

COUNCIL ASSESSMENT REPORT

NORTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSNTH-289 – DA2024/0096 – PAN-406775
PROPOSAL	Proposed construction of a shop top housing development, group home, and infill affordable housing. The project is inclusive of parking, waste management, landscaping, associated civil works, and removal of existing vegetation.
ADDRESS	Lot 155 DP 834821, Lot 156 DP 834821, Lot 157 DP 834821, and Lot 158 DP 834821 146-152 Johnston Street CASINO NSW 2470
APPLICANT	Newton Denny Chappelle Pty Ltd
OWNER	Third Sector Australia Ltd
DA LODGEMENT DATE	24 January 2024
APPLICATION TYPE (DA, Concept DA, CROWN DA, INTEGRATED, DESIGNATED)	Development Application – Regionally Significant Development
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19 and Clause 5(b) Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as: Private infrastructure and community facilities over \$5 million.
CIV	\$7,755,147.27 (excluding GST)
CLAUSE 4.6 REQUESTS	N/A
KEY SEPP/LEP	<ul style="list-style-type: none"> • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Building Sustainability) 2022 • State Environmental Planning Policy (Housing) 2021 • State Environmental Planning Policy (Industry and Employment) 2021 • State Environmental Planning Policy (Planning Systems) 2021

	<ul style="list-style-type: none"> • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • Richmond Valley Council Local Environmental Plan 2012 • Richmond Valley Development Control plan 2021
TOTAL & SUBMISSIONS ISSUES SUBMISSIONS	UNIQUE KEY IN Zero (0) Submission received
DOCUMENTS SUBMITTED FOR CONSIDERATION	Development Plans – Architectural Design Plans Site Plan Civil Engineering Plans Statement of Environmental Effects Request for Information #1 and #2 Agency comments – TfNSW, Essential Energy, NSW Police Force
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)	N/A
RECOMMENDATION	Approval subject to conditions
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	24 July 2024
PLAN VERSION	20 December 2023 Architectural Design Plans Version A 19 December 2023 Civil Engineering Plans 26 March 2024 Site Plan A1 Version B
PREPARED BY	Kate Imeson Development Assessment Planner - Richmond Valley Council
DATE OF REPORT	11 July 2024

EXECUTIVE SUMMARY

Richmond Valley Council is in receipt of a Development Application (DA 2024/0096) seeking consent for the construction of a shop top housing development, group home, and infill affordable housing located at 146-152 Johnston Street, Casino NSW 2470, lawfully identified as Lots 155-158 DP 834821 (the **site**).

The components of the development are summarised below:

Lots 155 and 156 – Clark Street

- Removal of one (1) native tree;
- Construction of multi-dwelling housing containing six (6) x 2-bedroom units utilised as in-fill affordable housing;
- Construction of six (6) on-site carparking spaces;
- Waste storage area; and
- Landscaping, fencing, and associated civil works.

Lots 157 and 158 – Johnston Street

- Construction of a shop top housing development comprising ground floor commercial spaces and four (4) first floor residential units;
- Construction of a group home development within the rear portion of the site;
- Construction of ten (10) on-site carparking spaces, and one (1) service parking area; Waste storage area; and
- Landscaping, fencing, and associated civil works.

The proposal involves the construction of two (2) new driveway crossing to service the development, one off Johnston Street with the other off Clark Street, and is inclusive of earthworks, civil works, and the consolidation of the existing four (4) lots to create two (2) larger lots.

The development is proposed to be constructed and managed by Third Sector Australia Ltd, trading as Momentum Collective, a registered not for profit Community Housing Provider and charitable organisation.

The site is located in the E1 – *Local Centre* pursuant to Clause 2.2 of the *Richmond Valley Local Environmental Plan 2012* ('LEP 2012'). The proposed shop top housing, group home, and in-fill affordable housing (multi dwelling housing) is permissible with consent in the zone and is generally compliant with the legislative provisions.

The land is regular in shape, with a total area of 3,230.1m², and comprises of a corner lot with two (2) road frontages including Johnston Street (Bruxner Highway) to the south, and Clark Street to the east. The site is vacant with one (1) established Forest Red Gum (*Eucalyptus Tereticornis*) located within the south-east corner and is otherwise devoid of vegetation.

Historically, the land would have formed part of a larger rural land holding, seeing rural farming activities being undertaken. However, since the 1990s, the land has been found to be vacant, and to date, there are no approved developments on the land.

The site is clear of the 5% AEP (20yrARI), is partly affected by the 2% AEP (50yrARI) and 1% AEP (100yrARI), and completely affected by the 0.2% AEP (500yrARI), and is otherwise largely unconstrained, clear of vegetation, and in an existing commercial precinct of Casino.

The development application is not considered to be integrated or designated development under Section 4.46 of the Environmental Planning and Assessment Act 1979 ('EPA ACT'). In accordance with the State Environmental Planning Policy (Transport and Infrastructure) 2021 the development application has been referred to Transport for NSW and Essential Energy for comment. In addition, NSW Police Force were consulted, providing recommendation. Agency comments have been considered and form part of the recommended conditions of consent, as such there are no outstanding issues arising from this consultation.

The development application was notified in accordance with the Richmond Valley Council's Community Participation Plan 2020 on 20 February 2024, with the submission period starting from 27 February 2024 to 26 March 2024. Zero (0) submissions were received; therefore, no submissions were considered in Section 4.3 of this report. As such, there are no outstanding issues arising from this consultation.

The planning controls relevant to the proposal include State Environmental Planning Policies, the Richmond Valley Local Environmental Plan 2012, the Richmond Valley Development Control Plan 2021 has been undertaken. Additionally, the development has been assessed against the Low-Rise Housing Diversity Design Guide 2020 (section 2.4 Multi Dwelling Housing).

A request to vary the development control plan was submitted as part of the development application due to the short fall in on-site parking arrangements, this has been addressed in Section 5.4 of this report and is considered to be justified and reasonable. As such there are no outstanding issues relating to the proposed car parking arrangements.

The development does not strictly meet the design criteria of Section 2.4 of the Low-Rise Housing Diversity Design Guides, however, demonstrates compliance with the objectives of the development standard. Where the development cannot meet the design criteria, the consent authority is to be flexible in applying these provisions and allow reasonable alternative solutions that achieve the relevant objectives. As a result, it is considered the development is consistent with the design criteria, as such there are no outstanding issues arising.

The application is referred to the Northern Regional Planning Panel ('the Panel') as the development is considered to be '*regionally significant development*', pursuant to Section 2.19(1) and Clause 5(b) of Schedule 6 of the *State Environmental Planning Policy (Planning Systems) 2021* as the proposal is development for *private infrastructure and community facilities (in-fill affordable housing)* with a CIV over \$5 million.

A briefing was held with the Panel on 11 June 2024 where key issues were discussed, including flooding, car parking, safety, and security of the proposed development.

The key issues associated with the proposal included:

- Crime and safety – potential increase in crime;
- Flooding and proposed evacuation of identified vulnerable / sensitive use – application requires consideration of clause 5.22 of the LEP;
- Car parking – the shop top housing and group home component falls short of five (5) car parking spaces required, therefore a request to vary the DCP form part of the development application;
- Contaminated land – finding of asbestos resulted from the detailed site investigation;
- Potential hazards and airborne pollutants – the site is directly adjoined by a service station, therefore consideration of the potential airborne pollutants is required;
- BCA - non-compliance with elements of the Building Code of Australia (BCA); and

- Building height and bulk – revised plans determine no clause 4.6 LEP variation is required.

The proposal is supported by technical studies including (but not limited to) a Noise Impact Assessment, Air Quality Assessment, BCA High Level Assessment, Detailed Site Investigation, and Traffic Impact Assessment. An assessment of the potential impacts associated with the proposed development is provided within the body of this report.

Council's Engineering, Environmental Health Officers and Building Surveyors have assessed the Development Application with regard to potential impacts arising from the proposed development. No objections were raised by Council officers, subject to the imposition of relevant conditions of consent.

Following consideration of the matters for consideration under Section 4.15(1) of the EP&A Act, the proposal is considered to comply, be consistent with the objectives with the land, and development standards for the site.

Additionally, the development is considered to have been designed to be compatible with the existing and desired future amenity of the locality and will support the use of the land for residential and commercial purposes. As such, the proposal is considered to promote a variety of housing needs for the community, thus ensuring that the public interest is maintained. Therefore, the proposal is deemed to be in the public interest,

The proposed development is considered satisfactory, subject to the imposition of suitable conditions of consent to address and mitigate potential impacts arising from the proposed development. As such, it is recommended that the proposed development be approved, subject to conditions documented in the recommended Draft Schedule of Conditions in **Attachment A** of this report.

1. THE SITE AND LOCALITY

1.1 The Site

Expanding over four (4) allotments, the subject site (the **site**) is located on a corner allotment on Johnston Street (Bruxner Highway) and Clark Street. The land is legally described as Lot 155, 156, 157, and 158 DP 834821 with a street address of 146-152 Johnston Street, Casino, NSW, 2470.

The site is zoned E1 *Local Centre* pursuant to the Richmond Valley Council (RVC) Local Environmental Plan (LEP) 2012, with a total land area of approximately 3,230.1m² and land dimensions of 40.20 m x 80.27 m.

The land is vacant with a single established Forest Red Gum (*Eucalyptus Tereticornis*) located in the south-east corner of the site and is otherwise devoid of any significant flora and fauna. Other vegetation within the site consists of mixed species grasslands including, Rhodes grass, Couch and the occasional broad-lead exotic weed species including Plantain, Clustered Dock, and Cobblers Pegs.

The site is directly adjoined by a service station and commercial development to the west, residential development to the north and east, Johnston Street (Bruxner Highway) to the south and thereafter a caravan park mixed with residential accommodation.



Figure 1: Aerial view of the subject site (Councils Mapping)

The site is generally level positioned, at about RL 21.7 m AHD to 22.7 m AHD, with a flood planning level (minimum habitable floor level) of RL 23.1 m AHD.

The site is clear of the 5% AEP (20yrARI), is partly affected by the 2% AEP (50yrARI) and 1% AEP (100yrARI), and completely affected by the 0.2% AEP (500yrARI), refer to the figure below displaying an extract from Councils development engineers internal report.

Existing floor level (if applicable)		vacant	m AHD	Flood Planning Level (Minimum Habitable floor level) CORE & CLUSTER 01 RL 23.1 m AHD CLUSTERS 02 & 03 RL 23.0 m AHD	
Approximate existing lowest ground level m AHD L158/ 21.9m, L157/ 21.8m, L156/ 21.8m, L155/ 21.7m				1 % AEP (1 in 100 year) ARI) flood level (including climate change assessment) CORE & CLUSTER 01 RL 22.6 m AHD CLUSTERS 02 & 03 RL 22.5 m AHD	
Approximate existing highest ground level m AHD L158/ 22.7m, L157/ 22.6m, L156/ 22.35m, L155/ 22.5m				Richmond Valley Flood Study 2023 Adopted 19 September 2023	
Development type:		group home & shop top housing		Flood Planning Matrix condition codes: No / NA / Yes NOTE Structural assessment to 1%AEP not required as the floor level of the building is at the FPL of 0.5m above the 1%AEP	

0.2% AEP (500yrARI) design flood (incl CC) NOTE fully subject to cross country flows					
CORE	Level RL 22.8 m AHD	& Velocity 0.5 m/sec	generally from W		Floor 23.1
CLUSTER 01	Level RL 22.8 m AHD	& Velocity 0.3 m/sec	generally from W		Floor 23.1
CLUSTER 02	Level RL 22.8 m AHD	& Velocity 0.2 m/sec	generally from W		Floor 23.0
CLUSTER 03	Level RL 22.8 m AHD	& Velocity 0.4 m/sec	generally from W		Floor 23.0
1% AEP (100yrARI) design flood (incl CC) NOTE mostly subject to cross country flows					
CORE	Level RL 22.6 m AHD	& Velocity 0.4 m/sec	generally from W		Floor 23.1
CLUSTER 01	Level RL n/a m AHD	& Velocity n/a m/sec	generally from n/a		Floor 23.1
CLUSTER 02	Level RL 22.5 m AHD	& Velocity 0.1 m/sec	generally from W		Floor 23.0
CLUSTER 03	Level RL 22.5 m AHD	& Velocity 0.7 m/sec	generally from W		Floor 23.0
2% AEP (50yrARI) design flood (incl CC) NOTE partially subject to cross country flows					
CORE	Level RL 22.3 m AHD	& Velocity 0.4 m/sec	generally from W		Floor 23.1
CLUSTER 01	Level RL n/a m AHD	& Velocity n/a m/sec	generally from n/a		Floor 23.1
CLUSTER 02	Level RL n/a m AHD	& Velocity n/a m/sec	generally from n/a		Floor 23.0
CLUSTER 03	Level RL 22.3 m AHD	& Velocity 0.4 m/sec	generally from n/a		Floor 23.0
5% AEP (20yrARI) design flood (incl CC) NOTE not affected					

Figure 2: Extract from Councils development engineers report (Council)



Figure 4: 2% AEP (Richmond Valley Flood Study 2023)

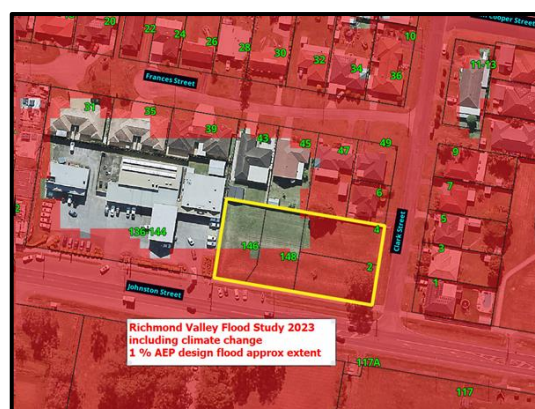


Figure 3: 1% AEP (Richmond Valley Flood Study 2023)

The site is mapped as containing contaminated land – *status “potential contamination”* pursuant to RVC Intramaps. The land is not identified to have any other special features or planning constraints (other than flooding).

Below are Photographs of site (figure 5 to 8)



Figure 5: View from corner of Clark and Johnston St



Figure 6: View from Johnston and Clark Street intersection



Figure 7: View of adjoining commercial development



Figure 8: View of subject site facing east

1.2 The Locality

The subject site is located on the eastern edge of the township of Casino NSW, in an area of mixed residential, open space, and commercial / industrial land uses. Casino is a small rural

town set along the Richmond River and is situated within the Local Government Area (LGA) of Richmond Valley Council in the Northern Rivers Region of north-east NSW. The town is built on its long history of rural farming pursuits and relies heavily on the region's agricultural and industrial industries.

The subject site fronts both Johnston Street (Bruxner highway) and Clark Street and is approximately 1.5 km south-west to the Casino Central Business District (CBD) and 345m north of the Richmond River.

The site is adjoined by the following land uses:

- North: Single story residential developments;
- East: Clark Street, with residential developments further east;
- South: Johnston Street (Bruxner Highway), with an existing caravan park and residential zone land further south; and
- West: Existing commercial development containing commercial premises including an active service station and laundromat.

The site is serviced by bus routes, including Casino Bus Services and Northern Rivers Bus lines. Casino Bus Service 673 Line utilise Clark Street connecting Casino Shopping Plaza, with the nearest bus stop being located approximately 60m to the north of the site, on Clark Street near Frances Street East.

Formal pedestrian footpaths are located on both sides of Johnston Street. A refuge island pedestrian crossing facility across Johnston Street is located 70m east of the proposed development. No formal pedestrian footpath is available on either side of Clark Street.

No dedicated on-road cycleway is available on Johnston Street or Clark Street. Pedestrian footpaths located in the proximity to the development site allow shared path provision for cyclists. The 6.5km long Casino Hotham Street Shared Path Routh and 3.9km long Casino Johnston Street Shared Path Route runs in front of the development, *refer to figure 12*.



Figure 9: Aerial view of the subject site and surrounding development (Councils Mapping)

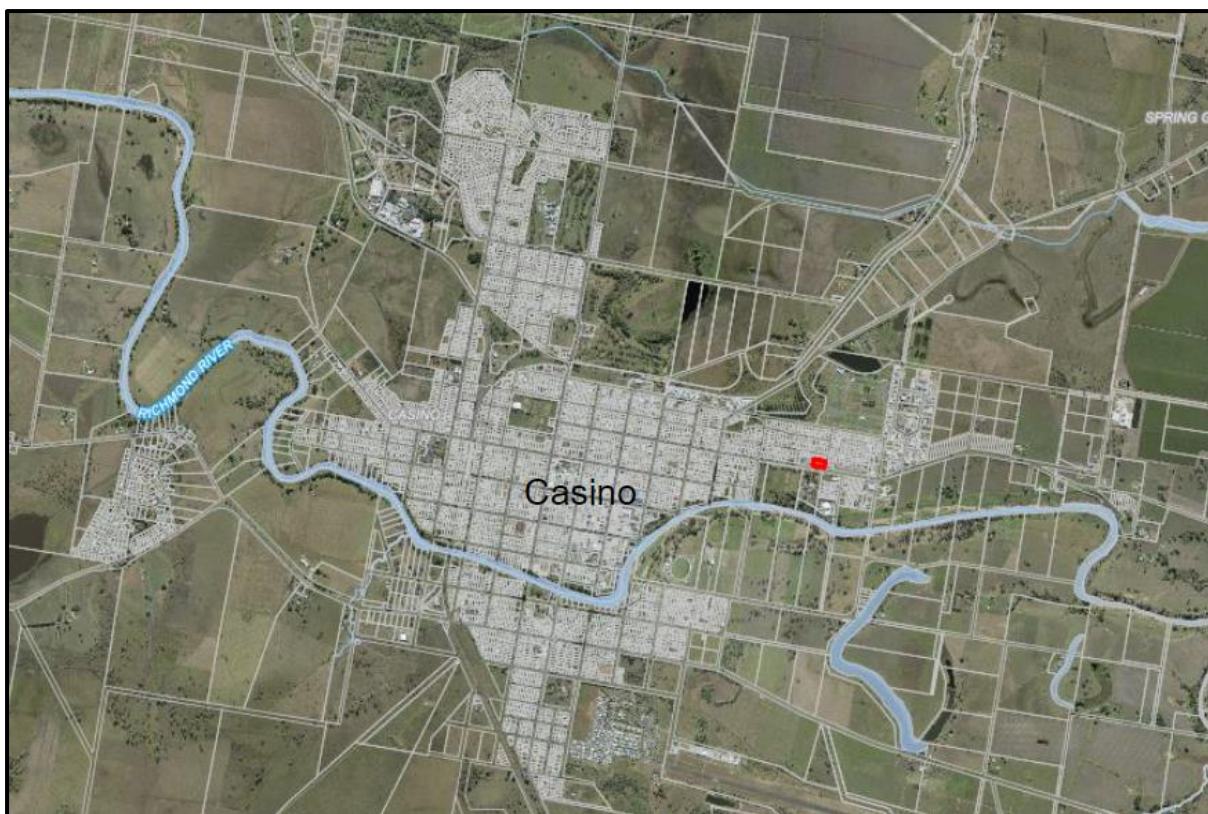


Figure 10: Aerial view of Casino (Council Mapping)

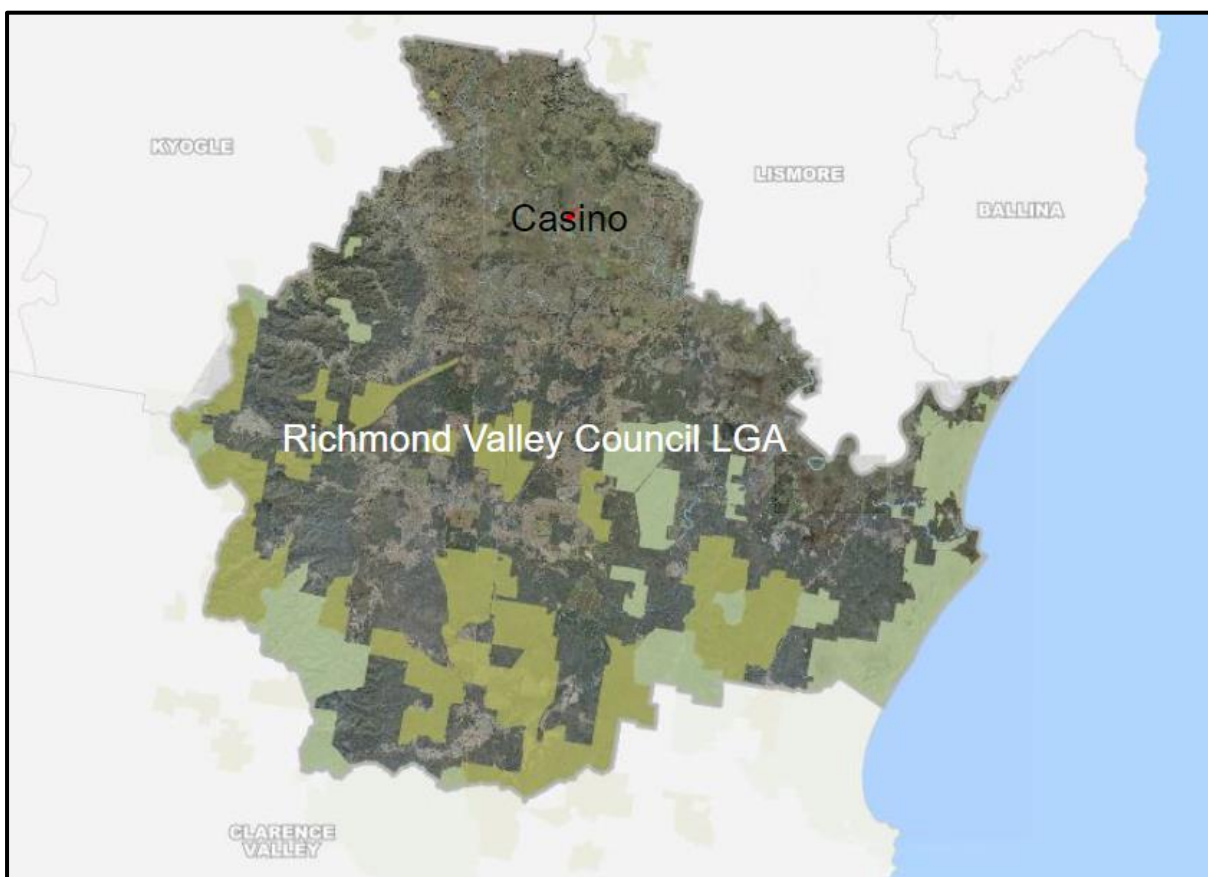


Figure 11: Aerial view of the Richmond Valley Council LGA (Council Mapping)



Figure 12: Cycle route in Casino (Richmond Valley Active Bike Plan)

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal seeks consent for the construction of a shop top housing development, group home, and infill affordable housing (multi dwelling housing) at Lot 155-158 DP 834821, commonly known as 146-152 Johnston Street, Casino.

Specifically, the proposal involves:

- Consolidation of land, from four (4) lots into two (2) larger lots;
- Construction of shop top housing development, comprising of a ground floor commercial space, and four (4) residential units on the first floor within the front portion of the site (Lot 157-158 DP 834821);
- Construction of three (3) group homes within the rear portion of the site (Lots 157-158 DP 834821);
- Construction of multi-dwelling housing, containing six (6) x two (2) bedroom single storey units utilised as in-fill affordable housing (Lot 155-156 DP 834821);
- Construction of sixteen (16) parking spaces, ten (10) within lots 157-158 DP 834821, and six (6) within lots 155-156 DP 834821;

- f) Two (2) new driveway crossings, one off Johnston Street, and another off Clark Street;
- g) Tree removal within Lot 156 DP 834821;
- h) Stormwater infrastructure, including four (4) underground detention tanks, pit and pipe system with stormwater being directed to the existing swale within Johnston Street;
- i) Earthworks, including cut of 35.6m³ and fill of 1033.2m³, with a maximum cut depth of 0.6m, and maximum full depth of 1m;
- j) Civil works including:
 - i) Removal of existing cross over (Johnston St);
 - ii) Concrete driveway and car parking bays;
 - iii) Internal concrete footpath;
 - iv) Drainage pit;
 - v) Stormwater pit;
 - vi) Stormwater headwall;
 - vii) Underground detention tanks;
 - viii) Swales; and
- k) Retaining walls along the northern and western property boundaries;
- l) Fencing – security fencing is provided to the entirety of the development;
- m) Landscaping, including works along the frontages and within the development site to provide softening to the streetscape and landscaped open space.

Table 1: Development Data

Control	Proposal
Site area	Lot 155 – 803.9m ² Lot 156 – 803.9m ² Lot 157 – 833.4m ² Lot 158 – 788.9m ² Total combined site area – 3,230.1m ²
Site Coverage	1,499m ² (46%)
GFA	1,259m ²
FSR (retail/residential)	Cl. 4.4 of the LEP 2012 – not adopted
Clause 4.6 Requests	N/A

Control	Proposal
No of residential units/apartments	4 residential units (shop top housing) 3 units (group homes) 6 multi-dwelling units (infill affordable housing) = 13 units
Max Height	8.4m
Landscaped area	1,281m ² (39%)
Car Parking spaces	16 spaces
Setbacks	<u>Lot 155-156 DP – infill affordable housing:</u> North (rear) – 2m East (side) – 5.5m South (front) – 3m West (side) – 1.5m <u>Lot 157-158 DP – shop top housing and group homes:</u> North (rear) – 2m East (side) – 1.5m South (front) – 2.750 m West (side) – 13.250m

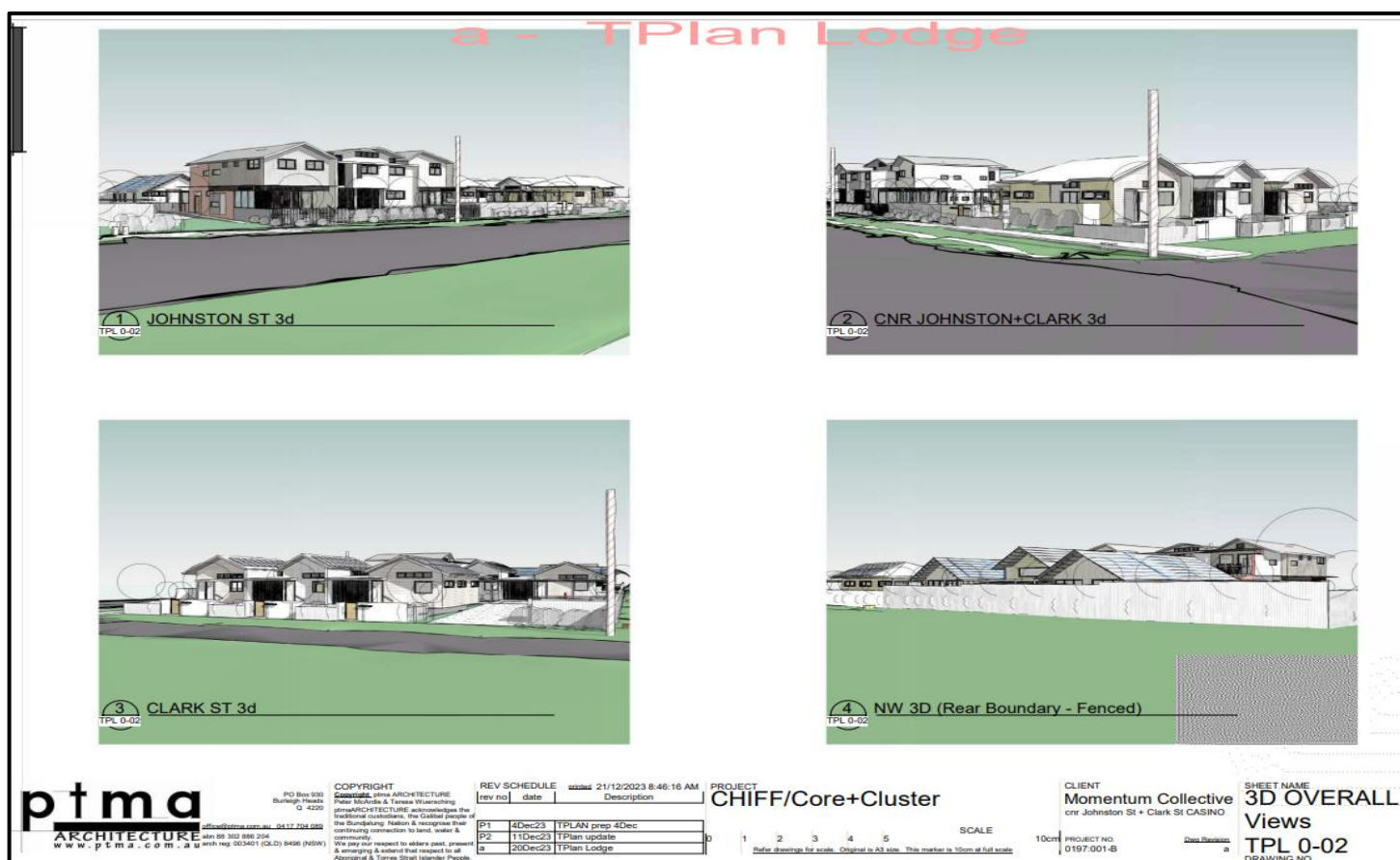
- Below are key plans to show the general outline of the proposal.



Figure 13: Site Plan



Figure 14: Landscape concept plan



2.2 Background

A pre-lodgement meeting was held prior to the lodgement of the application on 16 May 2023 and on 31 October 2023 where various issues were discussed. The meeting provided a range of information with respect to Council and State Government requirements associated with the development application. A summary of the key issues and how they have been addressed by the proposal is outlined below:

- Land use definitions and permissibility;
- Potential conflicts in land use(s);
- Staging of the development;
- Carparking, traffic, and frontage to Johnston Street (Bruxner highway);
- Driveway access and width;
- Street scape, landscaping, and fencing;
- Shared / communal spaces;
- Safety and security;
- Noise;
- Design of class 2 and 3 buildings, and fire separation;
- Embodied emissions and energy efficiency;
- Waste storage inc. size and number of bins, and collection;
- Flooding;
- Contaminated land;
- Potential pollution from service station;
- Water, sewer, and stormwater infrastructure;
- Sufficient hydrant coverage required;
- Overhead electricity (Johnston Street Road Reserve)
- Section 138 Roads Act application;
- Section 7.12 Levy (likely applicable);
- Section 64 Contributions; and
- Waste storage and collection.

The development application was lodged on **24 January 2024**. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

Table 2: Chronology of the DA

Date	Event
16 May 2023	Pre-lodgement meeting #1
31 October 2023	Pre-lodgement meeting #2
24 January 2024	DA lodged
15 February 2024	Application accepted by Council
20 February 2024	Exhibition of the application, submission start from 27 February to 26 March 2024

20 February 2024	DA referred to external agencies
12 May 2024	Request for Information #1 from Council to applicant
18 March 2024	Essential Energy comments/recommendations
25 March 2024	NSW Police comments/recommendations
4 April 2024	Transport for NSW comments/recommendations
4 April 2024	Applicant Response to Request for Information #1 <ul style="list-style-type: none"> • Amended Site plan lodged; • BCA Report lodged; and Applicant letter included a summary of their response.
8 May 2024	Request for Information #2 from Council to applicant
11 June 2024	Panel briefing
20 June 2024	DAP – Draft Conditions
26 June 2024	Draft conditions from Council to Applicant for review
4 July 2024	Comments received from Applicant to Council in relation to the draft condition
24 July 2024	Determination Panel – recommended for approval

2.3 Site History

Based on the limited historical information for the site, historic land uses have been identified as agriculture with grazing and cropping occurring, along with some storage and possibly filling as part of the adjacent land's development and has been generally vacant since the 1990s. Although some services including stormwater have been constructed, which would have included some disturbance and filling at the site.

The site has not been subject to any approved works and or concurrent applications being considered.

A review of Councils records identifies a former development application that applies to the land, being:

- DA2021/0033 – Construction of centre-based childcare facility for a maximum of 100 children, car parking comprising 25 spaces, and associated works. *The development application was **withdrawn**.*

Directly west of the site at 136-144 Johnston Street, lawfully identified as Lot 14 DP 1091559 the land is a development commercial zoned area, containing an existing service station, gym, and commercial premises.

The service station was approved under DA 1979/053 – *Service Station & Retail Commercial Nursery*; and includes subsequent approvals including DA 1982/067 – *Retail Sales for Service Station & Fruit Barn*; and DA 2012/0022 – *Refurbish Existing Service Station*

A *Detailed Site Investigation* prepared by *Easterly Point Environmental Pty Ltd* dated 29 October 2023 found the adjacent service station includes multiple petrol and one diesel underground storage tanks (USTs). The diesel UST is noted to be close to the site's western boundary. A groundwater monitoring well appears to be located in an assumed down gradient position of the diesel UST, and close to the site's western boundary.

It is assumed that the UST is being monitored in accordance with the requirements of the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019. Section 20 of the Regulation specifies that the storage system should not be used unless "the groundwater in each groundwater monitoring well on the storage site has been tested for contamination by petroleum, during the last 6 months".

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

These matters are further considered below.

It is noted that the proposal is not considered to be (which are considered further in this report):

- 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 (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy (Industry and Employment) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Richmond Valley Local Environmental Plan 2012*
- *Richmond Valley Development Control 2021*

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

Table 3: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 4: Koala Habitat Protection 2021 Richmond Valley Council Local Government Area is identified within Schedule 2 of the SEPP. Section 4.9(1) Development assessment process – no approved koala plan of management for land The subject site is not greater than one hectare, and Richmond Valley does not have an approved koala plan of management. No further consideration is required.	Yes
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 Chapter 3: Diverse Housing Group Homes	Yes
State Environmental Planning Policy	Chapter 3: Advertising and Signage <ul style="list-style-type: none"> • Section 3.6 – granting consent to signage. 	Yes

(Industry and Employment) 2021	<ul style="list-style-type: none"> Section 3.11(1) – matters for consideration. The development is consistent with objectives, and Schedule 5 of the Industry & Employment SEPP 	
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. <p>The development has a CIV of \$7,755,147.27 (excluding GST)</p>	Yes
SEPP (Resilience & Hazards)	<p>Chapter 4: Remediation of Land</p> <ul style="list-style-type: none"> Section 4.6 - Contamination has been considered in the <i>Detailed Site Investigation</i> and the <i>Air Quality Report</i>, and the proposal is considered satisfactory subject to conditions 	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	<p>Chapter 2: Infrastructure</p> <ul style="list-style-type: none"> Section 2.48(2) (Determination of development applications—other development) – electricity transmission - the proposal is satisfactory subject to conditions. <p>The proposal requires the relocation of a slay wire to facilitate the construction of the new driveway from Clark Street. In such circumstances, the application was referred to Essential Energy</p> <ul style="list-style-type: none"> Section 2.119(2) – Development with frontage to a classified road <p>The site has road frontage to Johnston Street and Clark Street. TfNSW were consulted and raised no objections.</p> <ul style="list-style-type: none"> Section 2.120(2) Impact of road noise or vibration on non-road development <p>A traffic and acoustic report have been prepared to ensure external noise is mitigated.</p> <ul style="list-style-type: none"> Section 2.122(4) - Traffic-generating development <p>The proposal is not considered to be traffic generating development.</p>	Yes
Proposed Instruments	No compliance issues identified.	Yes
LEP	<ul style="list-style-type: none"> Clause 2.3 – Permissibility and zone objectives <p>The proposed land uses are permissible with consent within the prescribed zone.</p> <ul style="list-style-type: none"> Clause 4.3 – Height of buildings <p>The development proposes a maximum height of 8.4m which is below the 8.5m HOB.</p> <ul style="list-style-type: none"> Clause 5.21 -Flood Planning <p>The site is clear of the 5% AEP flood event, is partly affected by the 2% AEP and the 1% AEP. Councils' development</p>	Yes

	<p>engineers are satisfied with the design of the development, all buildings are above the minimum habitable floor level of RL 23.1m AHD.</p> <ul style="list-style-type: none"> • Clause 5.22 – Special Flood Considerations <p>The group home element of the development is considered to be sensitive development under this clause. The land is subject to the 0.2% AEP (500yearARI) (inc. Climate change). The proposed floor level is approx. 300mm above the 0.2%AEP plus climate change, with an expected lead time of 24 to 48 hours (for evacuation). In this respect, Councils Development Engineers are satisfied with the design of the development.</p> <ul style="list-style-type: none"> • Clause 6.2 – Essential Services <p>The development is to be serviced by reticulated services and include detention tanks in relation to stormwater.</p> <ul style="list-style-type: none"> • Clause 6.3 – Earth works. • Earthworks are proposed, with conditions to be provided by council. 	
DCP	<ul style="list-style-type: none"> • Part A-8 multi-dwelling housing and residential flat buildings, and <p>The development is considered to be generally compliant with the provisions for multi-dwelling housing developments.</p> <p>Part A-8 refers to the Low-Rise Housing Diversity Design Guide for Development Applications (July 2020) (LRHDDG), (section 2.4 Multi Dwelling Housing), except as modified by the provisions set out in Part A-8 of Councils DCP. The Development is generally compliant with the objectives set out in Section 2.4 of the (LRHDDG).</p> <ul style="list-style-type: none"> • Part A-9 Shop Top Housing <p>The development is considered to be generally compliant with the provision.</p> <ul style="list-style-type: none"> • Part A-10 Seniors Housing and Affordable Housing <p>The development is considered to be generally compliant with the provision.</p> <ul style="list-style-type: none"> • Part B Commercial development <p>The development is considered to be generally compliant with the provision.</p> <ul style="list-style-type: none"> • Part F Signage <p>The development is considered to be generally compliant with the provision.</p> <ul style="list-style-type: none"> • Part H-1 Flood Planning <p>The development is considered to be generally compliant with the provision.</p> <ul style="list-style-type: none"> • Part I-3 Building Setbacks <p>The development is considered to be generally compliant with the provision.</p>	Yes

	<ul style="list-style-type: none"> • Part I-4 Carparking Provisions The development provides a total of ten (10) parking spaces to service the shop top housing and group home development resulting in a shortfall of five (5) parking spaces. While there is a shortfall, council development engineers are satisfied with the parking arrangements. • Part I-7 Noise Impact Assessment (NIA) The development is considered to be generally compliant with the provision. • Part I-9 Water Sensitive Urban Design (WSUD) As detailed within the civil plans, stormwater will be dealt with in the following manner: <ul style="list-style-type: none"> ○ 8x underground stormwater detention tanks across the two sites, ○ Pit and pipe infrastructure to direct stormwater to the existing swale within Johnston Street. The development is considered to be generally compliant with the provision. • Part I-10 Crime Prevention through Environmental Design (CEPTED) The development was referred to NSW Police Force for consideration and have made recommendation to surveillance and can be provided as a condition of consent. 	
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Consideration of the relevant SEPPs is outlined below.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 4 of the SEPP (Biodiversity and Conservation) 2021 aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas and applies to land within a local government area (LGA) identified within Schedule 2 of the SEPP.

The subject site is located within the Richmond Valley Council LGA, which is identified within Schedule 2 of the SEPP, therefore Chapter 4 is applicable to the development.

Section 4.9(1) Development assessment process – no approved koala plan of management for land. Richmond Valley does not have an approved koala plan of management for the LGA. The subject site is not greater than one hectare, there is no approved KPOM, therefore, this section does not apply to the development application. No further consideration of the SEPP is required.

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.1139640M_02 prepared by *Northrop Consulting Engineers Pty Ltd* dated 29 September 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. The proposal is consistent with the BASIX SEPP subject to the recommended conditions of consent.

Chapter 3 of the SEPP relating to the non-residential buildings is not considered to be applicable to the development, as the cost of works for the commercial component is less than \$5 million.

State Environmental Planning Policy (Housing) 2021

The *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) aims to provide for a range of housing types and encourages the development of housing that meets the needs of the more vulnerable members of the community.

Chapter 2 *Affordable Housing* applies to the proposal. The objective of Chapter 2 Division 1 of the Housing SEPP is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households. In this division, *affordable housing component, of development, means the percentage of the gross floor area used for affordable housing.*

The proposed development complies with the objectives and the provisions stipulated under this division, and a condition of consent has been included stating that the *development must be used for affordable housing for at least 15 years on the day an occupation certificate is issued for the development.*

Chapter 3 *Diverse Housing Part 2 Group Homes* applies to the proposal. The proposed development complies with the provision and does not result in more than 10 bedrooms being within 1 or more group home on a site and is carried out by or on behalf of a public authority.

State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3— Advertising and Signage of the State Environmental Planning Policy (Industry and Employment) 2021 (Industry and Employment SEPP) aims to ensure that signage (including advertising) is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations, and is of high quality.

Chapter 3 of the Industry and Employment SEPP applies to all signage, which can be displayed with or without development consent, under an Environmental Planning Instrument and is visible from any public place or public reserve.

The current proposal seeks consent for a signage panel for business identification signage located on the southern elevation of the proposed commercial component of the shop top housing development.

Business identifications has the same meaning as in the Standard Instrument, that being –

- a) *that indicates—*
 - (i) *the name of the person or business, and*

- (ii) *the nature of the business carried on by the person at the premises or place at which the sign is displayed, and*
- b) *that may include the address of the premises or place and a logo or other symbol that identifies the business,*

but that does not contain any advertising relating to a person who does not carry on business at the premises or place.

Note— Business identification signs are a type of signage—see the definition of that term in this Dictionary.

Section 3.11 of the SEPP notes, consent must not be granted to an application to display advertisement to which Chapter 3 of this SEPP applies unless the sign is consistent with the objectives of this Chapter and is in accordance with the assessment criteria in Schedule 5 of the SEPP.

The business identification signage has been assessed against the criteria in Schedule 5 of the SEPP, and it is considered to comply with the provisions stipulated, and therefore satisfies that the proposal is acceptable in terms of its impacts, and other relevant requirements of this Chapter.

State Environmental Planning Policy (Planning Systems) 2021

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(b) of Schedule 6 of the Planning Systems SEPP as the proposal is development for *Private Infrastructure and community facilities over \$5million (in-fill affordable housing)*. The estimated cost of works \$7,755,147.27 (excluding GST)

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 aims of Chapter 4 of the *State Environmental Planning Policy (Resilience and Hazards) 2021* (*the Resilience and Hazards SEPP*) are 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.

The provisions of Chapter 4 of the Resilience and Hazards SEPP have been considered in the assessment of the development application.

Section 4.6 of the 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.

Historically, the land uses have been identified as agriculture with grazing and cropping occurring, along with some storage and possibly filling as part of the adjacent land's development and has been generally vacant since the 1990s. Although some services

including stormwater have been constructed, which would have included further disturbance and filling at the site.

Currently, the site has not been subject to any approved works and or concurrent applications being considered. However, directly west of the site at 136-144 Johnston Street, lawfully identified as Lot 14 DP 1091559 the land is a development commercial zoned area, containing an existing service station, gym, and commercial premises.

A Detailed Site Investigation has been prepared by *Easterly Point Environmental*, concluding the following –

It is apparent that some uncontrolled filling has occurred at the site. While chemical contamination was not identified, asbestos has been confirmed and appropriate management will be required during both the development stage and throughout occupation. This is likely to best be managed under the requirements of the WHS legislation, including the development of an asbestos register and an asbestos management plan.

While previous investigations recommended remediation based on the arsenic detected in surficial soils (HMC 2020), Easterly Point has not been able to replicate their results, including after conducting an additional, surficial sampling program at a high sample density. Therefore, Easterly Point considers that the previously reported arsenic (and copper) in surface soils were an artefact of sampling, rather than related to actual site contamination. As no other contaminants beyond bonded asbestos have been identified, Easterly Point does not consider that a duty to report exists, but rather that the site should be managed under the WHS framework in regard to asbestos.

The site is considered to be suitable for the proposed development, noting that appropriate management should be incorporated into the site development and use, as recommended herein. If unexpected findings are detected which are contrary to the current finding, appropriate controls and management should be conducted, and these should be specified in an unexpected findings protocol developed for the site.

Based on the finding in the report, the site is considered suitable for the proposed development.

State Environmental Planning Policy (Transport and Infrastructure) 2021

The aim of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* (Transport and Infrastructure SEPP) is to facilitate the effective delivery of infrastructure across NSW by identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development. The Transport and Infrastructure SEPP also outlines consultation requirements with relevant public authorities for certain proposed works.

Clause 2.119 necessitates, a consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied regarding the safety, efficiency, and ongoing operation of the classified road, and to prevent and or reduce potential impact of noise and vehicle emission.

The development has direct frontage to a classified road (Class Highway), identified as the Bruxner Highway (from the Pacific Highway west of Ballina, via Lismore, Casino, Mullangane, Tabulam, and Drake to Rouse Street (New England Highway – HW9) at Tenterfield, and therefore, the consent authority must be satisfied that –

- a) *where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

A *Traffic Engineering Report* has been prepared by TTM Group found the access to the development of Johnston Street and Clark Street are compliant in accordance with Council requirements and Australian Standards. A 2-car queue space is provided, and a 1-car queue space is provided for the Clark Street crossover.

Assessment of the proposed development indicates that the development has been designed to allow the safe and effective ongoing operations of the classified road and will not have a significant impact on the future road network. As such, no further mitigating road works are required.

Clause 2.122 requires referral to the Road and Maritime Services for traffic generating development specified in Schedule 3. *The current application does not meet the triggers requiring referral of the application to the NSW RMS.*

Clause 2.48 applies to a development application for development comprising or involving any of the following –

- a) *the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
- b) *development carried out—*
 - i) *within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
 - ii) *immediately adjacent to an electricity substation, or*
 - iii) *within 5m of an exposed overhead electricity power line,*
- c) *installation of a swimming pool any part of which is—*
 - i) *within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or*
 - ii) *within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,*
- c) *development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.*

As illustrated below, the site is currently serviced by overhead power connections within the Clark Street and Johnston Street Road reserve. The proposed development requires the relocation of a slay wire to facilitate the construction of the new driveway from Clark Street. In such circumstances, the application was referred to Essential Energy for consideration.



Figure 16: Essential Energy Network

Richmond Valley Local Environmental Plan 2012

The relevant local environmental plan applying to the site is the *Richmond Valley Local Environmental Plan 2012* ('the LEP'). The aims of the LEP are to encourage the proper management, development and conservation of natural and man-made resources and to ensure that suitable land for beneficial and appropriate uses is made available as required. The proposal is consistent with these aims as the proposal seeks to achieve the desired strategic outcome of the area while encouraging social and economic benefits within the Richmond Valley LGA.

Zoning and Permissibility (Part 2)

The site is located within the *E1 Local Centre Zone* pursuant to Clause 2.2 of the LEP.



Figure 17: LEP E1 land zone

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of *shop top housing*, *group home*, and *multi dwelling housing* which are permissible land use(s) with consent in the Land Use Table in Clause 2.3, refer to definitions below.

multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

Note—Multi dwelling housing is a type of residential accommodation—see the definition of that term in this Dictionary

shop top housing means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.

Note—Shop top housing is a type of residential accommodation—see the definition of that term in this Dictionary.

group home means a permanent group home or a transitional group home.

Note—Group homes are a type of residential accommodation—see the definition of that term in this Dictionary.

group home (permanent) or permanent group home means a dwelling—

(a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and

(b) that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged,

but does not include development to which State Environmental Planning Policy (Housing) 2021, Chapter 3, Part 5 applies.

Note—Permanent group homes are a type of group home—see the definition of that term in this Dictionary.

group home (transitional) or transitional group home means a dwelling—

(a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and

(b) that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people,

but does not include development to which State Environmental Planning Policy (Housing) 2021, Chapter 3, Part 5 applies.

Note—Transitional group homes are a type of group home—see the definition of that term in this Dictionary.

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

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*
- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*

The proposal is considered to be consistent with these zone objectives as the proposed development provides commercial space to be utilised by housing provider for office space that serves the needs to people who live at the site, provides opportunity for employment, and provides residential development that is appropriately designed to support the transition of the streetscape, whilst being sympathetic to the surrounding residential land uses.

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

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

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Height of buildings (CI 4.3(2))	8.5 metres	A maximum building height of 8.4 metres (shop top housing) and 6.2-6.4 metres (group home & infill affordable housing).	Yes
Flood planning (CI 5.21)	Consider the impacts of development on the flood behaviour in the area.	<p>The site is clear of the 5% AEP flood event, is partly affected by the 2% AEP and the 1% AEP, and fully affected by the 0.2% AEP.</p> <p>All buildings are above the minimum habitable floor level of RL 23.1m AHD, and it is considered the development is not likely to result in any adverse impacts on the flood function and behaviour on the land.</p>	Yes
Special Flood Consideration (CI 5.22)	Identified development in which the clause applies as being: a) For sensitive and hazardous development – land	The proposed development involves a group home which is identified within the definition of sensitive development in accordance with Clause 5.22.	Yes

	<p>between the flood planning area and the probable maximum flood, and</p> <p>b) For development that is not sensitive and hazardous development land, the consent authority considers the land that, in the event of a flood, may cause a particular risk to life, and or required the evacuation of people or other safety considerations.</p>	<p>The land is subject to the 0.2% AEP (500yearARI) (inc. Climate Change). The proposed finished floor level is approx. 300mm above the 0.2% AEP plus climate change, with an expected lead time of 24 to 48 hours (for evacuation).</p> <p>In this respect, Councils Development Engineers are satisfied with the design of the development.</p>	
Essential Services (CI 6.2)	<p>Ensure services that are essential for the proposed development are available, including water, sewer, stormwater, road access, electricity and telecommunications.</p> <p>Or that adequate arrangements have been made to make them available.</p>	<p>Reticulated services are to be provided to the site as part of the development.</p> <p>Detailed within the civil engineering plans, stormwater management is proposed to include:</p> <ul style="list-style-type: none"> - 4x underground stormwater detention tanks, - Pit and pipe infrastructure to direct the stormwater to the existing swale within Johnston Street. 	Yes
Earthworks (CI 6.2)	<p>Ensure earthworks required do not have detrimental impacts on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surround land.</p>	<p>The proposed development involves earthworks to facilitate the development.</p> <p>The earthworks are not considered to have detrimental impacts. All works to be undertaken in accordance with the conditions of development consent.</p>	Yes

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

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

The following Development Control Plan is relevant to this application:

- ***Richmond Valley Development Control Plan 2021 ('the DCP')***

The provisions contained within the DCP are intended to form a guideline under which development can take place that meet the underlying objectives of the Richmond Valley Local Environmental Plan 2012. Where demonstrated, scope exists to allow meritorious assessment through alternate solutions where practicable.

The follow parts of the DCP are relevant to this application:

Part A-8 Multi-dwelling Housing and Residential Flat Buildings

Part A-8 of the Richmond Valley DCP provides the development standards for multi dwelling housing and residential flat building developments within the Richmond Valley Local Government Area. The development includes the following, and therefor is considered to be consistent with the provision of Part A-8 of the DCP-

- The subject site is connected to Council's reticulated sewer and water system.
- The proposed multi dwelling housing is to be utilised as infill affordable housing is located on Lots 155 & 156 which have a combined area of 1,607.8m², with a street frontage to Clark Street of 40.2 metres and to Johnston Street of 40 metres.
- The proposed multi dwelling housing development does not exceed the maximum height of buildings.
- The proposed development located on Lots 155 & 156 provides a total landscaped area of 761m² being 47.33% of the lot.
- Each unit is provided with an area of private open space with a minimum area of 16m²
- The private open space provided to the dwellings is located behind the building line, and is located directly adjacent a living area.
- Carparking requirements are required under Section 18 of the SEPP (Housing) 2021 for in-fill affordable housing. 6 car parking spaces have been proposed and complies.
- The proposed development is not considered likely to have any adverse impacts on view sharing given the location.

Part A-8 of the Richmond Valley DCP adopts the objectives and design criteria established for Multi Dwelling Housing contained in the Department of Planning, Industry and Environment's Low Rise Housing Diversity Design Guide (LRHDDG) for Development Applications (July 2020), (section 2.4 Multi Dwelling Housing) except as modified by the local provisions.

The development application proposal is merit assessed. If the development application cannot meet the design criteria, then the consent authority is to be flexible in applying these provisions and allow reasonable alternative solutions that achieve the relevant objectives.

As demonstrated within the Low-Rise Housing Diversity Design Guide Review prepared by *ptma Architectural*, the multi-dwelling development mostly complies with design criteria stipulated within Section 2.4 of the LRHDDG 2020. However, there are a number of provisions in which the development does not strictly meet the design criteria, but demonstrates compliance with the objective of the development standard, including:

- Objective 2.4A-2 - The subject site adjoins Johnston Street to the south which is a classified road. A setback of 3 metres is provided to Johnston Street from the multi dwelling housing / infill affordable housing development. Whilst not consistent with the development standard, the proposal is compliant with the requirements of the DCP with respect to setbacks to secondary road frontages. In addition, it is considered the proposal is consistent with the objectives of the standard
- Objective 2.4A-4 - The proposed development provides a setback of 1.5-2 metres to the rear and side boundaries to Cluster Building 02 being the rear most building on the site. In this regard, as a result of the design of the development, which provides

communal/shared landscaped and open space areas, internal common terraces, and private open space for each dwelling which are orientated towards the front of the dwellings, the proposal has not nominated a 'rear' boundary and treats both boundaries as 'side setbacks'. This also results from the interconnected nature of the infill affordable housing and shop top housing / group home development being that both developments will be owned and operated by a community housing provider. Whilst the proposal is not compliant with this requirement, it is considered the development remains consistent with the objectives of the standard. In this regard, significant landscaping is provided throughout the site, including along both side boundaries, which includes significant areas of deep soil planting zones.

- **Objective 2.4E-1** - Due to the design of the development, with two separate buildings containing three units each, and one building being located towards the rear of the site, two dwellings within the multi dwelling housing development do not provide a front door or habitable room that is visible from the street. In this regard, all units within the front building provide a front door and habitable room visible from Clark Street, whilst one (1) unit within the rear unit building provides a front door and habitable room that is visible from Clark Street. Whilst the proposal is not fully compliant with this requirement, it is considered the development remains consistent with the objective of the standards, being that the proposal provides activation of the street by way of direct access to Clark Street into front courtyards and provides passive surveillance to public streets within two thirds of the development and it is therefore considered the non-compliance is acceptable in the circumstances of the case.
- **Objective 2.4E-2** - The three units provided within the front building are provided with courtyards within the front setback and articulation zone area. Whilst not consistent with the development standard, the proposal is considered consistent with the objectives of the standard being that the design of the front fencing has been undertaken to minimise dominance of the streetscape, with landscaping provided forward of the fencing to soften the streetscape. In this regard, fencing is setback off the front boundary to enable landscaping to be provided wholly within the property boundaries.
- **Objective 2.4X-1** – The project architect has advised the dwelling has been designed to be finished to meet or exceed as many of the silver standards as practical, not all design features have been achievable. For example:
 - 6 out of 7 of the features are provided to all 6 dwellings,
 - 7 out of 7 features are provided to 2 of the 6 dwellings to the front door, and
 - 7 out of 7 features are provided to a further 2 of the 6 dwellings to the rear door.

As a result of the above, it is considered the proposal is consistent with the objectives of the design standard being that all universal design standards have been included in the dwelling design where possible to promote flexible housing to all members of the community.

- A Design Verification Statement is provided

Part A-9 - Shop Top Housing

- The proposal provides a maximum building height of 8.4 metres, no cl. 4.6 required.
- The overall design of the development has been designed to provide a commercial style development from the Johnston Street frontage whilst meeting the needs of the housing provider the end use of the site.
- The subject site is zoned E1 Local Centre, which provides a zero (0) building line setback for shop top housing – where located above ground floor commercial development. The proposed development provides a setback of 2.75 metres to the ground floor, and 3 metres to the first-floor residential component. The setbacks are

considered consistent with the surrounding residential dwellings and provides a greater setback than required for the E1 zone.

- The proposal does not trigger the requirements of SEPP 65 as the development is less than 3 stores in height.
- The proposal provides an architecturally designed building, which incorporates a number of materials along external walls and interesting design features.
- The development is provided with significant landscaping along the front façade to soften the visual impact on the streetscape and screen the proposed boundary fencing. The ground floor commercial component has been designed to reflect a common commercial shop front along the Johnston Street frontage, whilst ensuring the design brief for the project and end use is met.
- Shadow diagrams are provided within the architectural design plans demonstrating the proposed shop top housing does not result in impacts on adjoining residential developments.
- The residential units have been designed to provide solar access to each unit. A Basix Certificate is provided
- The development is orientated to both the Johnston Street frontage and has been designed with regards to CPTED principles.

Part A-10 - Seniors Housing and Affordable Housing

Part A-10 of the Richmond Valley DCP provides guidance for Seniors Housing & Affordable Housing within the Richmond Valley Local Government Area. Part A-10 outlines the relevant State Environmental Planning Policies and other sections of the DCP including Part I-3 *Building Setbacks* that are applicable to Seniors Housing and Affordable Housing. The development has demonstrated compliance with the provision of the Housing SEPP, and the building setbacks.

Part B: Commercial Development

Part B of the Richmond Valley DCP provides guidelines for commercial development.

- The proposal provides a maximum building height of 8.4 metres, no cl. 4.6 is required.
- The development provides an architecturally designed building which incorporates a number of materials along external walls and interesting design features.
- The proposal provides an area for loading and unloading within the subject site.
- The proposed development incorporates signage panels of uniform size and placement within the building form. The signage will relate to the ground floor commercial component only, being operated entirely by the community housing provider. The signage is not proposed to be illuminated or include variable messaging.
- a concept landscape plan is provided which demonstrates significant landscaping along the frontage of Johnston Street forward of the proposed building and carparking area.
- the commercial space proposed as part of this development will be wholly utilised by the community housing provider to provide services to clients and participants in their care.

Part F: Signage

Business identification signage forms part of the overall development, and therefore Part F of the DCP applies. Two signage panels are provided within the elevation of the ground floor commercial component of the proposed shop top housing development. The signage will relate entirely to the ground floor commercial development, which will be operated by a community housing provider

- The signage will relate to the proposed commercial component of the shop top housing development
- The signage is not considered to detract from the amenity or visual qualities of the streetscape and is consistent with existing signage in the area
- The proposal will not obscure an architectural element of the building
- The proposal relates to signage banner on the southern elevation
- The sign will not be attached to a vehicle
- The signage is not proposed to be illuminated
- The signs will be wholly contained within the allotment and not located over a footpath
- The signs will be attached to the building
- The sign will not exceed 25% of the wall area

Part H-1 – Flood Planning

All development at or below the flood planning level must take into account flood hazards in the area, thereby reducing the risk to life and lowering the health, social and psychological trauma associated with flooding, a greatly reducing property damage. Additional requirements exist for more critical development.

The subject site is identified as being affected by the 1 in 100-year flood event. The proposed development has been designed to provide floor levels at or above the minimum habitable floor level requirements, as addressed in Section 5 of this report.

Part I-3 – Building Setbacks

This Chapter identifies requirements for setbacks for development from road frontages, side and rear boundaries for all development types in the various land use zones

Front Setbacks

- Shop top housing - a setback of 2.75 metres is provided to the ground floor, whilst a setback of 3 metres is provided to the first-floor residential component.
- Multi Dwelling Housing (Infill Affordable Housing) - a setback of 5.5 metres is provided to Clark Street, whilst a setback of 3 metres is provided to Johnston Street.
- Group Home is located in the rear of the site behind the shop top housing development.

Side and rear setbacks

- Shop top housing: A side setback of 1.5 metres is provided to the nearest property boundary (east)
- Multi Dwelling Housing (Infill Affordable Housing) A side setback of 1.5-2 metres is provided to the side property boundaries.
- Group Home A setback of 1.5-2 metres is provided to the side and rear boundary.

Part I-4 – Car Parking Provisions

Parking is required and is based upon estimated demand for different land use types, however, the DCP incorporates opportunities to be flexible where alternative parking strategies, parking rates and solutions can be demonstrated.

This has been addressed in Section 5 of this report.

Part I-7 – Noise Impact Assessment

This section of the DCP provides guidance and examples where noise impact assessment (NIA) is required as part of a comprehensive development application. Noise impact assessment is generally required to be an integral component of a development application (DA) where the proposed development and/or associated activity may potentially impact neighbouring properties and public land.

Noise has been addressed in detail in Section 5 of this report.

Part I-9 – Water Sensitive Urban Design (WSUD)

Water Sensitive Urban Design (WSUD) is a multidisciplinary approach for integrating land use and water management (water supply, stormwater and wastewater) planning with the aim of minimising the impacts of urban development on the natural water cycle.

- Civil Engineering Plans have been prepared by Manage Design Engineer Pty Ltd, detailing stormwater to be dealt with in the following manner:
 - 8x underground stormwater detention tanks across the two sites,
 - Pit and pipe infrastructure to direct stormwater to the existing swale within Johnston Street.

Part I-10 – Crime Prevention through Environmental Design (CPTED)

Crime Prevention through Environmental Design (CPTED) utilises crime prevention strategies that focus on planning, design and structure of individual development which ultimately promote safer towns and neighbourhood

- The development has been designed having regard to CPTED principles
- Fencing is provided to the entirety of the development,
- Access to the development will be limited to those residing in the proposed residential units, and staff utilising the commercial component of the shop top housing development. Staff will manage who is permitted to access the site.
- Security cameras will be provided at the entrance and within the development.

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):

(c) 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 not being relevant to the proposal:

- a) If demolition of a building proposed - provisions of AS 2601;
- b) If on land subject to subdivision order under Schedule 7, provisions of that order and any development plan;
- c) Dark Sky Planning Guideline if applicable;
- d) *Low Rise Housing Diversity Design Guide for Development Applications* (July 2020) if for manor house or multi dwelling housing (terraces);

- e) If a building for residential purposes on land in Penrith City Centre is proposed, the *Penrith City Centre Development Assessment Guideline: An Adaptive Response to Flood Risk Management for Residential Development in the Penrith City Centre*;
- f) Development on land to which Wagga Wagga LEP 2010 applies, the *Wagga Wagga Special Activation Precinct Master Plan* (DPE, May 2021);
- g) Development on land to which Moree Plains LEP 2011 applies, the *Moree Plains Special Activation Precinct Master Plan* (DPE, January 2022).

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the 2021 EP&A Regulation are not relevant to the proposal.

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.

In detail, key issues and likely impacts have been addressed in detail in Section 5 of this report.

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

- Context and setting – The site is zoned E1 *Local Centre* pursuant to the LEP. The proposal relates to the construction of a shop top housing development, group home, and in-fill affordable housing within an existing commercial precinct of Casino. The development is considered to be generally consistent with the context of the site, in that the buildings have been designed having considered to the existing and surround land uses, practically the adjoining residential developments.
- Access and traffic – Detailed in the Traffic Engineering Report, the development is considered to be suitable for the location in terms of traffic and access. Transport for NSW raised no issues
- Utilities – All necessary services will be connected to the proposed development. Essential energy raised no issues and has provided comment, which form part of the recommended conditions.
- Heritage – The site is not identified on Schedule 5 of the RVLEP2012 as containing an Item of Environmental Heritage.
- Flora and Fauna - The proposal involves removal of an existing Forest Red Gum at the site. The Ecological Assessment prepared by Blackwood Ecological Services raised no issues to the remove of the tree.
- Water/air/soils impacts – Refer to Section 5 of this report.
- Noise and vibration – Refer to Section 5 of this report.
- Natural hazards – the site affected by any natural hazards such as flooding. The development is considered to comply with clause 5.21 and 5.22 of the LEP, refer to Section 5 of this report.

- Safety, security and crime prevention – CPTED principles have been included, and form part of the recommended conditions of consent, as recommended by NSW Police Force, refer to Section 5 of this report.
- Social and economic impact – The proposed development aims to achieve the desired strategic outcome of the area while encouraging social and economic benefits within Richmond Valley.

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 subject site is considered suitable, as it is relatively unconstrained, and devoid of any significant fauna or flora. However, is on flood prone land, with the FFL design to accommodate, that being 500mm above the required FFL to meet the 1-100year flood level.

The site has suitable road access and connections to public transport, with the development proposed two new driveway cross overs, one of Johnston Street and the other off Clark Street. The development is not considered to be traffic generating development, and or considered to impact on the existing road network and or safety of road users, including pedestrians.

The development is largely screened visually, by way of appropriate fencing and landscaping, and is inclusive of security and safety elements to eliminate risk of crime, and or mitigate where risk can not be eliminated.

Environmental assessments for noise, air quality, contamination, flooding, safety and crime demonstrate the expected impacts of the development on the development site and adjoining land uses are acceptable with the management measures and or features identified.

Consequently, the site is considered to be suitable for the purposes of the proposed development.

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

Identified in Section 4.3 of this report, zero (0) submissions were received following notification of the proposed development in accordance with Richmond Valleys Council's Community Participation Plan 2020.

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

This development has been designed to be compatible with the existing and desired future amenity of the locality and will support the use of the land for residential and commercial purposes. In addition, the development is largely consistent with the development controls for the locality and is supported by a range of technical reports which demonstrate the proposals compliance with the relevant legislation, policies and standards.

The proposal has been notified to relevant government agencies with no agencies raising objection to the proposed development. Where provided the agencies recommendations have been included within the recommended consent conditions. In addition, no issues were raised during notification as a total of zero (0) submissions were received.

The proposal is considered to promote a variety of housing need, thus ensuring that the public interest in maintains. Therefore, the proposal is deemed to be in 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.

Table 5: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
Nil	N/A	N/A	N/A
Referral/Consultation Agencies			
Electricity supply authority	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	No objection. Standard recommendations regarding easements and works within proximity to electrical infrastructure, including a safe distance of 3.2 metres is required to the nearest of the powerline(s) running along Johnston and Clark streets.	Yes (condition)
Transport for NSW	Section 2.119 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development with frontage to a classified road Section	No objection and concurs to the carrying out of the proposed works, subject to the development being in accordance with the <i>Civil Drawings</i>	Yes (condition)
NSW Police Force	Courtesy referral – risk assessment	No objection, provided a number of recommendations, including Surveillance, CCTV, lighting, signage/wayfinding, and vegetation. The assessment recognised the crime risks identified in the local area include break and enter residential, stealing both from residential and motor vehicles,	Yes (condition)

		malicious damage, and potential stolen vehicles.	
Integrated Development (S 4.46 of the EP&A Act)			
Nil	N/A	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	<p>Council's Engineering Officer reviewed the submitted civil works concept plans and considered that there were no objections subject to conditions.</p> <p>Engineering comments included:</p> <p><u>Sewerage services - satisfied.</u></p> <p>Existing connection to consolidation lot: Existing line within the new lot can be removed from Council assets, connection will then be on the northern boundary – existing only 0.9m deep, and 4.9m deep utility hole.</p> <p><u>Water Supply - satisfied.</u></p> <p>no issues – details to be provided for RVC to cost and install – s68 application.</p> <p><u>Section 64 Contribution - payable</u></p> <p>4 lots = credit of 4 ET calcs required on overall loading of water/sewer systems</p> <p><u>Flooding - satisfied.</u></p> <p>area is clear of 5% AEP, just partly affected by 2%AEP, and partly by 1%. Flood Planning Level [Minimum Habitable Floor Level] of RL 23.1 m AHD</p> <p>NOTE: Structural assessment to 1%AEP not required as the floor level of the building is at the FPL of 0.5m above the 1%AEP.</p> <p><u>Road access – satisfied.</u></p>	Yes

	<p>Driveway and car parks - Johnston St driveway used to be a joint access point for Lots 158 & 159 as required by RTA/RMS/TfNSW. S138 Portal application works and aprons.</p> <p><u>Stormwater and Drainage – satisfied.</u></p> <p>Directed to each street.</p> <p>stormwater outflow to the table drain will remain private.</p> <p>Section 138 Roads Act application req. for installation of stw box culverts in road reserve, detailed design to be reviewed through Section 138 application. *note* reconstruction of footpath/shared pathway req.</p> <p>Assessment of downstream table drain req. to determine if there is grade to downstream pit infrastructure, if no regarding of the table drain is req. to ensure outflow enters Council stw network.</p> <p>Maintenance of overland flow path on-property between pit 3-2 & 4-1 is unlikely, fine for this to be piped.</p> <p><u>Developer contributions</u></p> <p>s64 contribution payable</p> <p>s7.12 credit/exemption</p>	
Building	<p>Council's Building Certifiers are generally satisfied with the proposed development subject to conditions.</p> <p>BCA Compliance - The issue of this consent does not certify compliance with the relevant provisions of the Building Code of Australia.</p>	Yes
Health	<p>Council's Environmental Health Officers are generally satisfied with the proposed development subject to conditions.</p> <p>Trade waste - An application to discharge liquid trade waste, including plans and specifications of any pre-treatment devices and proposed trade waste installations required. Any floor waste discharging to the sewerage system is to have a dry basket installed.</p> <p>Managing Noise - Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a</p>	Yes

	<p>suitably qualified acoustic consultant in accordance with relevant standards and guidelines.</p> <p>Mechanical Equipment – shall not be operated if it can be heard in a habitable room of a residence during restricted hours or at other times should the noise from the article be deemed to be offensive as defined within the <i>Protection of the Environment Operations Act 1997</i></p> <p>Lighting - All externally mounted artificial lighting, including security lighting, shall comply with Australian Standard AS4282:2019 <i>Control of the obtrusive effects of outdoor lighting</i> and be shielded.</p> <p>Waste - Adequate number of waste, recycling and green/organic bins shall be provided for the development. All bins are to be stored within the designated bin storage areas. The designated bin storage areas are to be kept clean.</p>	
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The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 27 February 2024 until 26 March 2024. The notification included the following:

- Notification letters sent to adjoining and adjacent properties;
- Notification on the Council's website; and
- Social media post;

The Council received a total of zero (0) unique 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 and bulk (resolved)

The plans show the proposed development is to have a maximum building height of 8.4m, however, the plan set provided by the applicant does not detail the natural ground level (NGL) to peak building height as the development is inclusive of cut/fill. Therefore, Council requested that revised elevations be provided to demonstrate NGL to peak building height and be inclusive of any fill required to facilitate the development.

In response, the applicant referred to the original submitted plans whereby the project architect has illustrated the height lines on the drawings (typically a section each direction through the core) in addition to the proposed finished RL for each roof plan. The project

architect has advised the reason the heights appear like there's a conflict is that the ground falls 1m across the sites 80 metre width and the height lines at any section relate to the ground at that section. As a consequence, it makes buildings in the background look like they exceed heights. Refer to figure 18 below which demonstrates that all buildings are compliant with the building height requirements for the site

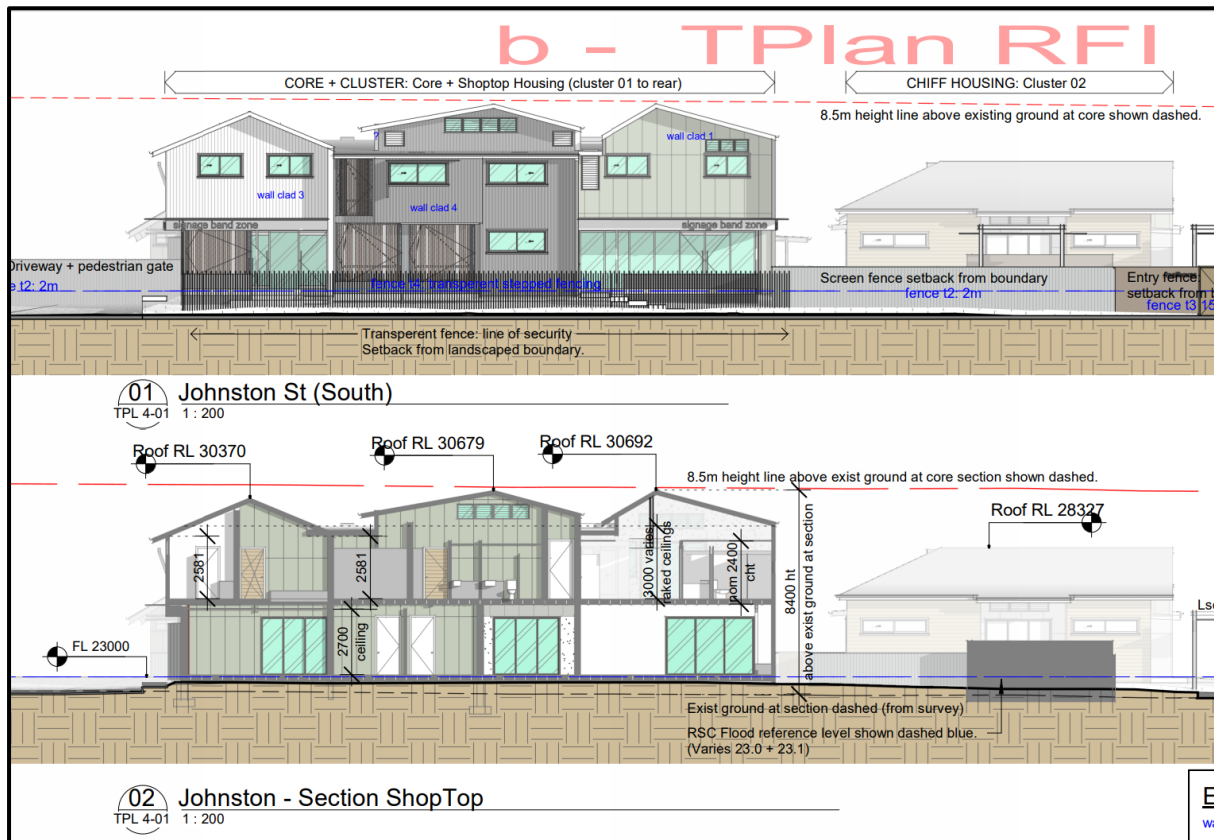


Figure 18: Drawing TPL 4-01 Site Elevations Johnston St (PTMA Architecture 27/05/2024)

Resolution: Revised elevations confirm the maximum building height does not exceed 8.5 metres (inclusive of fill), and therefore no Clause 4.6 LEP request as part of the development application is required.

5.2 Building compliance with the BCA

On 7 March 2024 Council issued a request for information #1, noting the Class 3 and 6 buildings within a 3-meter vicinity of the allotment boundaries require fire separation, and requested plans to show the intention of walls to be separate by an approved system under the National Construction Code 2022 Vol 1.

In response, the applicant provided revised Site Plan (Site Plan A1) illustrating the fire rating requirements. In addition, a Building Code of Australia (BCA) report prepared by *Axis Certification* was submitted to Council, confirming that the Core downstairs is BCA Class 5 (office), and the upstairs temporary accommodation and group homes are BCA Class 3. With the other housing nominated as BCA Class 1a.

Upon review of the BCA report, details and dimensioned plans are required to determine compliance with some detailed items, including the current design not achieving compliance with BCA Clause D4D4 *parts of buildings to be accessible*, as access is required to and within all areas of the ground floor Class 5 portion of the Core Building (Shop top housing).

On 8 May 2024 Council issued a request for information #2, requesting that the application demonstrate compliance with the BCA as identified in the report prepared by *Axis Certification*.

In response, the applicant provided an accessibility plan which draw on the provision of necessary details to illustrate at the Development Application Stage that compliance is achievable, refer to figure 19 and 20 below.

In this regard, reference is made to the fact the access consultant has advised within their assessment that the development is capable of complying. In this regard, the project architect has checked all corridor widths, door widths and room sizes to allow compliance.

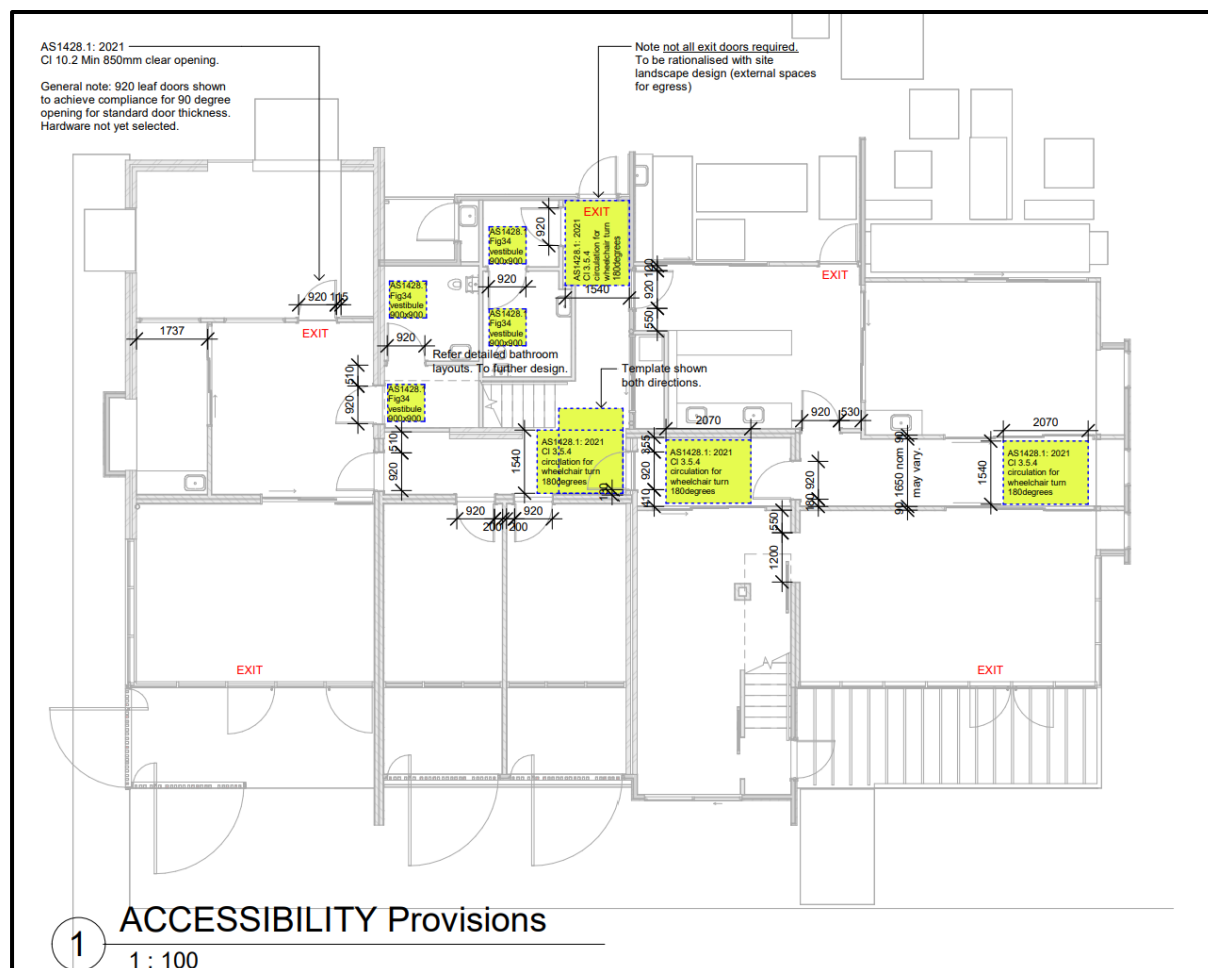


Figure 19: Drawing Core 2-22 Accessibility Core Plan (PTMA Architecture 27/05/2024)

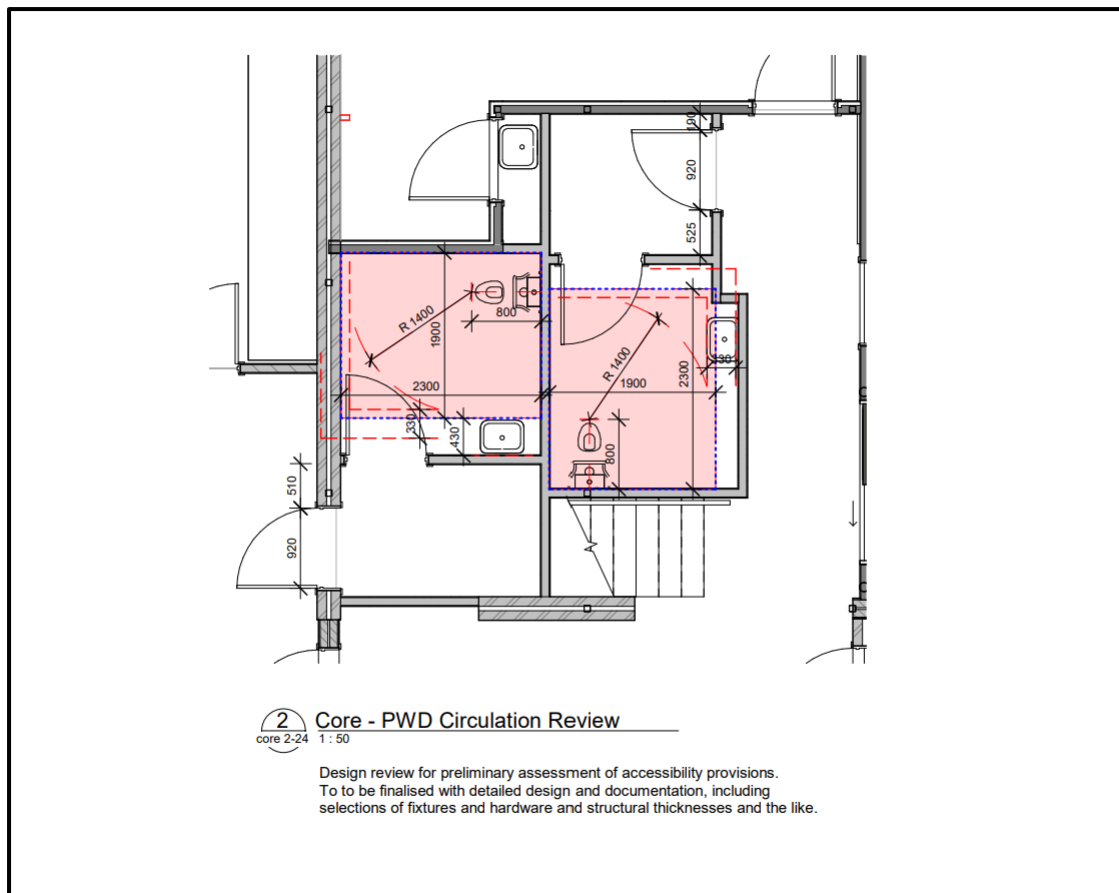


Figure 20: Drawing Core 2-24 Core 2-22 Accessibility Core Plan (PTMA Architecture 27/05/2024)

Resolution: In respect to the above, Council Building certifiers confirmed they are satisfied with the applicant's response and that further review by a BCA consultant would follow the determination of the Development Application and the preparation of the Construction Certificate design plans. As such, the development is considered to be suitable and there is no outstanding issued arising from this.

5.3 Natural Hazards – Flooding

The site is affected by flooding, with Councils Development Engineers identifying the site to be clear of the 5% AEP (20yrARI), partly affected by the 2% AEP (50yrARI) and the 1% AEP (100yrARI), and fully affected by the 0.2% AEP (500yrARI), therefore, flooding within the area is to be considered.



Figure 21: 1% AEP design flood inc. CC (extract Richmond Valley Flood Study 2023)



Figure 22: 0.2% AEP design flood inc. CC (extract Richmond Valley Flood Study 2023)

Council's Richmond Valley Flood Study 2023 (adopted 19 September 2023) and Casino Floodplain Risk Management Plan 2004 are the principal flood planning documents for the site (as adopted). Additionally, Clause 5.21 Flood Planning of the LEP requires mandatory consideration, considering the impacts of the development on flood behaviour in the area, and Clause 5.22 of the LEP requiring consideration due to (part) of the development being identified as a *sensitive land use*, in this case, the group home development.

Clause 5.22 of the LEP identifies development in which the clause applies as being for development identified as sensitive or hazardous development, or development that is not sensitive or hazardous development, consideration to development that may cause a particular risk to life and require the evacuation of people or other safety considerations.

Council's *Floodplain Risk Management Plan (Casino)* has adopted the 1 in 100-year ARI flood event to be the most appropriate for flood planning, with Clause 5.21 of the LEP adopting the 1 in 100-year ARI flood event from the plan, plus a 500mm freeboard as the flood planning level. Therefore, all development at or below the FPL must take into account flood hazards in the area, thereby reducing the risk to life, lowering the health, social, and psychological trauma associated with flooding, and greatly reducing property damage.

The site has approximated existing ground levels (m AHD) of 21.7 metres AHD (lowest point) to 22.7m AHD (highest point), with the following ground levels identified for each Lot, being –

- Lot 155 DP 834821 – 21.7 – 22.5 metres AHD;
- Lot 156 DP 834821 – 21.8 – 22.35 metres AHD;
- Lot 157 DP 834821 – 21.8 – 22.6 metres AHD; and
- Lot 158 DP 834821 – 21.9 – 22.7 metres AHD.

The site has an FPL (minimum habitable floor level) of 21.3 metres AHD. Therefore, the development is inclusive of fill and or has designed the buildings to comply with the minimum habitable floor level. A structural assessment to 1% AEP is not required as the finished floor level of the building is at the FPL of 0.5 metres above the 1% AEP. In addition, the finished floor level of group home is at the FPL of 0.3 metres above the 0.2% AEP.

The site has an expected evacuation lead time of 24 to 48 hour, with the proposed development designed to an appropriate FPL. In this respect, evaluation of the proposed development has taken into consideration the flood hazard in the area, considering both risk to life and property associated with flooding. Therefore, the development is considered to be suitable for the site.

Resolution: The development is within the flood planning area and has been evaluated against Clause 5.21 and Clause 5.22 of the LEP and is deemed to satisfy the relevant flood planning requirements. As such, Council Development Engineers deem the development suitable in respect to flooding at the site, and there are no further issues arising.

5.4 Car parking

The proposed development is required to provide sufficient car parking based upon the estimated demand for different land use types. The development includes the following parking supply and access arrangements-

Shot-top housing and group home development – Johnston Street frontage:

- 10 standard carparking spaces including an accessible carparking bay, located at ground level;
- Carparking entry is restricted by a secured gate;
- 1 parking bay for the service vehicle, located outside the access gate; and
- Access off Johnston Street via a new driveway cross over.

Multi-dwelling housing (in-fill affordable housing) – Clark Street frontage:

- 6 standard carparking spaces including an accessible carparking bay, located at ground level;
- Carparking entry is restricted by a secured gate; and
- Access off Clark Street via a new driveway cross over.

Identified below are the carparking provisions for the proposed development. The provisions for the shop top housing and group home are based on Council's DCP, and the multi-dwelling housing (in-fill affordable housing) development are based on the Housing SEPP 2021 as the development is identified under Division 1 In-fill affordable housing.

Richmond Valley DCP 2021			
Land Use	Requirement		Proposed
Shot-top housing (Core Building)			
• Resident	1 space per dwelling	4	4
• Visitor	1 space per 10 dwelling	1	1
Commercial – office space at Core building (3-4 staff)	1 space per 30m ² (GFA = 246m ²)	8	3
Group home (cluster 1)	1 space per 10 beds	1	1
	1 space per 2 supervisors or carers	1	1
Total		10	10
Housing SEPP 2021			
Multi-dwelling housing (In-fill affordable housing)	0.5 space per dwelling (2 bed)	3	6
Total		3	6
On-street parking			
Johnston Street	Existing on-street parking	>4	0
Clark Street	N/A	-	-
Total		>4	>4
Overall total = 16 on-site + >4 on-street parking (Johnston Street)			

Based on the above, the proposed development provides a total of ten (10) parking spaces to service the shop top housing and group home development, and six (6) parking spaces to service the in-fill affordable housing development.

As identified, the provision of ten (10) parking spaces provided to the shop-top housing and group home development results in a shortfall of five (5) parking spaces, therefore the development application seeks to vary Council's DCP.

Part I-4.4 *Exception to general car parking requirements* of the DCP 2021 allows for a level of flexibility in how car parking is provided to the development, and what should be considered when considering a car parking variation. Further noting, car parking reductions shall only be given where it is supported by a parking study demonstrating the minimum car parking rates of this DCP are unreasonable for the proposed development, and the short fall in car parking will not significantly impact on the community.

In addition, Part I-4.4(4) recognises, car parking may be provided off-site where Council is satisfied with an alternative arrangement to provide the parking elsewhere in the vicinity of the development

The following justification has been provided as part of the applicant request to vary the DCP-

The proposal provides a total of 246m² of gross floor area for the ground floor commercial component of the shop top housing development. In accordance with the DCP, this generates required parking of 8 spaces.

The typical 'office' area including the check in, staff, consult 1 and 2 rooms provide a floor area of 89m², which would require a total of 3 spaces, as a significant portion of the ground floor commercial area provides communal space / kitchen / kids space etc. that would be used intermittently when clients first come to the site, and by residents of the upstairs residential development, and rear group home.

In addition, the Traffic Engineering Report prepared by TTM recognises the supply of car parking, the provisions required to facilitate the development, and notes the short fall and that visitor parking bays are not allocated in the gated parking area of each development by considering that the number of visitors would not be significant.

It is also expected that the parking availability is high on the on-street carparking facility along the frontage road (Johnston St), allowing visitors to utilise the on-street carparking spaces on Johnston St without impacting on external supply, road safety, and or network operations.

Further stating, the proposed parking supply for the site is generally consistent with Richmond Valley Council accepted parking requirements and Australian Standards. Overall, TTM considers the proposed car parking arrangements for this development to be adequate.

Resolution: Based on the above, and the existing availability of on-street carparking, being greater than 4 car parking spaces available, the variation to the DCP is not considered to impact on the development and or locality. It is understood that all residential components of the development are able to achieve the car parking requires as identified in table above, with the addition on-streetcar parking available. A condition of consent is recommended, as such, allocating car parking to ensure all residential components comply with the car parking requirements.

5.5 Safety and security

Due to the sensitivities around the use of the development, that being to provide a range of safe and suitable housing options for women and children that requiring temporary, and or transitional housing, the development application was referred to the NSW Police Force for comment, along with consideration of Part I-10 *Crime Prevention Through Environmental Design (CPTED)* of the DCP 2021.

CPTED utilises crime prevention strategies that focus on planning, design, and structure of individual development. CPTED principles generally tries to minimise crime opportunity by minimising risks to offenders (increasing the likelihood of detection, challenge, and

apprehension), the actual and perceived benefits of crime (removing, minimising or concealing crime attractors and rewards), the excuse making opportunities (removing conditions that encourage and facilitate rationalisation of inappropriate behaviour), while maximising the efforts required to commit the crime (increasing the time, energy and resources required to commit crime).

The proposed development has been designed having regards to CPTED principles. In this regard the development has provided fencing to the entirety of the development, access to the development is controlled and limited to those who are residing in the residential units and staff utilising the commercial component of the shop top housing development, and security cameras to be provided at the entrance and within the development.

The response received from the NSW Police Force notes the crime risks identified in the local area include break and enter residential, stealing both from residential and motor vehicles, malicious damage, and potential stolen vehicles. With minimal current or trending crimes identified, however in the preceding 12 months localised reports of residential stealing's and malicious damage were reported.

It was identified that no new crime risk was identified by the NSW Police Force, that being *crimes that the current proposed development application will introduce or facilitate within this space*, as the proposed development and activity proposed is considered unlikely to exacerbate or introduce any new conflict or crime risks to the current space or adjoining areas.

In this respect, it is to be noted that the development application was referred to the NSW Police Force without any additional information, including the sensitive use of the development being for women and children seeking refuge from domestic violence.

In addition, police identified that parking may potentially be an issue on Clark Steet, and therefore *could introduce or facilitate certain issues that are not necessarily a crime, but impact on the ability to police a space*.

In consideration of the nature of the development and the crime risk assessment undertaken, the NSW Police Force made the following recommendations:

- Landscaping is to be maintained to prevent it becoming overgrown to ensure and promote visibility and surveillance opportunities;
- Landscaping plants in areas along pathways and other areas used by the residential guardians consist of low-lying plants to ensure open sightlines and reduce concealment areas;
- Adequate lighting along common pathways and throughout the shared common courtyard/play area;
- Staff are trained to review and download CCTV images should they be required by police;
- The installation of adequate lighting around the proposed exterior of the buildings, entry/exit points and the carpark;
- Lighting utilised is not to produce glare or dark shadows and be orientated to illuminate potential threats or suspects accessing the location rather than impede those that may be within the proposed development observing or looking out;
- Damage lighting both internally and externally is repaired or replaced in a timely manner;
- Directional signage to be provided. The signage is to be clear, legible, and useful to aid way finding throughout the development;
- Rapid removal of graffiti and/or repair of any damage to the premises which may be visible to members of the public; and

- Areas under decks/windows are free of any structures that can be climbed on to gain access to residences.

The above recommendations form part of the recommended notice of consent, with an additional CPTED condition.

Resolution – Based on this, and the recommended conditions that are to form part of the consent notice, the development is considered to have minimise risk of crime, and or reduced risk of crime where risk cannot be avoided. As such, the development is considered to be suitable and there is no outstanding issued arising from this.

5.6 Airborne pollution – adjoining service station

Directly west, the site is adjoining by an active service station, and therefore, an Air Quality Assessment prepared by Contamination Site Investigation Australia Pty Ltd has been undertaken to identify the potential contamination of volatile organic compounds (VOCs) within the air.

The assessment included a site inspection, noting the active service station has a diesel vent pipe within 2 metres of the boundary to the site, with another petrol vent pipe located approximately 30 metres from the boundary. The report further notes, no visual or olfactory indications of industrial activities that would potentially cause contamination of the site soils or underlying ground water, (soil and ground water not assessed as part of the Air Quality Assessment).

The following potential sources of ambient air contamination were identified, including:

- Fuel sales from adjacent service station
 - Volatile compounds in air from refuelling vehicles at bowsers
 - Fuel tank vent pipes
 - Refuelling of underground storage tanks (having vapour recovery which minimises exposure)
- Air pollution from Johnston Street (Bruxner Highway) fronting the site

The key components of fuel that pose a human health risk via inhalation including:

- Benzene;
- Toluene;
- Ethylbenzene; and
- Xylene.

The adopted guidelines for human health have been sourced from the National Environmental Protection Measure – Assessment of Site Contamination (as amended in 2013) (NEPM) and the QLD Environmental Protection (air) Policy 2019, thus presenting a range of guidelines applicable for the protection of receptors associated with land uses, refer to figure 23 below.

TABLE 3 Assessment Criteria				
Element / Compound 1,2,3	Health-based Investigation levels (µg/m³)			
	NEPM (1:)	Workplace Guidelines (2:)	WHO (3:)	Qld EPA (Air) Policy (4:)
VOC's				
Benzene	9.6	3,200	3,200	5.4
Toluene	376	191,000	260	400
Ethylbenzene	-	434,000	-	2.74
Xylene	867	442,000	442,000	950

Notes: 1: NEPM – 2011 Air Toxics Annual Average
2: Safe Work Australia Occupational health and safety guidelines for workers (8-hour daily exposure)
3: WHO – World Health Organisation.
4: Environmental Protection (Air) Policy 2019 (Qld Gov) – Health and Wellbeing environmental value.

Figure 23: Assessment Criteria (Extract from the Air Quality Assessment)

Passive sampling was undertaken, including passive samplers being positioned across the site to assess the variation of VOC concentrations away from the two primary sources (bowzers and highway).

The duplicate location AA01 has two samples at different heights, thus assessing the vertical disruption of VOCs at 1.5 m and another at 2.3 metres, refer to figure 24.



Figure 24: Detailing sample sites (Extracted from the Air Quality Assessment)

Wind data collected from the Casino airport shows that the annual wind direction percentages are similar to those collected on the day of sampling and the August averages. Therefore, indicating that the time of the sampling is representative of average annual conditions with a mixture of wind directions over the exposure period.

The air quality data results show typical urban area concentrations of VOCs that would be expected in any Australian town of similar population size. Data found, on the western side of the property which borders the service station, there were higher levels of compounds found in fuel vapour. Although above the detection limit, these values reported are in the parts per billion range and below human health criteria values, refer to figure 25 below.

TABLE 6 Soil Analytical Results Summary								
Analyte	Criteria 1,4		Concentrations in µg/m ³					
		PQL	AA01	AA01 Dup	AA02	AA03	RPD	
Benzene	5.4 - 9.6	<1	1.4	1.5	1.0	1.0	7%	
Toluene	376 - 400	<1	3.4	3.7	1.8	1.7	8%	
Ethylbenzene	2.74	<1	<1	<1	<1	<1	0%	
m+p Xylenes	867- 950	<1.1	1.1	1.2	<1.1	<1.1	9%	
Total BTEX	-	<2.5	5.8	6.4	2.8	2.6	10%	
Fuel Compounds without criteria								
2-Methylpentane	NA	<1.0	7.1	8.2	2.3	2.6	14%	
Cyclohexane	NA	<1.3	1.6	1.4	<1.3	<1.3	13%	
n-Hexane	NA	<1.1	4.1	4.7	2.2	2.3	14%	

Notes: RPD = Relative percentage difference

Figure 25: Analytical Results Summary (Extracted from the Air Quality Assessment)

The position of the western sample and duplicate (AA01 and AA01 Dup) was within the proposed carpark to understand potential worst case scenario concentrations, with the rear and eastern sample location (AA02 and AA03) had non detection or lower concentration for all compounds.

The study further notes, it is possible that occasional fuel odours will be detected on the site if wind direction and speed conditions are conducive. The lateral distance of 40 metres between the fuel bowers and the proposed residential dwellings and the prevailing north-west wind direction reduces odour occurrences and exposure.

In addition, fuel sales are generally influenced by the 8-9am school drop off and 3-4pm school pick up, with these typically being the busiest. The afternoon wind direction is predominantly away from the site which further eliminated fuel odour from the service station at these times on average. The refuelling of USTs on the service station is not expected to increase vapour emissions as these vehicles are equipped with vapour collection systems.

Resolution – Analytical results from air samples found VOCs did not to exceed the human health criteria for residential use or commercial use, and the distance between source and receptors are considered to be sufficient for local village land use and the proposed development. As such, the development is considered to be suitable and there is no outstanding issues arising from this.

5.7 Land contamination

A detailed site investigation (DSI) was undertaken by Easterly Point Environmental (2023) to provide a more complete and definitive information on the issues raised in the previous preliminary site investigation (PSI) conducted by HMC Environmental Consulting (HMC) in 2020 which found the site to be impacted by arsenic in the shallow surface soil.

Historically, the land use has been identified as agriculture with grazing and cropping occurring, along with some storage and possible filling as part of the adjacent land's development. Following this, the site is assumed to be vacant since the 1990's with agricultural uses having stopped, although it appears some services including stormwater having been constructed, which would have included disturbances and filling at the site.

Based on the historic information identified above, the potential contamination of concern is detailed in the figure 26 below.

Activity or Source	Contaminants
Agrochemicals	8-metals (arsenic (As), cadmium (Cd), chromium (Cr), copper (Cu), lead (Pb), mercury (Hg), nickel (Ni), and zinc (Zn)), organochlorine pesticides (OCPs), and organophosphorus pesticides (OPPs).
Uncontrolled filling	8-metals, total recoverable hydrocarbons (TRHs), benzene, toluene, ethylbenzene, xylenes, naphthalene (BTEXN), polycyclic aromatic hydrocarbons (PAHs), OCPs, OPPs, polychlorinated biphenyls (PCBs), halogenated phenols, non-halogenated phenols, and asbestos.
Storage of fuels/oils on the adjacent site	TRHs, BTEXN, PAHs, and lead.

Figure 26: Primary Contaminants and Origins (Extract from the Detailed Site Investigation)

The assessment was conducted over two mobilisations, being May 2024 and August 2023. The assessment site of contamination (ASC) investigation was conducted in general accordance with the preliminary conceptual site model (CSM), the project-specific data quality objectives (DQOs), sampling, analysis, and quality plans (SAQPs) developed for each mobilisation.

May 2023 mobilisation included:

- Excavation of 13 test pits;
- Geological logging of the subsurface;
- Collection of soil and material samples;
- Field screening for volatile organic (VOCs); and
- Laboratory analysis of selected samples for PCOCs.

The summary analytical results for May 2023 found metals in both surface and depth, and natural and fill samples were detected in low concentrations, with only arsenic approaching the land use criterion of 100 mg/kg. Sample TP05 0.2 – 0.3 m from fill detected arsenic at 88 mg/kg, as well as higher concentrations of chromium and copper. All other sample results from metals, including arsenic were low and below the residual soil level (RSL) or were non detected. Interestingly, compared to the HMC 2020 findings, 65% of the arsenic results were non detect at a limit of reporting (LOR) of 2 mg/kg.

Asbestos fibres were not identified in any soil samples, based on the Australian Standard AS 4964 – 2004, with an LOR of 0.01% w/w, however, asbestos was identified as chrysolite in a

fragment of cement roofing tile. Organics were non detect in all samples at appropriate LORs, including in Test pit 13 in the vicinity of the service station.

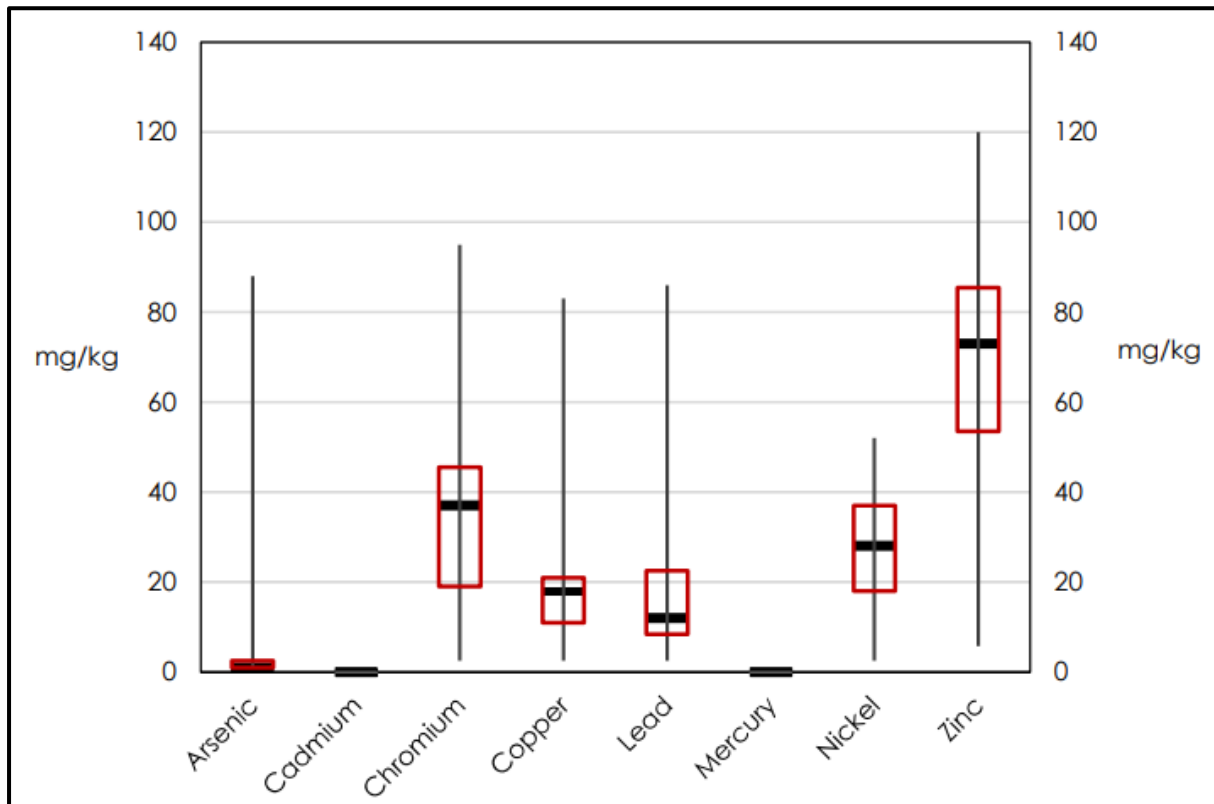


Figure 27: Summary of metal in soil (mg/kg) May 2023 (Extract from the Detailed Site Investigation)

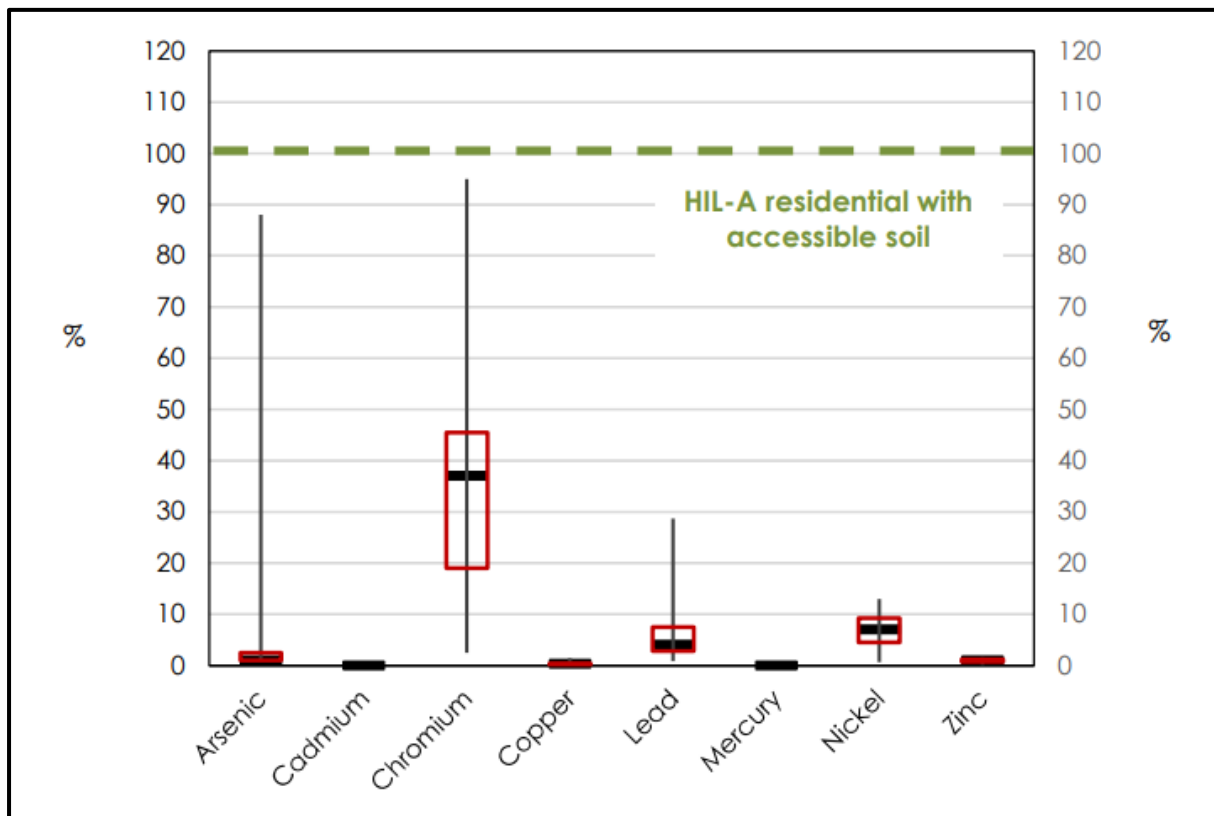


Figure 28: Standardised summary of metals in soil (%) May 2023 (Extract from the Detailed Site Investigation)

Based on the discrepancy between the arsenic and copper results reported by HCM 2020, and those found by Easterly Point investigation in May 2023, additional shallow surface samples were proposed.

August 2023 mobilisation included:

- Collection of 24 shallow surface samples;
- Geological logging of the subsurface;
- Collection of soil samples;
- Field screening for VOCS; and
- Laboratory analysis of selected samples for PCOs.

The summary analytical results found increased metal concentrations were noted for lead and zinc, these were below the HIL-A land use criteria, and arsenic and copper were detected at low concentrations, i.e. at < 10% of the HIL-A land use criteria.

Trace low molecular weight of polycyclic aromatic hydrocarbons (PAHs) were detected (fluoranthene and pyrene), with all other organic compounds being non detect.

Asbestos fibres were not identified in any soil samples, based on the Australian Standard AS 4964 – 2004, with an LOR of 0.01% w/w

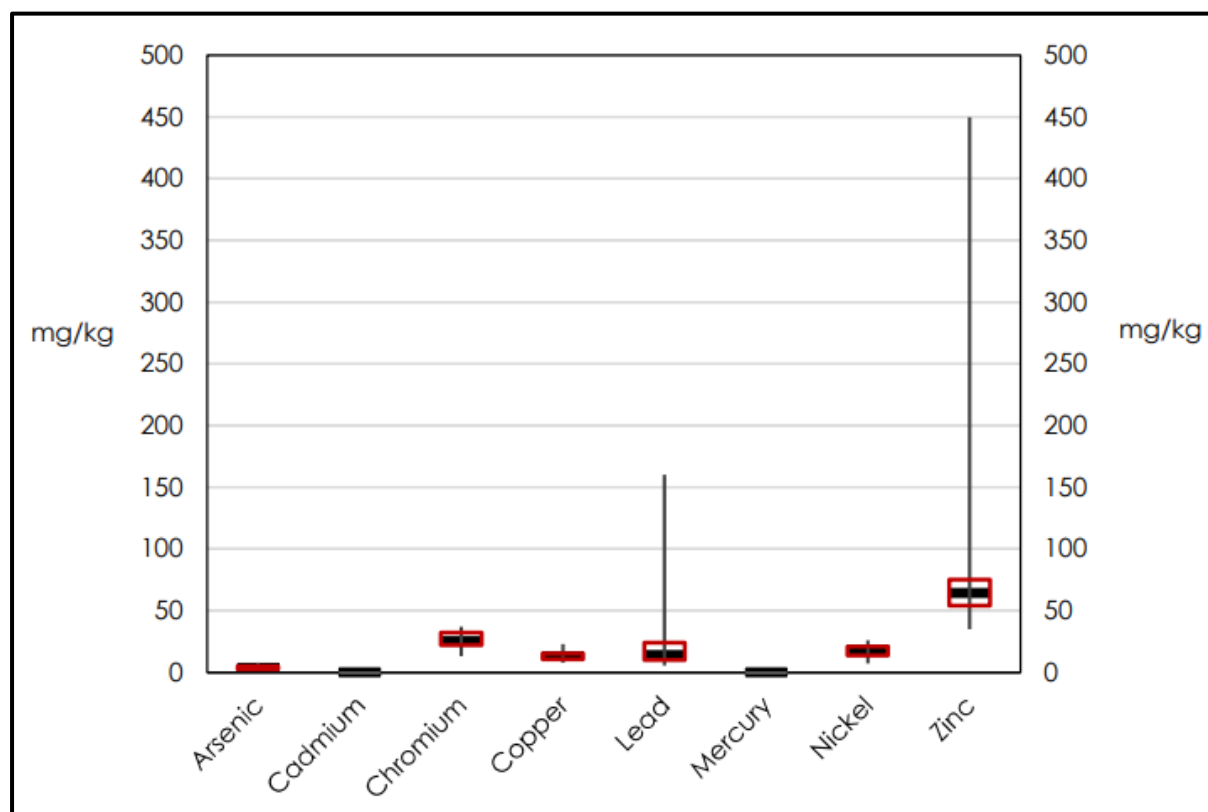


Figure 29: Summary of metals in soil (mg/kg) August 2023 (Extract from the Detailed Site Investigation)

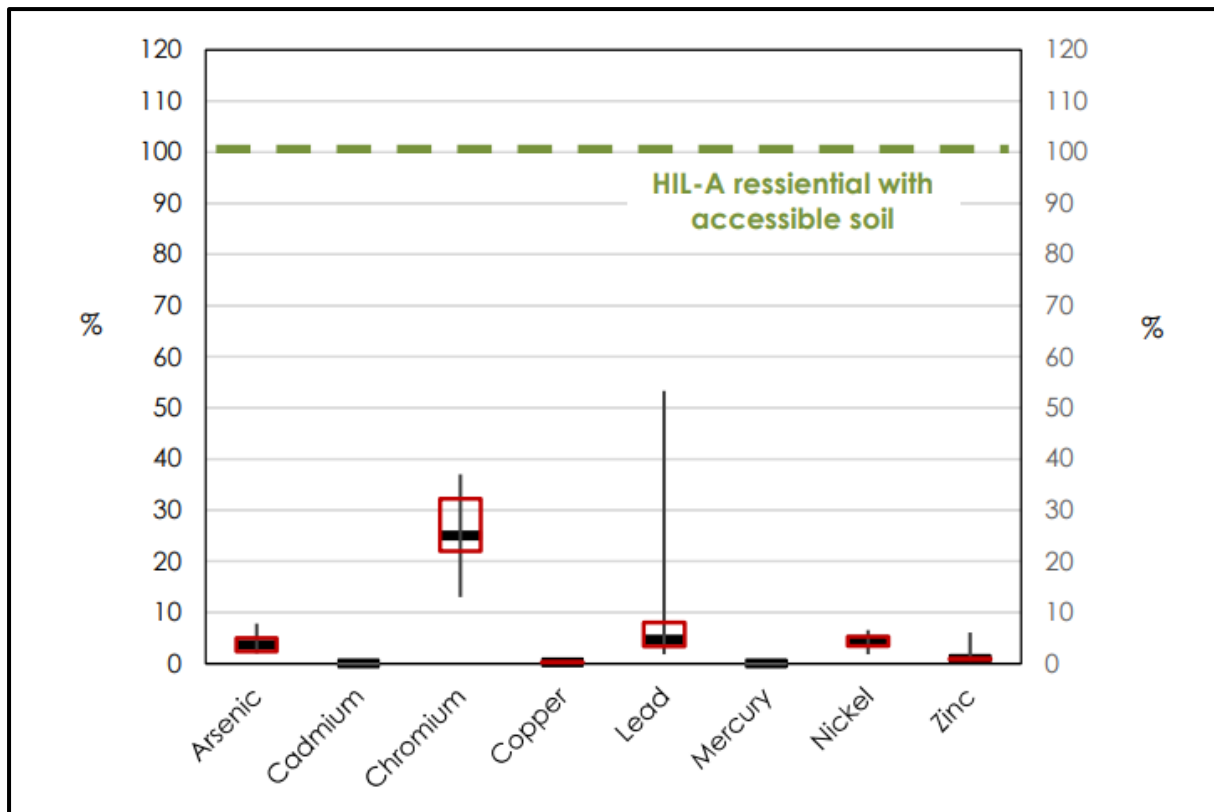


Figure 30: Standardised summary of metal in soil (5) August 2023 (Extract from the Detailed Site Investigation)

A comparison of arsenic, copper, and zinc results between the various investigations and mobilisation are shown in figure 31 below.

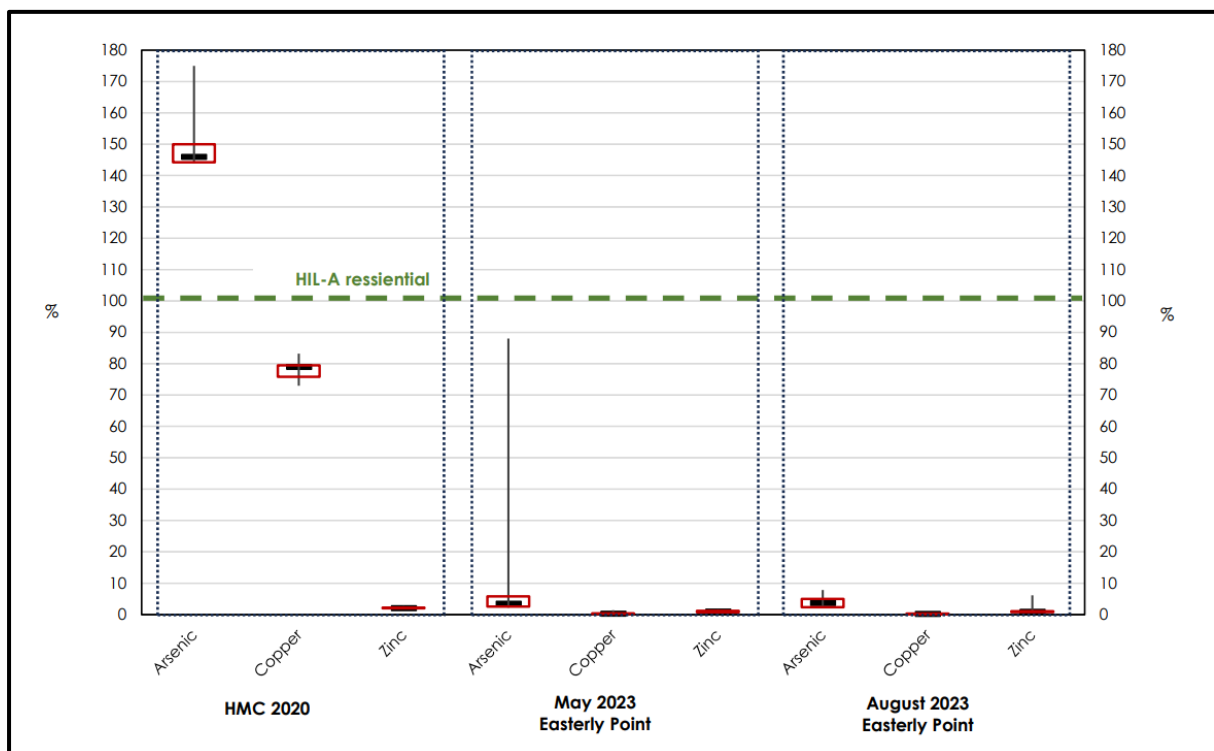


Figure 31: Comparison of arsenic, copper, and zinc results between investigations (%) (Extract from the Detailed Site Investigation)

Sample ID	Analytes	Rationale
<i>May 2023</i>		
TP01 0 – 0.1, TP01 0.2 – 0.3, TP02 0 – 0.1, TP02 0.2 – 0.3, TP03 0 – 0.1, TP03 0.2 – 0.3, TP04 0 – 0.1, TP04 0.2 – 0.3, TP05 0 – 0.1, TP05 0.2 – 0.3, TP06 0 – 0.1, TP06 0.2 – 0.3, TP07 0 – 0.1, TP07 0.2 – 0.3, TP08 0 – 0.1, TP08 0.2 – 0.3, TP09 0 – 0.1, TP09 0.2 – 0.3, TP10 0 – 0.1, TP10 0.2 – 0.3, TP11 0 – 0.1, TP11 0.2 – 0.3, TP12 0 – 0.1, TP12 0.2 – 0.3, and TP13 0 – 0.1.	8-metals (25)	<ul style="list-style-type: none"> – identified PCOCs, primarily As; – to determine As migration; and – general contaminants of concern.
TP03 0.4 – 0.6, TP05 0.5 – 0.6, TP07 0.7 – 0.75, TP07 0.8 – 0.93, TP08 0.6 – 0.8, and TP13 0.2 – 0.3.	8-metals, BTEXN, TRHs, PAHs, OCPs, OPPs, PCBs, phenols, and asbestos in soil (6)	<ul style="list-style-type: none"> – general contaminants of concern; – uncontrolled filling; – petroleum impacts; and – potential agrochemicals.
TP07 A1 building product	Asbestos (1)	<ul style="list-style-type: none"> – uncontrolled filling; and – building material identified (cement roof tile).
<i>August 2023</i>		
SS14A, SS15A, SS16A, SS18A, SS19A, SS20A, SS21A, SS22A, SS24A, SS25A, SS26A, SS27A, SS28A, SS29A, SS30A, SS31A, SS35A, and SS37A.	8-metals (18)	<ul style="list-style-type: none"> – identified PCOCs, primarily As; – to determine As distribution; and – general contaminants of concern.
SS17A, SS23A, SS32A, SS33A, SS34A, and SS36A.	8-metals, BTEXN, TRHs, PAHs, OCPs, OPPs, PCBs, phenols, and asbestos in soil (6)	<ul style="list-style-type: none"> – general contaminants of concern; – uncontrolled filling; – petroleum impacts; and – potential agrochemicals.

Figure 32: Analytical Summary by Mobilisation and Sample (Extract from the Detailed Site Investigation)

In conclusion, it is apparent that (some) uncontrolled filling has occurred at the site. While chemical contamination was not identified, asbestos has been confirmed and appropriate management will be required during both the development stage and throughout occupation. This is likely best managed under the requirements of the WHS legislation, including the development of an asbestos register and an asbestos management plan.

In addition, while previous investigation recommended remediation based on the arsenic detected in surficial soils (HMC 2020), the investigation undertaken by Easterly Point in 2023 has not been able to replicate their results, including after conducting an additional surficial sampling program at a high sample density. Therefore, it was considered, previous reported arsenic and copper in surface soils were an artefact of sampling, rather than related to actual site contamination. As there is no contamination beyond bonded asbestos have been identified in the DSI, it is considered, that the site should be managed under the WHS framework in regard to asbestos.

Resolution – The DSI considered the site to be suitable for the proposed development, noting that appropriate management should be incorporated into the site development and use, as

recommended herein. If unexpected findings are detected, which are contrary to the current findings, appropriate controls and management should be conducted, and these should be specified in an unexpected findings protocol developed for the site. As such, the development is considered to be suitable and there is no outstanding issued arising from this.

5.8 Noise

An Environmental Noise Impact Assessment (NIA) has been prepared by Tim Fitzroy & Associates to establish existing noise levels at the site and investigate the potential noise impacts on residences within the development and surrounding.

Impact from proposed development on surrounding residences

Noise levels from the expected activities at the proposed development have been predicated to the closest sensitive dwelling using SoundPLAN v8.0 and the prediction methodology ISO9613-2:1996. All prediction models have limits to their accuracy of prediction. This is due to the inherent nature of the calculation algorithms that go into the design of the models, the assumptions made in the implementation of the model, and the availability of good source sound power data.

The significant sources of noise emission from the site are expected to include vehicle movements, mechanical plant / air-conditioning, and children playing in the play area. Vehicle movements are based on the supplied TIA and conservatively apply the peak hourly movements to all time periods. Assessment is made to all time periods the assumption that children will not use the play area during the night. Air conditioner locations are not known at this stage, noise sources representing outdoor plant are positioned to avoid line-of-sight to the closest receiver.

Receptor points have been chosen to represent the closest surrounding dwellings. Receiver points are placed 30m from the dwelling in the direction of the noise source or on the boundary if it is less than 30m from the dwelling. Receivers are positioned at a height of 1.5m above ground, and predicted levels are free field. Receiver locations are shown in figure 33 below.



Figure 33: Location of Receivers (Extract from NIA)

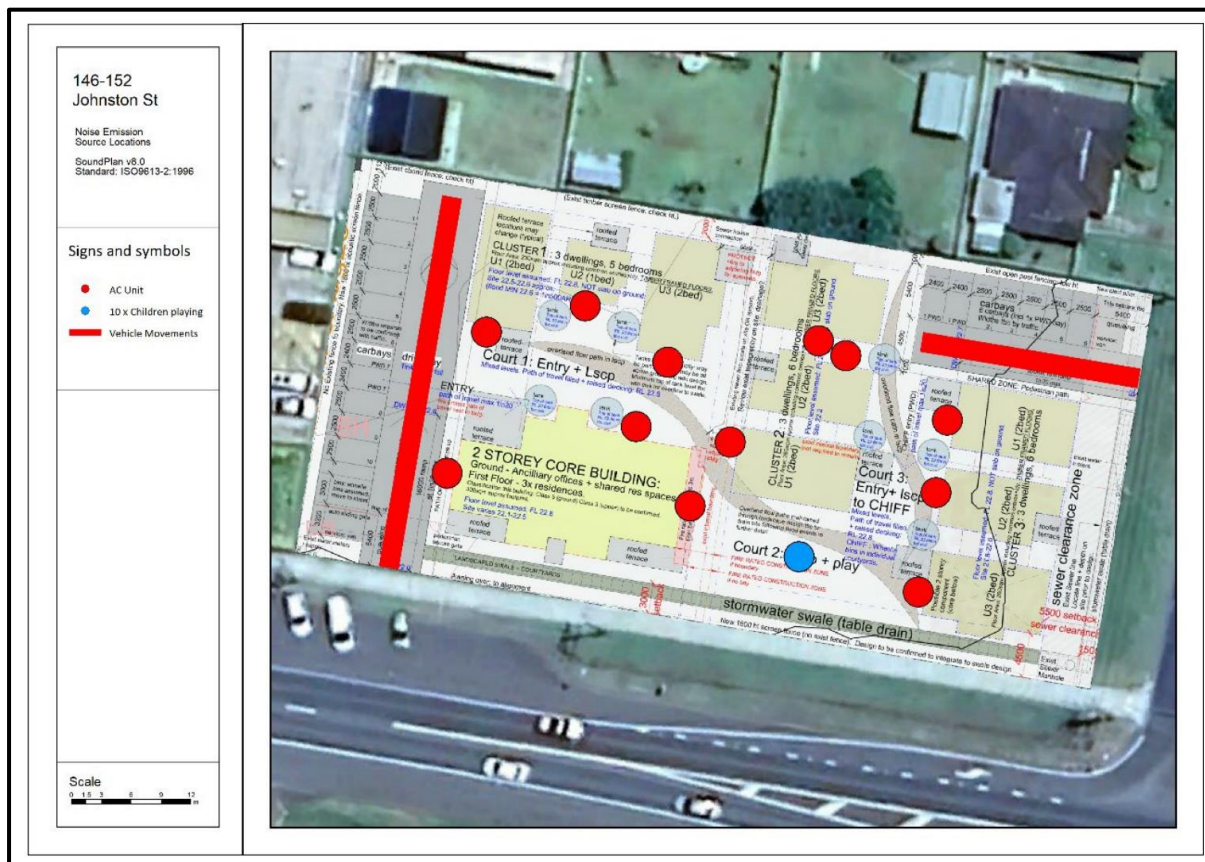


Figure 34: Location of Noise Sources in Model (Extract from NIA)

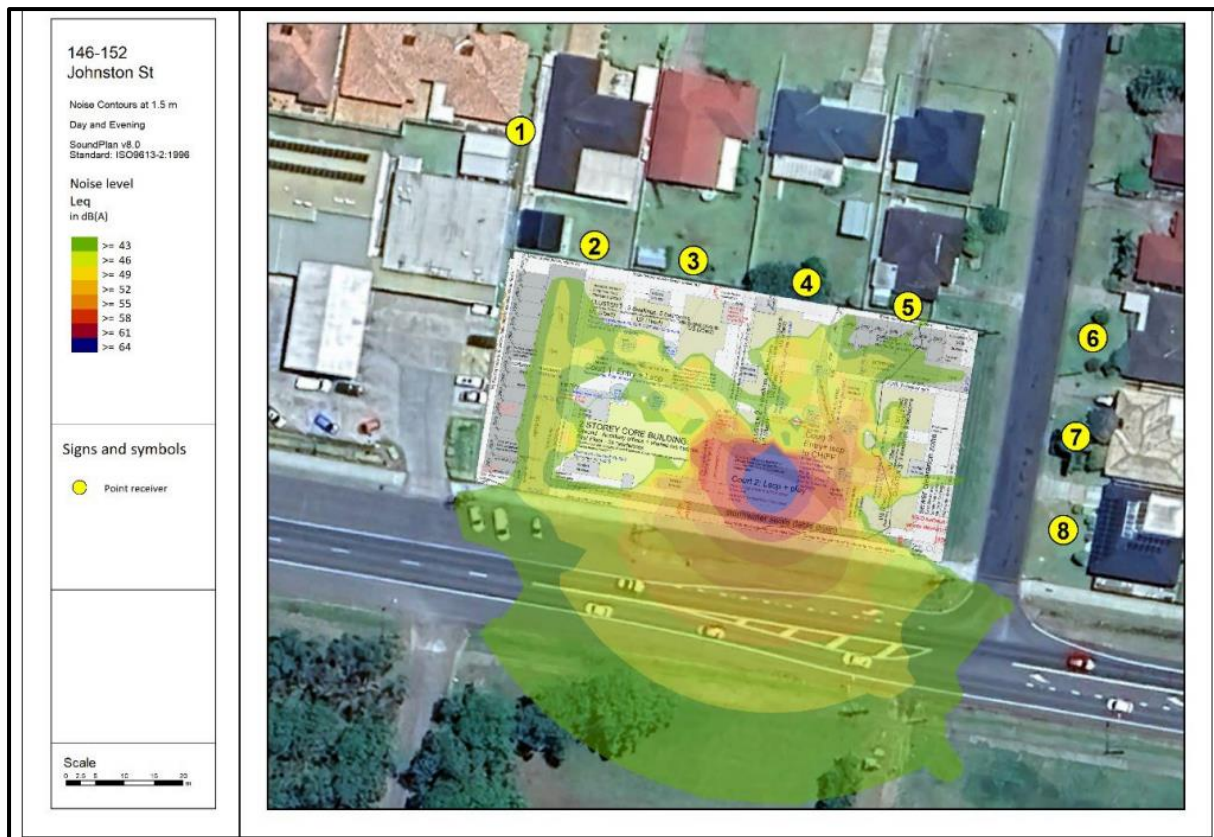


Figure 35: Noise Contours at 1.5m above day and evening noise sources (Extract from NIA)

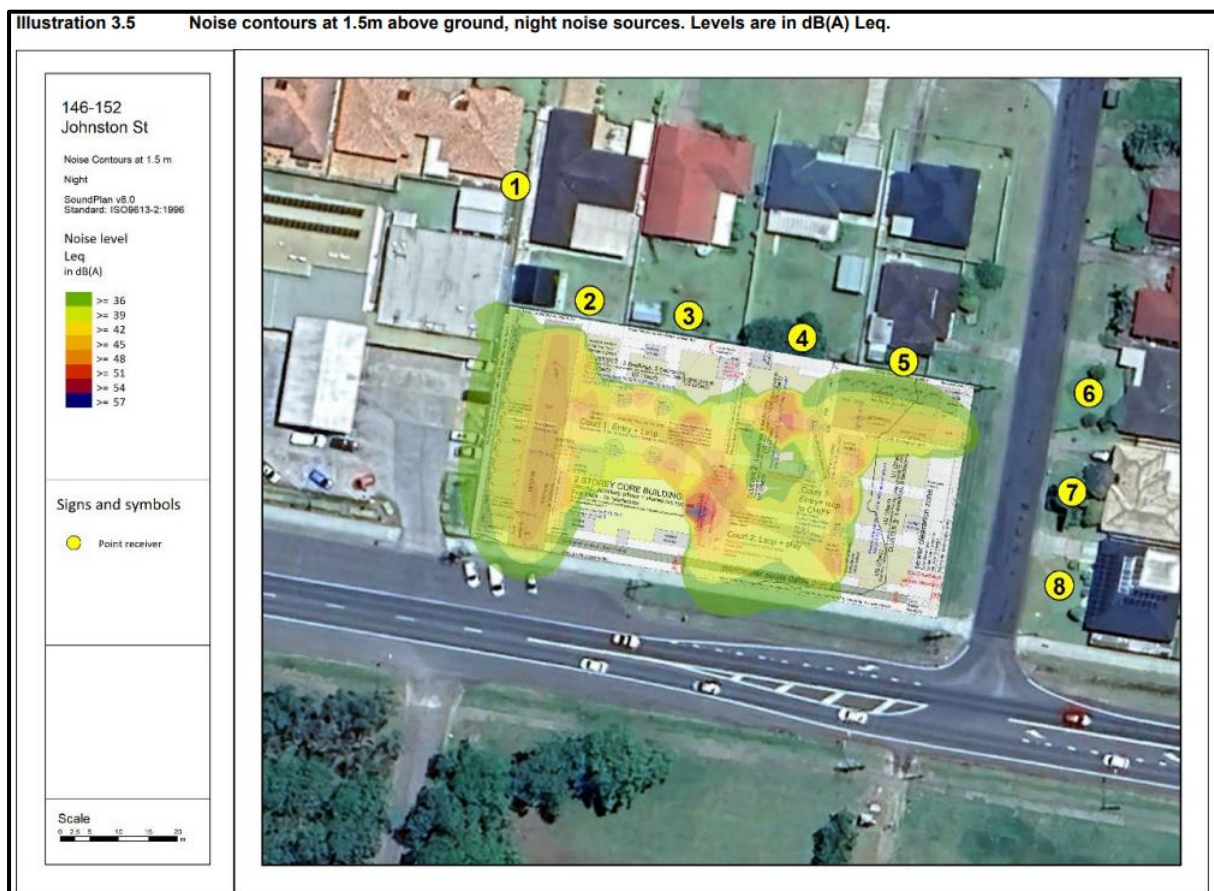


Figure 36: Noise Contours at 1.5m above ground, night noise sources (Extract from NIA)

A noise model has been constructed to predict the propagation of noise from expected significant sources at the proposed development. The model includes shielding effects from existing and proposed structures, and topography. Topographic information included in the model was sourced from Geoscience Australia. As per the assumptions and variables stated, it is concluded that

- Noise emission levels from the expected sources at the development are predicted to meet the criteria at the closest sensitive receptors during all time periods.
- Mechanical plant must be acoustically screened to avoid direct line-of-sight to the neighbouring dwellings to the north or east. This may be readily achieved by positioning the plant generally as shown above in figure 34

Impacts of road traffic noise

The design levels for traffic noise from Johnston Street / Bruxner Highway are calculated for the proposed development. Calculations are performed in accordance with Australian Standard AS2702-1984 Acoustics-Methods for the measurement of road traffic noise and 'Calculation of Road Traffic Noise', 1975-1988. Predicted levels for this report have been calculated using the CoRTN prediction model SoundPLAN and are façade-affected unless stated otherwise. Traffic data was not available at the time of modelling, the modelled traffic flows are validated to the measured noise level at the site, with nominal 3% p.a. growth.

The noise model incorporates screening from surrounding structures and topography. Topographic information was sourced from Geoscience Australia. The model assumptions and results are presented in the following Illustrations

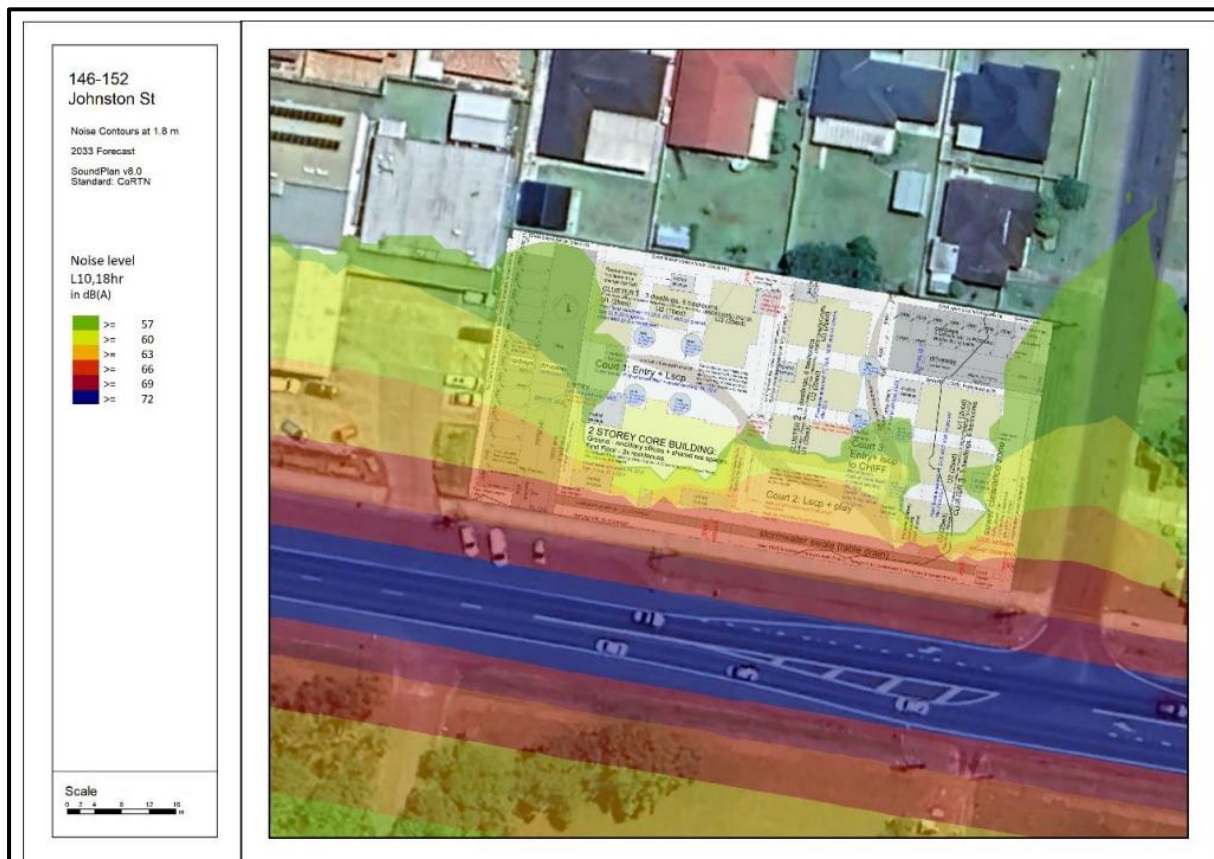
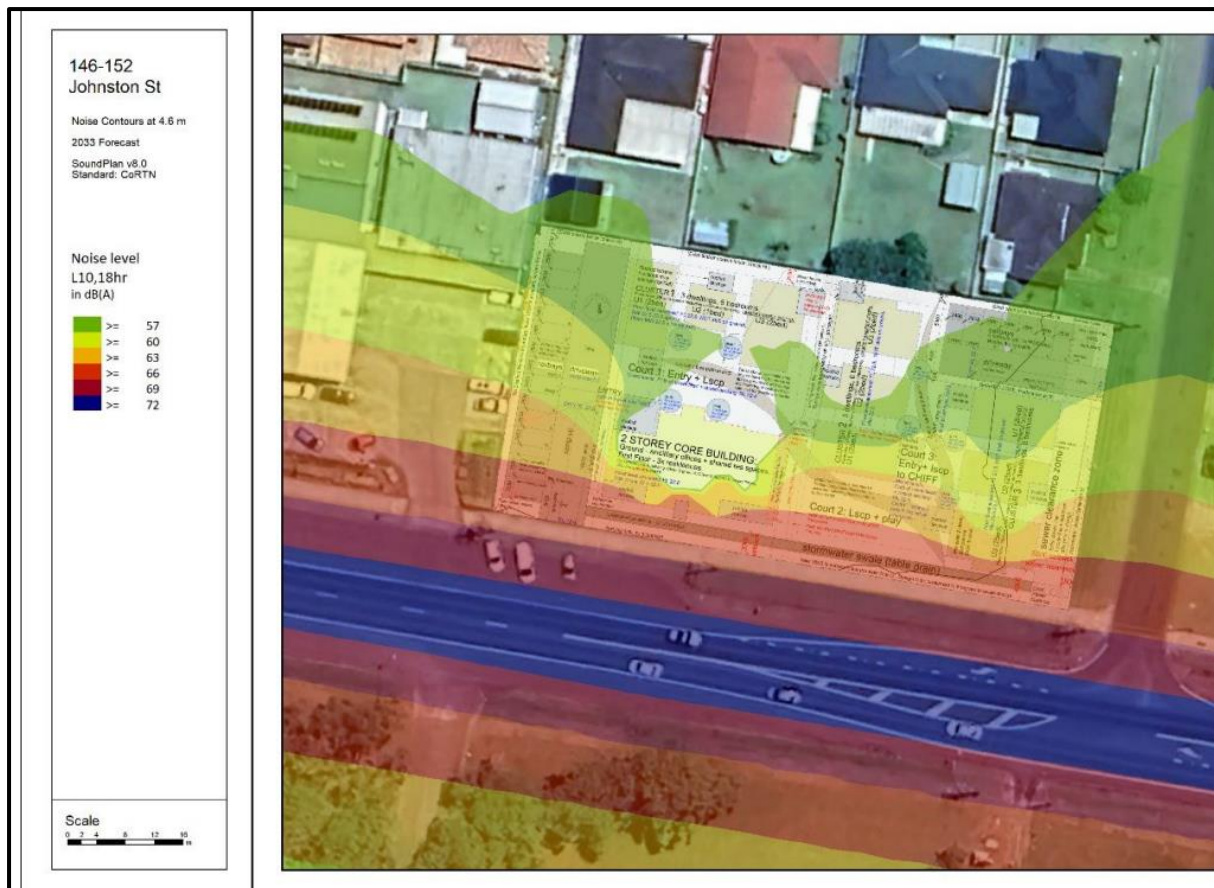


Figure 37: Noise Contours at 1.8m (Ground Floor) and traffic volume (Extract from NIA)



- Category 2: Standard construction, except for lightweight elements such as fibrous cement or metal cladding or all-glass facades. Windows, doors, and other openings must be closed. TNR of approximately 25 dB(A) is expected.
- Category 3: Special construction, chosen in accordance with Clause 3.4. Windows, doors, and other openings must be closed. TNR between 25 and 35 dB(A) is expected.
- It is recommended that the Rw requirements are confirmed once final detailed plans become available

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, no issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

Pursuant to Clause 1.3 of the EP&A Act, the proposed development is considered to be consistent with the objectives, in that the development aims to promote *the delivery and maintenance of affordable housing and good design and amenity of the built environment*. Additionally, the development is considered to be consistent with the objectives of the E1 land zoning.

The development is consistent with the requirements of the relevant SEPP, LEP, DCP, and Section 2.4 of the LRHDDG, and is considered to be consistent with the general development pattern in the locality. The application is supported by a number of technical reports, further demonstrating the development is able to be undertaken in accordance with relevant legislation, policies, and standards.

It is considered that the key issues as outlined in Section 5 of this report have been resolved satisfactorily by technical reports, and or through amendments to the proposal, and or in the recommended draft conditions at **Attachment A**.

7. RECOMMENDATION

That the Development Application No 2024/0096 for the proposed construction of a shop top housing development, group home, and infill affordable housing at 146-152 Johnston Street 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