housing for at least 15 years and is to be managed by a registered community housing provider.

Note: the standards in the SEPP Housing prevail over any inconsistency with the Council's LEP and DCP controls. These standards include landscaped areas; deep soil zones; solar access; off street parking; and minimum floor areas.

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

The proposal has negligible overshadowing of neighbouring properties mid-winter.

It provides the requisite communal open space with solar access; the requisite deep soil zone; provides for the minimum separation distance to existing and future dwellings with an equitable 6m setback from the northern boundary (ADG requires a minimum separation of 12m between habitable rooms/balconies for buildings up to 4 storeys), but noting that building separation between Stages 1 and 2 do not strictly supply, but window openings are staggered to face onto blank walls.

Cross ventilation is provided to 66.7% of apartments (ADG provides a min 60%); 2.7m minimum ceiling height; apartment sizes exceed 50m² for 1 bedroom and 70m² for 2 bedroom; habitable room depths are less than stipulated maximums; compliant balconies; compliant storage; 66% of units designed to Livable Housing Australia (LHA) gold level and 34% to silver level.

A SEPP 65 Design Quality Principles Statement endorsed by David Benson, Director, Benson McCormack Architecture has been submitted with the application.

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

Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 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

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.

A site contamination assessment is required to characterise the nature and extent of soil contamination present on the site, and to evaluate the site's suitability for the proposed residential development from a contamination perspective.

To consider this, a Stage 1 & Stage 2 Site Contamination Assessment has been prepared by Regional Geotechnical Solutions and submitted as part of the application.

The assessment involved a brief study of the site history; a review of aerial photography; a search of NSW EPA records; a review of government records of groundwater bores in the area; targeted sampling and analysis; and evaluation.

The report indicates that asbestos has been identified within the soil in the northwest corner of the site within Lot 1 DP 21520 between the existing dwelling and shed. Asbestos was detected in a single sample collected adjacent to the existing cladded dwelling and adjacent to a shed that is cladded with potential asbestos containing materials (ACM). The sample contained white asbestos with approximate dimensions of 0.5cm x 0.5cm x 0.2cm.

The report recommends that a Hazardous Materials Survey (HMS) be undertaken across the full site prior to the demolition of the existing structures. Following the HMS and building demolition, it is recommended that additional sampling be undertaken of the upper soil profile within the former building footprints to further delineate the nature and extent of the asbestos (if any).

A possible remediation strategy, if necessary, would be to excavate the near surface soils around where asbestos was identified followed by validation sampling of the excavations and disposal of the excavated waste materials in accordance with the NSW EPA (2104) *Waste Classification Guidelines*.

But based on the results obtained in the investigation, the report concludes that the site can be made suitable for the proposed residential land use with regard to the presence of soil contamination, provided the recommendations and advice in the report are adopted, and site preparation works are conducted in accordance with the appropriate site management protocols and legislative requirements.

Accordingly, the proposal is consistent with the SEPP, subject to the imposition of relevant conditions of consent in relation to the recommended testing and possible remediation, if required, and the issue of a clearance certificate pertaining to the removal of asbestos.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Given the proximity of overhead powerlines in Rawson Street to the proposed development advice was sought from Essential Energy pursuant to Clause 2.48 of the SEPP. The provision requires the consent authority to give written notice to the electricity supply authority and to consider their response in relation to development within 5m of an exposed overhead electricity power line.

Essential Energy have responded advising that the existing overhead powerlines are impacted by the proposal. They note that the plans do not show the distances from Essential Energy's infrastructure and that a safe distance of a minimum 5.0 metres clearance (horizontal distance) is required from the low voltage overhead powerlines located across the Rawson Street frontage of the properties.

Any consent should be the subject of a condition/s to ensure an Accredited Service Provider is engaged to ensure that satisfactory arrangements are made with Essential Energy for the relocation of any existing infrastructure, and for the augmentation of any infrastructure which may be required. It will be the applicant's responsibility to make the appropriate applications with Essential Energy for this relocation and/or augmentation.

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 are:

- a) protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,
- b) to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents,
- c) to identify land that is suitable for development or environmental protection purposes and to encourage or restrict development accordingly,
- d) to progressively respond to changes in the natural, social and economic environment in a manner that is consistent with the principles of ecologically sustainable development.

The proposal is consistent with these aims as it is reusing an existing, well-located development site to respond to an urgent social and economic need for affordable housing. In this respect it is directly addressing d) above.

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 from the zoning map showing the site and its immediately locality follows.



According to the definitions in Clause 1.4 (contained in the Dictionary), the proposal satisfies the definition of affordable housing which is a permissible use with consent in the Land Use Table in Clause 2.3. The definition of affordable housing is the same as in the Act which means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the Regulations or as are provided for in an environmental planning instrument.

The State Environmental Planning Policy (Housing) 2021 (Chapter 2) applies to the application and prevails over the Bellingen Local Environmental Plan 2010 to the extent of any inconsistency.

The Environmental Planning and Assessment Regulation 2021 provides that a development application for development to which the SEPP Housing 2021 applies must specify the name of the registered community housing provider who will manage the affordable housing. The applicant has advised that the Royal Freemasons' Benevolent Institution is in the process of becoming a registered Community Housing Provider and will manage the 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 enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that any non-residential land uses permitted within the zone are compatible with the amenity of the area.*
- *To ensure that the height and scale of buildings are compatible with a low density residential character.*

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

- The application is addressing a shortage of affordable housing provided close to the Bellingen CBD and the town's services.
- The proposal is for a housing type and density which is under-represented in Bellingen so directly supports this objective.
- The height and scale of the development is largely consistent with the building forms and building height permitted by the Bellingen LEP 2010. These building forms and building height are different to the existing development in the immediate neighbourhood.

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** following. The proposal does not comply with the development standard/s in Part 4 of the LEP/Clause 4.3 Height of Buildings and accordingly, a Clause 4.6 request has been provided with the application for the exceedance of the maximum 10m building height standard.

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Height of buildings (CI 4.3(2))	10 metres	12.6m at the top of the roof gable	No
FSR (CI 4.4(2))	No requirement	Approximately 1:1	Yes
Heritage (CI 5.10)	The consent authority may require a heritage management document to assess the extent to which the carrying out of the development would affected the heritage significance of the heritage item or heritage conservation area.	A statement of heritage impact has been submitted	Yes
Acid sulphate soils (CI 7.1)	Class 4 acid sulfate soils	There is no work 2m below natural ground and a geotechnical assessment has concluded an acid sulfate soils management plan is not required.	Yes
Flood planning (CI 5.21)	Max level for the GFPL is 13.8m	Application proposes ground floor level of 13.8m AHD	Yes
Public Infrastructure (CI 7.9)	Public utility infrastructure essential for the development is available or adequate arrangements can be made.	Required public utility infrastructure exists or can be provided.	Yes

Except for the height exceedance the proposal is consistent with the LEP.

Clause 4.6 Request

The Development Standard to be varied and extent of the variation.

A variation to the provisions of Clause 4.3 (Height of Buildings) of the Bellingen LEP 2010 is sought regarding the proposed building height. This is because the proposed maximum building height of 12.6m exceeds the 10m height control that applies to the entire Bellingen LGA.

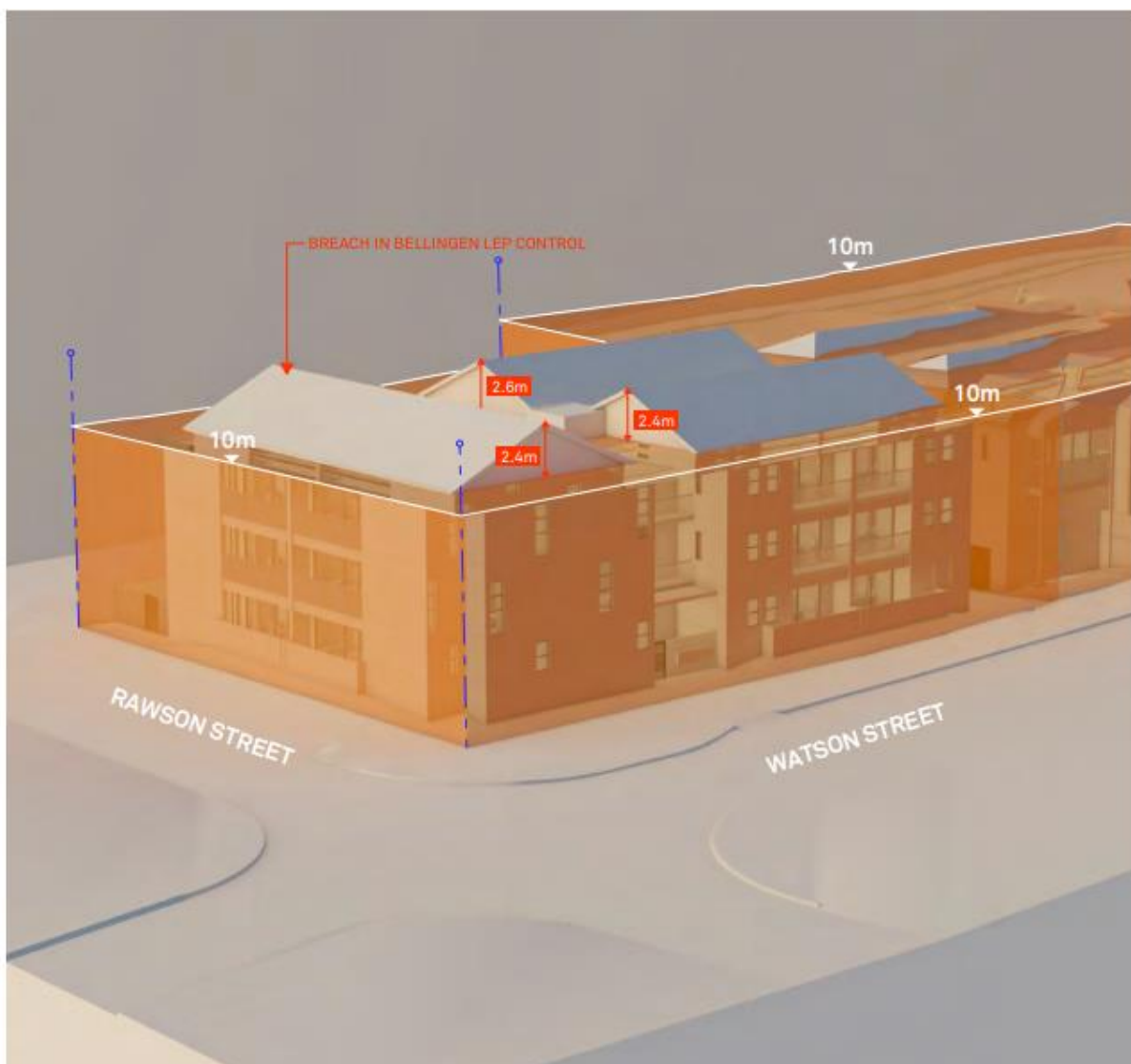
The variation sought is for a building with a maximum height of 12.6 which is the height above natural ground to the top of the roof gable. In this respect most of the height exceedance is

less than 12.6m but the exceedance does include most of the roof structure based on a ground floor at a maximum 800m above natural ground with 3.1m floor to floor ratios x 3 resulting in a maximum height to the base of the roof of approximately 10.1m.

It is relevant that the exceedance has negligible impact on solar access to nearby properties.

The applicant argues that a single or even two storey development is not the most efficient use of the land, nor would it be financially viable – *“such an option would also forgo the worthy opportunity to provide a greater number of affordable housing units for the Bellingen community which is desperately needed.”* The applicant also argues that the proposal responds to its setting; that the proposed height is not a significant departure from the standard; and that there are no unreasonable amenity impacts, such as overshadowing or private open space or visual bulk. It is noted that the proposed is consistent with the scale of the approved Stage 1 development.

The permissible building envelope compared to the proposed building envelope is shown in the following diagram.



VIEW FROM WATSON STREET AND RAWSON STREET INTERSECTION

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 proposal 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.

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

The objective of the building height standard is to restrict the height of buildings in a manner that preserves the character and amenity of localities in Bellingen.

Putting aside that a 10m height limit does not reflect the nature and scale of development in the precinct, the applicant indicates that the proposed three storey development makes efficient use of the site; is in keeping with the adjoining Bellingen Conservation Area and heritage items in the vicinity; provides for significant ESD initiatives; supports the revitalisation of the site and delivers more housing supply and choice in an accessible location and is financially viable.

It is not considered that the objective of the building height standard to, "preserve the character and amenity of localities in Bellingen", is restricted to a consideration of physical character.

The character of a place also has an important social dimension and in this respect the proposal directly addresses the provision of housing for people who are marginalised or otherwise do not have the financial capacity to own a \$1m property or to pay \$600 or more per week in rent. The application is consistent with the objective of the height standard in addressing this social need and preserving a character which has housing opportunities for all rather than a gentrification which precludes the marginalised and even those on average weekly earnings.

Similarly, the intent of the application to provide for this social need is sufficient environmental planning grounds to justify contravening the development standard, noting that the variance pertains to the roof and does not cause overshadowing or impose undue amenity impacts on adjoining properties.

For these reasons the application is in the public interest.

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

There are no proposed instruments which have been the subject of public consultation under the EP&A Act which 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 Development Control Plan 2017* ('the DCP')

Chapter 2 of the DCP which concerns multiple dwelling construction is relevant to the application.

The aims of Chapter 2 are 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.
- Encourage development that will contribute towards increased levels of physical activity and healthy living patterns.
- Encourage the provision of a range of dwelling sizes to accommodate changing housing needs.
- Improve the housing affordability of the Bellingen Shire.
- Encourage and support the provision of more affordable dwelling types.
- Ensure that increased densities of development only occur where the developers make an appropriate contribution to the progressive improvement of the social, physical and environmental infrastructure necessary to support those increased densities.

The application which provides dedicated affordable housing to be managed by a community housing provider directly responds to c), d), e) and f), which are most of the aims of this chapter of the DCP.

A table identifying non-compliance with DCP standards is shown as follows.

Provision	Criteria/Comment	Compliance
2.6.3 Permissible densities for development in residential zones	Housing SEPP takes precedence	n/a
2.6.5 Setbacks from boundaries	DCP requires buildings to be set back: * 4.5m or average setback of 2 nearest dwellings (whichever is greater) from primary frontage * 3m from secondary frontage	Complies - Watson Street is the longest (primary) frontage
2.6.6 Building Height Plane Envelope	The building height plane is a control to reduce bulk/scale; to focus larger elements of buildings to the centre of the site; and to preserve reasonable levels of solar access to surrounding properties. An architectural plan submitted with the application indicates the extent of non-compliance. The control is inconsistent with some standards in the Housing SEPP and SEPP65 and is inconsistent with "street edged" as opposed to "podium" building forms.	Non-compliant
2.6.7 Vehicular access	Vehicular entrances to a public road to be minimised – single point of access.	Complies (via Stage 1)

2.6.8 Urban Design	In general, any elevation of a building shall not exceed 10m in length without being broken by a change in external walls and rooflines.	Non-compliant but there is a high level of articulation
	Front elevations to primary street frontages to include front doors, windows, or balconies.	Complies
	Incorporate genuine variations in design between different components of the development – variability in terms of building configuration, colour schemes, materials and finishes.	Complies
	Be designed to comply with Universal Housing	Complies
2.6.9 Private Open Space	Balcony of not less than 10m ²	Does not comply. Balconies have area of 8m ²
2.6.10 Clothes drying areas	Provision for outdoor clothes drying	Complies
2.6.12 Privacy	Ground floor living areas; habitable rooms within 3m of side or rear boundaries to be offset or be provided with translucent glazing; or privacy screen; or min. sill height of 1.5m.	Generally complies.
2.6.14 Letterboxes	Letterboxes shall be located so they are wholly located within property boundaries; visible from at least one dwelling; facilitate ease of access.	Generally complies
2.6.15 Infrastructure requirements	Requires adequate infrastructure – kerb and guttering; water & sewer	Complies

The most significant non-compliance concerns the building height plane envelope. Whilst it is not a control well suited to a street edged building, the issues pertaining to the non-compliance (height, bulk, scale) are the same as the matters addressed in the Clause 4.6 request.

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 Development Contributions Plan 2021*

Clause 1.4 of the Contributions Plan provides for 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 \$50,608 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 and demolished 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.

The ET requirement for the approved Stage 1 being 23 one bedroom apartments was 9.2 ET for water (23 units x 0.4 ET) and 11.5 ET for sewer (23 units x 0.5 ET). This leaves a remaining credit from the former hostel which can be applied to Stage 2 of 10.3 ET for water and 17.75 ET for sewer.

The ET requirement for the proposed Stage 2 being 12 x one bedroom apartments and 6 x two bedroom apartments is 8.4 ET for water (12 x 0.4 ET + 6 x 0.6 ET) and 10.5 ET for sewer (12 x 0.5 ET + 6 x 0.75 ET).

Therefore, both Stages 1 and 2 have a lesser demand on the Council's water and sewerage infrastructure than the hostel they are 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 the following matters being relevant to the proposal:

- If demolition of a building proposed - provisions of AS 2601;

This provision of the 2021 EP&A Regulation has been considered and is 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 – This consideration is at the core of the application assessment. In physical terms the application is generally consistent with Stage 1. However, it is not consistent with the immediate neighbourhood which is dominated by single storey dwellings on relatively large lots. But context and setting should also consider existing and desired social outcomes and in this respect the use of a redundant former nursing home site to provide an opportunity for households on average and below average incomes to live in Bellingen near its services is an important consideration. It should also be noted that the 10m height limit for the site is similarly inconsistent with the building form in the immediate locality.

- Access and traffic – The St Marys School is seeking to use the Watson Street frontage for Stage 1 as a set down and pick up location for school students so as to free up their Park Street frontage for buses. The segregation of cars and buses should improve safety and the initiative is agreed. However, this will place more pressure on the available on street parking in Watson Street. 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 Bellingin where it is difficult for any household to exist without private transport. It is anticipated that the combined Stages 1 and 2 will create demands for on-street parking. In relation to this it is recommended that a consent condition require the construction of the western road shoulder in Rawson Street to accommodate, subject to an approved design, either angle or parallel on street parking.
- Public Domain – the proposal does not impact on the public domain. It has good access to public infrastructure and to the Bellingin CBD.
- Utilities – all utilities are available at the site.
- Heritage – there has been an assessment of the development in relation to the Bellingin Conservation Area. The Statement of Heritage Impact lodged with the application made recommendations for the following design amendments which have now been incorporated in amended plans.
 - replacement of the gable roof form with a hip and ridge form equivalent to Stage 1 to remove the long ridge and vertical lines extending above the walls.
 - articulation of the patios forward to add depth to the front façade of the buildings and provide for decorative gable roofs above each patio which will break up the horizontal line of the fascia and gutter.
 - installation of tall and narrow windows on the bedroom walls to break up the rectangular brick wall visible on each side of the apartment blocks
 - planting of taller native palm trees that will extend up to the first and second floors to partially obscure the face brick bedroom walls
 - use of darker grey mortar to break up the monotone colour of the “Chillingham White” face brick walls.

The Statement of Heritage Impact makes the important point that the physical demands on social housing are significantly greater than residential dwellings and the choice of materials is determined by the building requirements for social housing. This includes the need for fire suppression between the units and removal of unnecessary materials which may create fire hazards. The dominant materials of dwellings in south Bellingin, being timber weatherboards and fibro-cement sheet are inappropriate for social housing projects.

In response, the Council’s Heritage Adviser considers the application to be out of character with the established character of the locality and believes a two storey development would be more appropriate for the site.

It is agreed that the proposed development does not have a significant impact on the conservation values of the St Marys Church and School complex or the Bellingin 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.

Whilst the height, bulk and scale of the development is a matter for consideration, it is not considered that it pertains to any heritage impact but rather to the context and setting more generally.

- 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 – limited filling is required under the base of the building. Appropriate conditions of consent are recommended in relation to soil erosion and sediment control.
- Noise and vibration – 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. 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 for the construction of three separate blocks of 6 residential units connected by undercover walkways as opposed to construction of a single 18 unit structure. It is agreed that this significantly reduces the amount of wall space fronting the street, the height of the roof and the mass of the roof when viewed from the street. The setback of the building will allow for landscaping to connect these design elements to the adjacent creek and parklands.
- 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 the General Flood Planning Level (including 500mm freeboard) of 13.8m AHD.

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

These submissions are considered in Section 5 of this report.

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

The application is in the public interest for the reasons discussed in this report. The contention expressed by the Council's Heritage Adviser and in the public submissions that the development, because of its height and scale, is "out of character" with the established character of the locality is acknowledged.

But character is not restricted to a consideration of physical parameters. The character of a place also has an important social dimension and in this respect the proposal directly addresses the provision of housing for people who are marginalised or otherwise do not have the financial capacity to own a \$1m property or to pay \$600 or more per week in rent.

Preserving a character which has housing opportunities for all rather than a gentrification precluding the marginalised and even those on average weekly earnings deserves a weighting above the physical outcome of a building where the roof exceeds the building height limit.

On balance the proposal is consistent with the public interest.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 5.

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

Table 5: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
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
Referral/Consultation Agencies			
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	Essential Energy indicates that existing overhead powerlines are impacted by the proposal. A safe distance of a minimum 5 metres clearance (horizontal distance) is required from the low voltage powerlines. The applicant will need to engage the services of an accredited service provider and make satisfactory arrangements with Essential Energy in relation to their infrastructure. A consent condition is required in relation to this.	Yes
Rail authority	Section 2.97 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development land that is in or adjacent to a rail corridor.	N/A	N/A
Transport for NSW	Section 2.121 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development that is deemed to be traffic generating development in Schedule 3.	N/A	N/A

Design Review Panel	CI 28(2)(a) – SEPP 65 Advice of the Design Review Panel ('DRP')	Bellingen Shire Council does not have a Design Review Panel.	N/A
Integrated Development (S 4.46 of the EP&A Act)			
RFS	S100B - <i>Rural Fires Act 1997</i> bush fire safety of subdivision of land that could lawfully be used for 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 – the proposed development is exempt as it is separated from the adjoining watercourse by Rawson Street.	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 information and has no objections to the development subject to conditions. These requested conditions have been incorporated in the list of recommended consent conditions.	Yes
Heritage	Council's Heritage Consultant reviewed the submitted Heritage Impact Statement ('HIS') prepared for the applicant and considers the application to be out of character with the established character of the locality and believes a two storey development would be more appropriate for the site.	No

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 2 February 2023 until 6 March 2023. The notification included the following:

- An advertisement in the local newspaper;
- Notification on Council's website;
- Notification letters sent to adjoining and adjacent properties (20 letters sent);

The Council received a total of 6 unique submissions, comprising 6 objections or expressions of concern. The issues raised in these submissions are considered in the following **Table 7**

Table 7: Community Submissions

Issue	No.	Council Comments
<p>Site Management Existing concerns with Stage 1 with fence being left open for trucks (involved in the demolition) at the same time as children were being picked up in Watson Street. Concerns for excessive dust and debris and excessive construction noise. Debris and dust have come into the playground under the fence line. Request the current shade cloth be regularly inspected to ensure that debris and dust is minimised for the safety of students and staff. Request timetable for WHS records of times and dates asbestos was removed from site. Also concerns about tradespeople parking in Watson Street which is also being used a kiss drop/pickup zone.</p> <p>Parking Conflict in Watson Street St Marys School has implemented a safer alternative for students being picked up and dropped off by car by using Watson Street adjoining the Stage 1 development. The school advises that their Park Street frontage caters for busing for 5 different schools and that it is safer for cars and buses to be separated. The school would like a no parking zone introduced in Watson Street between 8am and 9am and 3pm and 4pm to facilitate the car drop off/pick up arrangement.</p>	1	<p>The compliance issues referred to relate to the recent demolition of the Bellorana Nursing Home preparatory to the approved Stage 1 proceeding. The demolition component of Stage 2 is more removed from St Marys school than Stage 1. Notwithstanding the management of demolition and construction impacts is the subject of conditions which require compliance and active enforcement if there are failings in compliance.</p> <p>The segregation of cars and buses should improve safety and the initiative is agreed. However, this will place more pressure on the available on street parking in Watson Street. 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 any household to exist without private transport. It is anticipated that the combined Stages 1 and 2 will create demands for on-street parking. In relation to this it is Parking Conflict in Watson Street</p> <p>St Marys School has implemented a safer alternative for the construction of the western road shoulder in Rawson Street to accommodate, subject to an approved design, either angle or parallel on street parking.</p>
<p>Excessive height; loss of outlook; loss of privacy; would accept 2 storeys, negative valuation impact; inconsistent with streetscape and character; there are no 3 storey buildings in the area.</p>	1	<p>The matters concerning building height and scale are addressed in the report. Because the Stage 2 site occupies a corner at a lower elevation on Watson Street there are limited privacy impacts and those relate more to the adjoining property to the north and the approved Stage 1. In relation to loss of outlook the question relates to the difference in outlook between the 10m building</p>

		height limit and the proposed maximum height of 12.6m to the apex of the roof gable. A photo montage from about 14 Watson Street indicates that Stage 2 has a minimal impact on outlook compared to Stage 1 which is immediately opposite.
Excessive height; excessive traffic and congestion and less parking; lack of confidence residents will walk to town	1	Building height addressed in the report. Agree that provision should be made for additional on street parking. The proposed development will make no perceptible difference in terms of existing traffic volumes and will not lead to "congestion".
Will devalue my property; building is overbearing intrusion; noise and light pollution from second and third floors; loss of privacy; building not in keeping with single storey housing; parking will be a problem	1	There are many factors influencing property values. It is agreed that restricting redevelopment in Bellingin to single storey houses which currently characterise the precinct is likely to maximise property values as a larger market chases a fixed supply of dwellings which are fortunate enough to have very good access to the town's services. But this does not consider the social matters discussed elsewhere in this report. As it is an urban area there will be noise and light emissions from the development just as there is from any other dwelling. Precinct character and parking are addressed elsewhere.
Excessive height; not in keeping with character of surrounding streets which are single storey; character of town should be preserved; insufficient parking and increased traffic	1	These matters have been addressed in relation to other submissions.
Rawson Street is and should remain single storey; development will be an invasion of privacy; devalue property; lack of parking; Bellingin not a city with high rises	1	These matters have been addressed in relation to other 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 height of the building exceeds the 10m height limit set out in Clause 4.3 of the Bellingin Local Environmental Plan 2010 by up to 2.6m at the apex of the roof gable. The roof of the building also generally exceeds the 10m height limit although to a lesser degree. The height exceedance is partly due to the ground floor of the building being located up to 800mm above natural ground to achieve the required general flood planning floor level. A contributing factor

is that the applicant has selected a roof style with gables and hips that are more reflective of local building forms than a flat roof located behind a parapet.

It is not considered that the objective of the building height standard to, “preserve the character and amenity of localities in Bellinghen”, is restricted to a consideration of physical character.

The character of a place also has an important social dimension and in this respect the proposal directly addresses the provision of housing for people who are marginalised or otherwise do not have the financial capacity to own a \$1m property or to pay \$600 or more per week in rent. There are few opportunities to achieve this in Bellinghen in locations which are as accessible to all the services the town has to offer.

Whilst the respective weighting of the physical building form and desired social outcomes is subjective, this assessment cannot weigh the “aesthetic” of a maximum 2.6m height exceedance related to a roof over the social benefits of 18 dwellings which are to be allocated to those who otherwise would unlikely be able to afford to live in the precinct.

This conclusion is also based on the height exceedance having no real adverse impacts on neighbouring property in terms of overshadowing or view loss. Stages 2 does have apartments with a northern outlook over adjoining property, but it meets the required setback in the Apartment Design Guide in terms of privacy.

In terms of mitigating the height and scale of the building the submitted landscape plan and the montages, particularly for the corner of Rawson and Watson Streets indicate quite dense plantings. It will be critical that this landscaping plan is implemented and maintained to achieve the desired outcomes.

5.2 On and Off-Street Parking

The off street parking requirements of the Housing SEPP are acknowledged and have to be accepted but are not regarded as appropriate for a regional centre such as Bellinghen where it is difficult for any household to exist without private transport.

Considering Stages 1 and 2 as a single entity, the application proposes the provision of 24 off street parking spaces for the proposed 41 apartments. According to the Housing SEPP only a total of 18 off street parking spaces are required for the development.

It is anticipated that the combined Stages 1 and 2 will create demands for on-street parking which will be exacerbated by using Watson Street as a kiss and drop/pick up zone for students attending St Marys school.

In relation to this it is recommended that a consent condition require the construction of the western road shoulder in Rawson Street to accommodate, subject to an approved design, either angle or parallel on street parking.

6. CONCLUSION

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

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

7. RECOMMENDATION

That the Development Application No. 2022/130 for the demolition of existing buildings and the construction of a residential flat building (affordable housing) to accommodate twelve one bedroom and six two bedroom apartments being Stage 2 of an affordable housing project at 15 Watson Street and 4 Rawson 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
- Attachment C: Clause 4.6 Request
- Attachment D: Statement of Heritage Impact (SOHI)
- Attachment E: Comments from Council's Heritage Consultant on SOHI