

COUNCIL ASSESSMENT REPORT

NORTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSNTH-364 DA24/200
PROPOSAL	<p>The development proposes the construction of two Build to Rent residential flat buildings consisting of fifty (50) apartments in total.</p> <p>20% of the proposed units are allocated to affordable housing.</p> <p>The two residential flat building range from three to four storeys in height.</p> <p>The unit mix proposed is as follows:</p> <ul style="list-style-type: none"> • 6 X Studio Units • 15 X 1 bed units; • 18 X 2 bedroom units; • 4 x two-storey terrace-style 2 bedroom units; • 6 X 3 bedroom units. • 1 x two storey terrace-style 3 bedroom unit <p>The proposal also includes the following:</p> <ul style="list-style-type: none"> • A communal room; • At grade enclosed parking for 51 vehicles; • Bicycle parking for 20 bicycles; • Landscaping; • Earthworks • Road widening on Military Road; • Stormwater management works to Crawford and Military Road;
ADDRESS	Lot 21 DP 1124244, 138 Military Road East Lismore 2480

	Lot 3 DP 365665, 144 Military Road East Lismore 2480 Lot 4 DP 365665, 146 Military Road East Lismore 2480
APPLICANT	Landcom
OWNER	Southern Cross University
DA LODGEMENT DATE	02/09/2024
APPLICATION TYPE	CROWN DA
REGIONALLY SIGNIFICANT CRITERIA	<p>Section 2.19(1) and Clause 4 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as:</p> <p>The development is a Crown Development with an estimated development cost of more than 5 million.</p>
CIV	\$27,886,555.95 (GST inclusive)
CLAUSE 4.6 REQUESTS	Nil
KEY SEPP/LEP	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> • <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i> • <i>State Environmental Planning Policy (Housing) 2021</i> • <i>State Environmental Planning Policy (Planning Systems) 2021</i> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> • <i>State Environmental Planning Policy (Sustainable Buildings) 2022</i> • <i>Lismore Local Environmental Plan 2012</i>
TOTAL & UNIQUE SUBMISSIONS ISSUES KEY IN SUBMISSIONS	Nil/Zero
DOCUMENTS SUBMITTED FOR CONSIDERATION	<p>All essential documents are on the Planning Portal, principal documents to reference are:</p> <ul style="list-style-type: none"> • Statement of environmental effects and attachments • Architectural Design Plan Set
RECOMMENDATION	Approval

DRAFT CONDITIONS TO APPLICANT	<p>Yes, the draft conditions have been provided to the Applicant.</p> <p>The proposal is Crown development, so draft conditions were provided to the Applicant pursuant to section 4.33(1)(b) of the <i>Environmental Planning and assessment Act 1979</i>.</p> <p>The approval of the Applicant has been obtained for the draft conditions, thus satisfying section 4.33.</p>
SCHEDULED MEETING DATE	19 November 2024
PLAN VERSION	Revision A - (13/09/24)
PREPARED BY	Peter Whittaker
DATE OF REPORT	28 October 2024

1. Executive Summary

The proposal relates to construction of two build to rent residential flat buildings consisting of fifty (50) apartments in total where 20% of the development's units are proposed to be affordable rental housing. The northern building is 3 storeys in height and the southern building has 3 storeys of apartments above an enclosed carpark partially cut into the site. The proposal also includes a communal room, at grade enclosed parking for 51 vehicles, bicycle parking for 20 bicycles, landscaping, earthworks, road widening on Military Road, stormwater management works to Crawford and Military Road.

The proposal has been assessed against all relevant Section 4.15 matters of the *Environmental Planning and Assessment Act 1979*. The proposed development satisfies all relevant heads of consideration under S4.15. A detailed assessment is provided within this report.

The relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter are as follows:

The maximum building height under the *Lismore Local Environmental Plan 2012* (LLEP) is 11.5 metres. The proposed building height is 14.95 metres. Clause 18 of the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) works to increase the maximum permitted building height for this development by 30% (see "Housing SEPP" discussion for details). The proposed building height is within the amended height limit permitted by Clause 18 of the Housing SEPP.

The overall height of the development sits at RL28.3. This is below the Aircraft Obstacle RL of RL54.5 as required by Clause 6.5 of the LLEP.

LLEP, Clause 6.9 Essential Services – identifies development consent must not be granted to development unless the consent authority is satisfied that all of the essential services for the development are available or that adequate arrangements have been made to make them available when required. Council is satisfied that essential services are adequate or can be made so when required.

Chapter 2 Affordable Housing, Chapter 3 Part 4 Build to Rent Housing and Chapter 4 Design of Residential Apartment Development are all relevant to the subject proposal. The proposal is compliant with the requirements of Chapter 2 and Chapter 3 where suitable conditions are recommended to ensure the ownership and management requirements identified as required in relation to these Chapters within Clauses 21 & 73 eventuate in the event of a positive determination.

State Environmental Planning Policy (Housing) 2021 (Housing SEPP), Clause 147 - Development consent must not be granted to residential apartment development unless the consent authority has considered the following—

- (a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,
- (b) the Apartment Design Guide.

The development has been considered against the design principles for residential apartment development set out in Schedule 9 and the Apartment Design Guide (ADG). The proposal is consistent to the design quality principles and generally the proposal is consistent to the ADG requirements. Detailed discussions are provided within this assessment where the majority of deviations from the ADG are minor and supportable in Council's opinion. In particular the proposed building does not satisfy the prescribed 6m separation distance for habitable rooms and balconies to adjoining boundaries however the adjoining development in this location is an electrical substation with a substantial existing setback. Given the negligible implications to any residential amenity and a satisfactory streetscape outcome the proposal is maintained as supportable in Council's opinion. Other minor deviations from the Apartment Design Guide are discussed later within this report.

State Environmental Planning Policy (Transport and Infrastructure) 2021 (I SEPP), Clause 2.48 – Development carried out immediately adjacent to an electricity substation must;

- (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and
- (b) take into consideration any response to the notice that is received within 21 days after the notice is given.

The application was referred to Essential Energy under this clause. Essential Energy have raised no objection to the proposal, and provided generic conditions.

State Environmental Planning Policy (Biodiversity and Conservation) 2021, applies. Clause 2.6 - A person must not clear vegetation without the authority conferred by a permit granted by the council.

The Flora & Fauna Impact Assessment provided with the application states the thresholds for entry into the Biodiversity Offsets Scheme are not exceeded by the proposal. Council is satisfied that the impact of the proposed tree removal is acceptable.

State Environmental Planning Policy (Biodiversity and Conservation) 2021, Cl 4.8 - requires Council's determination of the development application to be consistent with the approved koala plan of management that applies to the land. Council is satisfied that the development will not impact on potential or preferred Koala Habitat. The site does have mapped Secondary A Koala Habitat being a thin strip along Crawford Road, the Flora and Fauna Assessment states the following in relation to the mapped Secondary A Koala Habitat,

It was determined that the planted vegetation did not conform to the definition of 'Secondary A' habitat, and instead, impediments to safe Koala movement were considered. Recommendations and management measures were provided to ensure continued safe koala movement through the site, as well as the reducing the impacts of minor increased vehicle movement, interactions with dogs, and disturbance during construction.

The proposed development is not on land included on the Biodiversity Values Map and does not involve clearing of native vegetation in excess of the area clearing threshold. The proposed development is not likely to significantly affect threatened species or ecological communities, or their habitats, and is not in a declared area of outstanding biodiversity value. A test under section 7.3 of the *Biodiversity Conservation Act 2016* has been conducted as per the assessment requirement.

The application has been assessed against the relevant controls in the *Lismore Development Control Plan* notably, *Chapter 1 Residential Development*, *Chapter 12 Heritage Conservation*, *Chapter 13 Crime Prevention through Environmental Design*, *Chapter 14 Vegetation Protection* and *Chapter 22 Water Sensitive Design* of which the proposal generally complies. DCP variations to Chapter 1 Residential Development are identified in relation to the density and car parking development controls of the DCP. Given the proposal complies with these elements within the overarching Housing SEPP the proposal remains supported.

All likely impacts of the proposed development have been considered including environmental impacts on both the natural and built environments, and social and economic impacts in the locality and are to the satisfaction of Council.

The application was notified in accordance with the regulations and Council's Community Consultation Plan with zero submissions received by way of objection.

The site is considered suitable for the proposed development and is in the public interest.

In relation to the questions the Panel raised at the preliminary briefing session **Attachment 4 – Q&A from Preliminary Briefing** provides Council's and the Applicants responses/comments.

2. Background

The applicant attended a formal pre-lodgement meeting with Council on 26 June 2024. Minutes of the meeting were provided to the applicant that provided an outline of the technical reports required and matters to be addressed in any future development application to be lodged with Council. The issues raised in the pre-lodgement meeting have been adequately address in the application.

The development application was lodged on 2 September 2024.

3. Description of Proposal

The proposal seeks consent for the construction of two Build to Rent residential flat buildings consisting of fifty (50) apartments in total.

20% of the development is identified to be allocated to affordable housing within the Statement of Environmental Effects (SEE) supplied for the proposal.

The two residential flat building range from three to four storeys in height.

The proposal also includes the following:

- A communal room;
- At grade enclosed parking for 51 vehicles;
- Bicycle parking for 20 bicycles;
- Landscaping;
- Earthworks
- Road widening on Military Road;
- Stormwater management works to Crawford and Military Road;

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

Table 1: Key Development Data

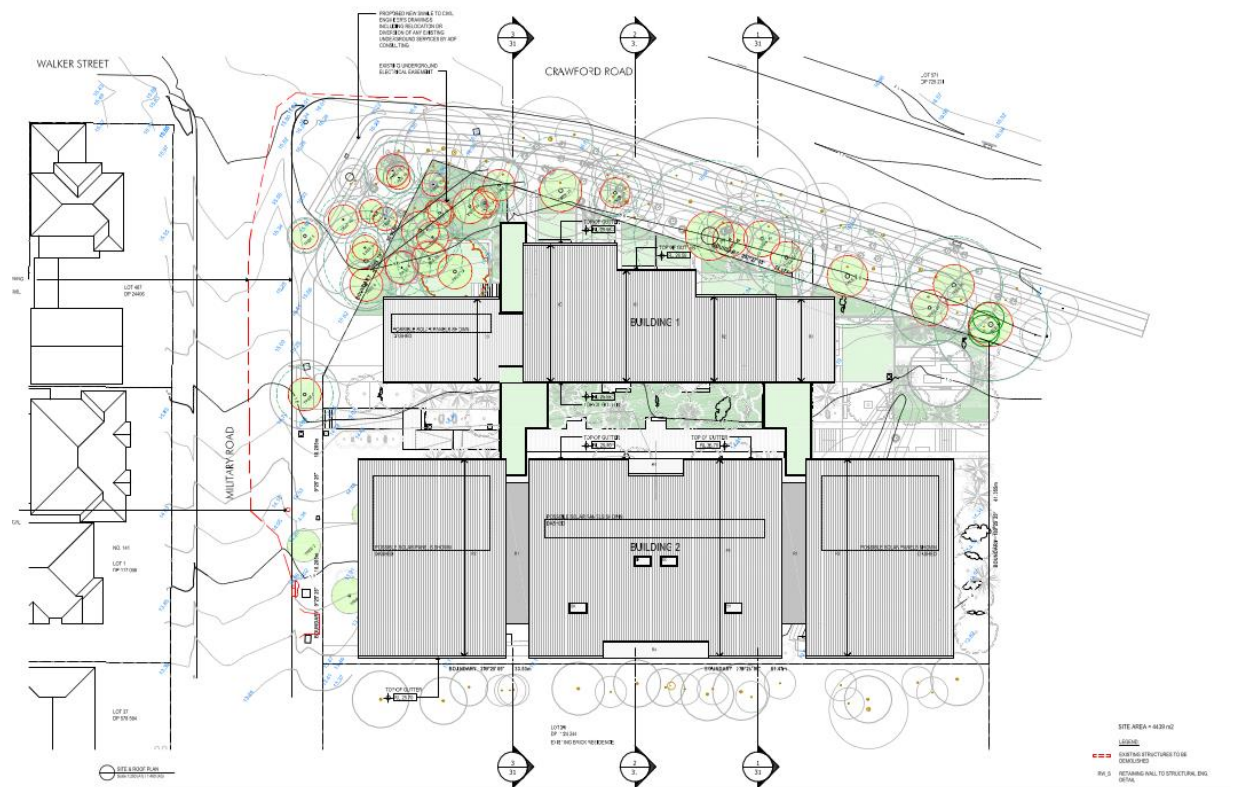
Control	Proposal
Site area	4,440m ²
GFA	4,257m ²
FSR	0.95:1
Clause 4.6 Requests	Nil
No of apartments	50
Max Height	14.95 metres
Landscaped area	2,231m ² (50%)
Car Parking spaces	51 vehicles, 20 Bicycles
Setbacks	North (front) Crawford Road – 3 metres South (side) – 1 metre to carpark at ground, 3metres to apartments above East (rear) – 6 metres

Perspective





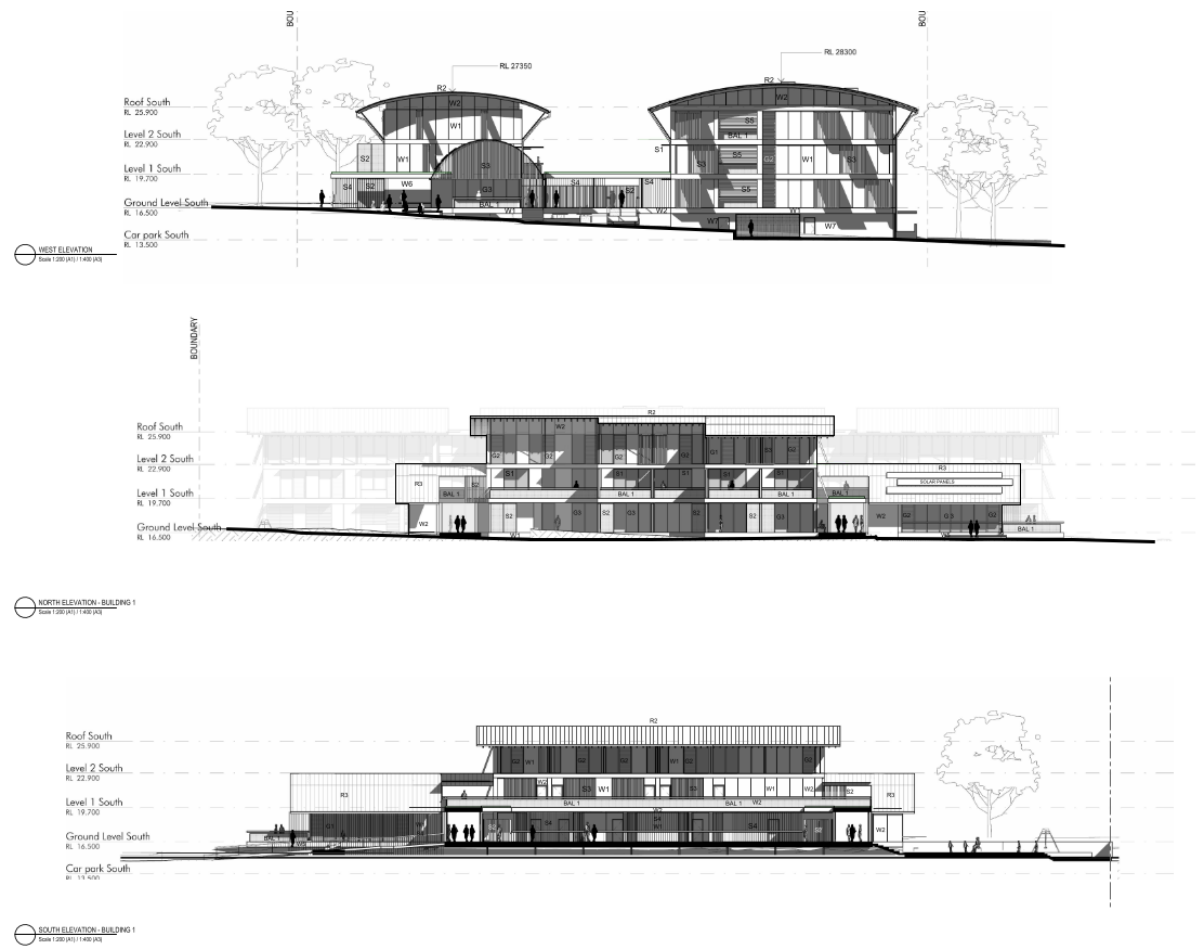
Site Plan



Parking Plan



Elevations





⊙ SOUTH ELEVATION - BUILDING 2
Scale 1:250 (A1) 1480/85



⊙ NORTH ELEVATION - BUILDING 2
Scale 1:250 (A1) 1480/85



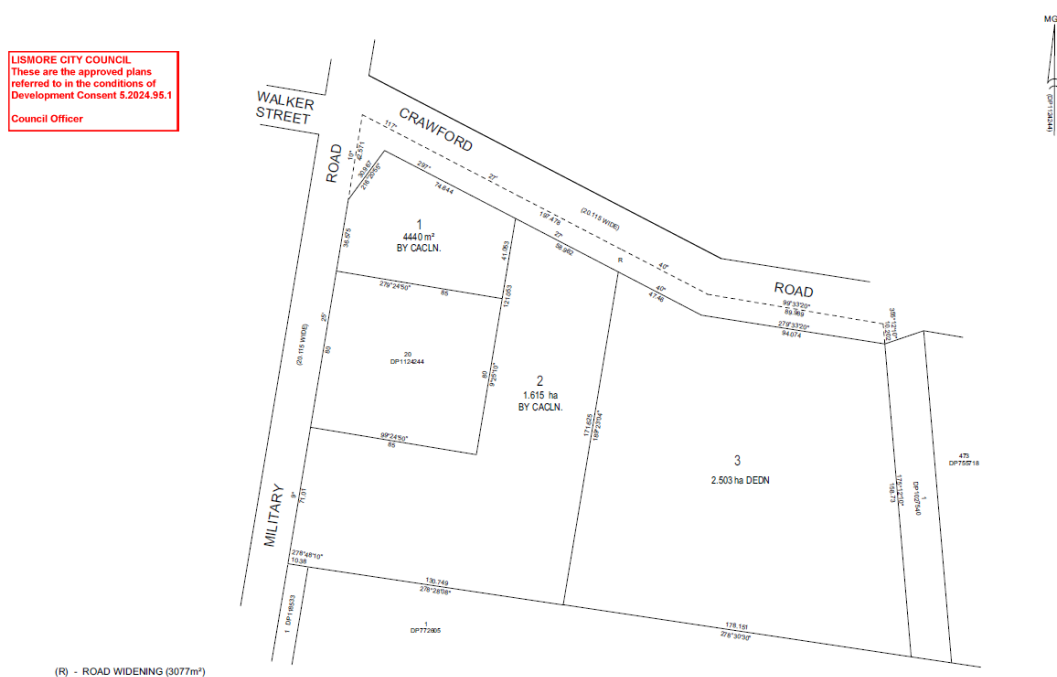
⊙ EAST ELEVATION
Scale 1:250 (A1) 1480/85

Landscaping & Tree Removal



4. Description of the Site & Locality

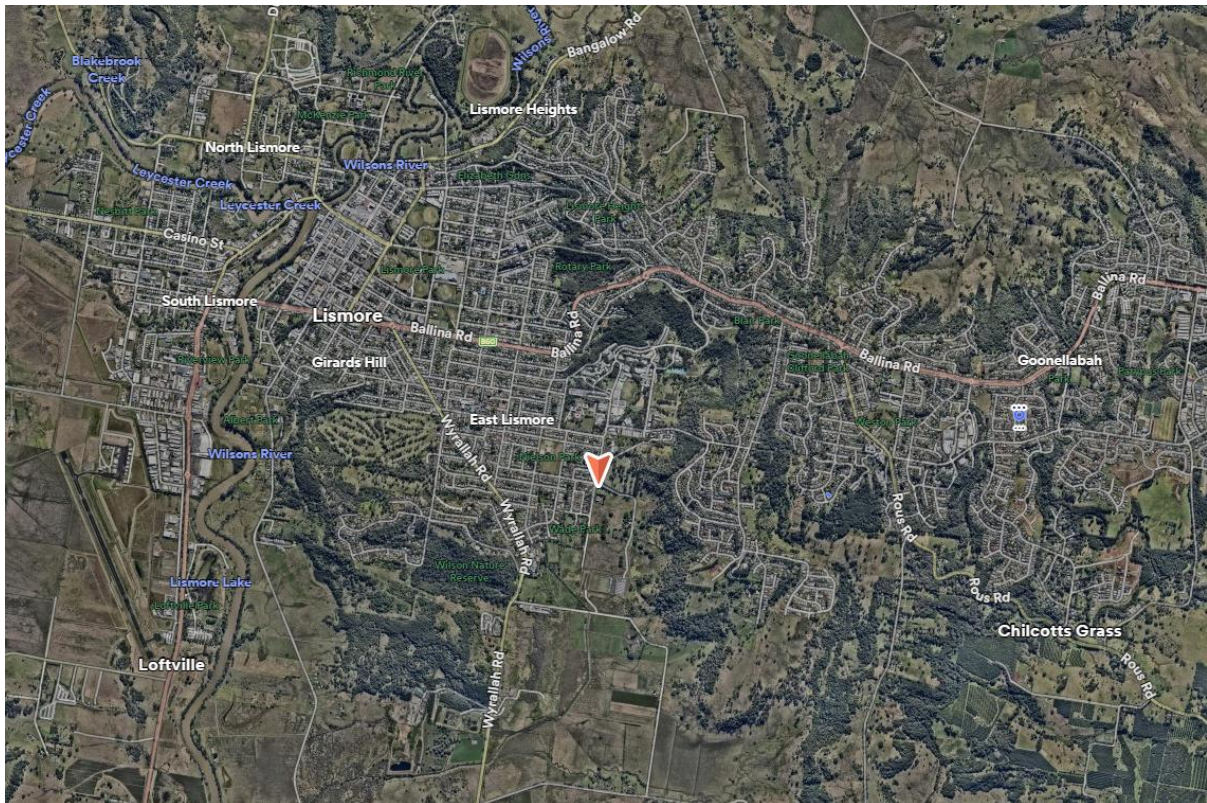
The subject site forms an allotment of land subdivided via Development Approval DA24/95. A copy of the stamped subdivision plan is provided below.



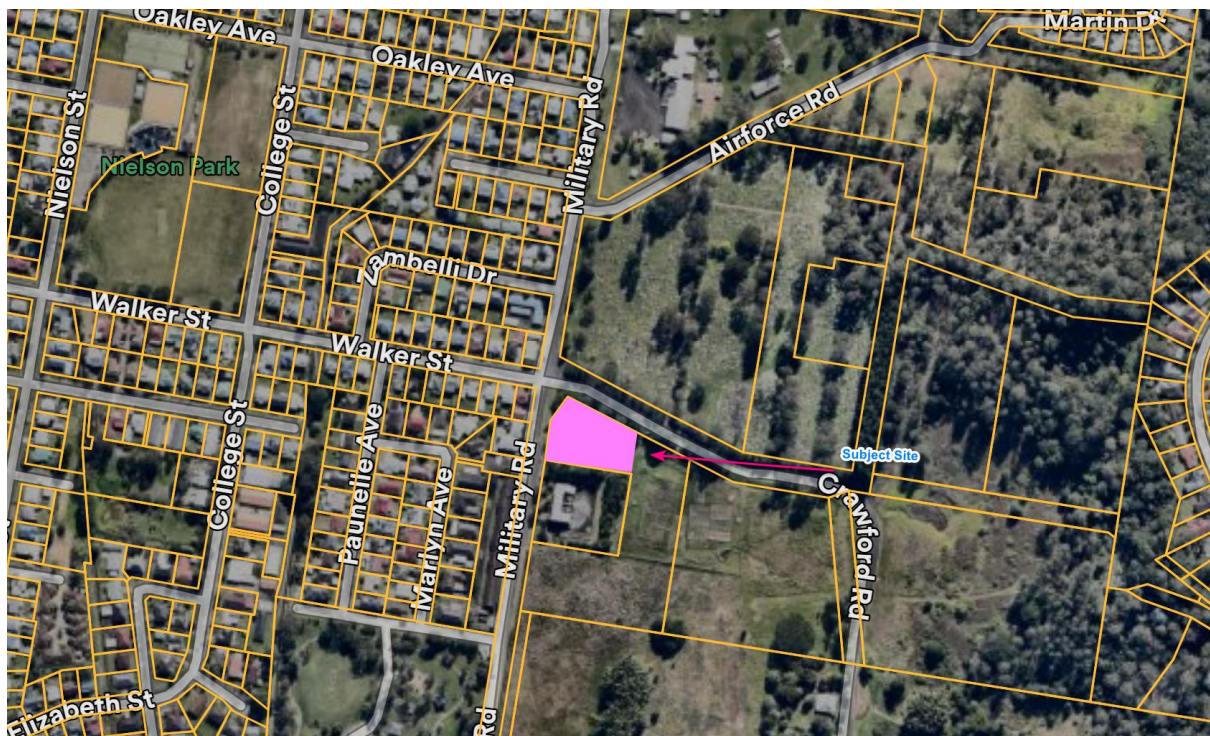
As annotated on the approved plans DA24/95 above the total site area is 4,440m².

The Statement of Environmental Effects states the approved lot is currently being registered with Land Registry Services.

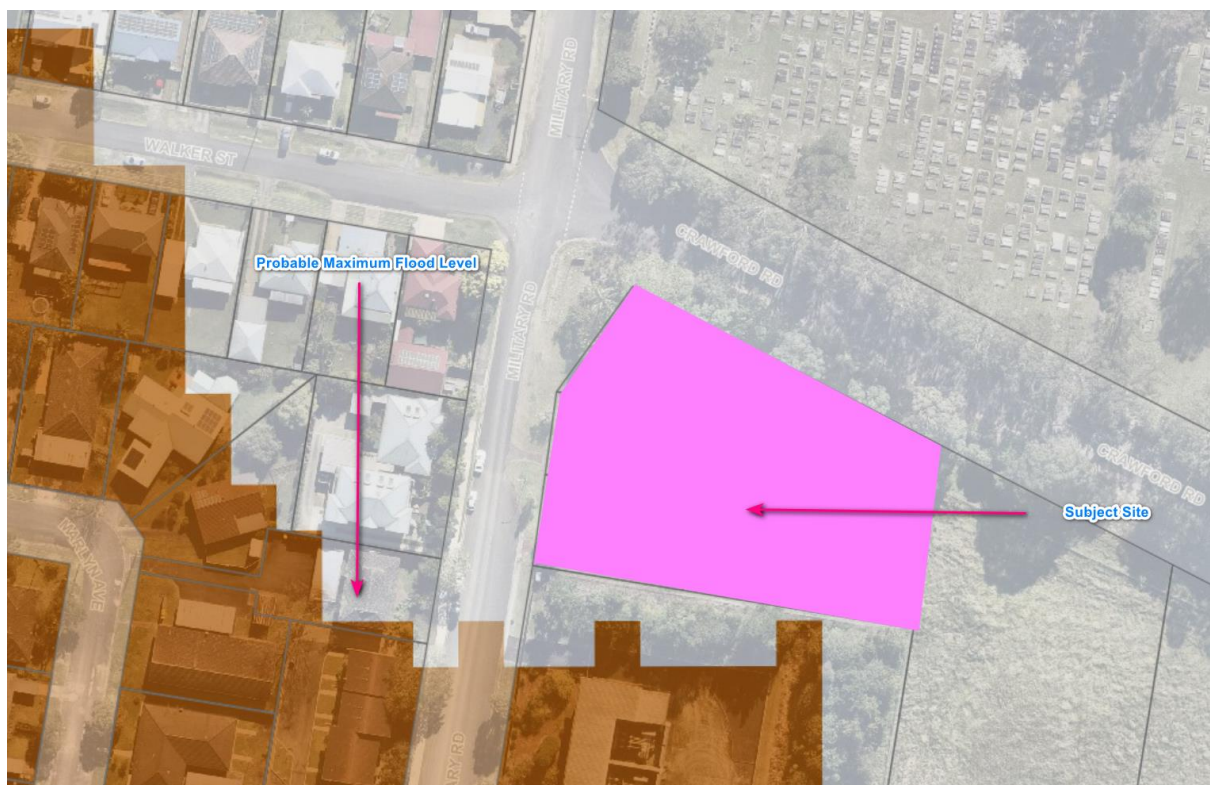
The site is situated on the corner of Military and Crawford Road. A locality Map is provided to provide context of the development location within Lismore.



- Topography of the site has a mild fall in a southerly direction.
- Vegetation is established on the northern boundary and corner of Crawford and Military Road
- Existing development surrounding the subject site is as follows:
 - North - Cemetery (Local Heritage Item)
 - South – Electrical Substation
 - East – Vacant Lands
 - West, Northwest & Southwest – Low density residential dwellings and university student accommodation.



The subject site is located above the updated Probable Maximum Flood level as identified on Council's mapping system (brown) as provided below.



The subject land is not mapped as being Bushfire Prone Land.

The subject site is connected to all essential services including mains water, sewer, telecommunications and electrical.

Site inspection photographs are provided below.



Development Site



View towards site corner of Military Road and Crawford Road



View of sites Crawford Road Frontage



View from Military Road to corner of Crawford Rd with Cemetery beyond

5. Site History

A review of Councils electronic records has been undertaken where the following applications are relevant to the subject site.

138 Military Road, East Lismore – Lot 21, DP1124244

Application	Type	Description	Outcome
005.2024.00000095.001	Development Application	DA24/95 - 138, 144 & 146, Military Road, East Lismore - Subdivision &	Conditional Consent - Council
005.2007.00000092.001	Development Application	Special purpose subdivision (one additional lot for public undertakin	Conditional Consent - Council

144 Military Road, East Lismore – Lot 3 DP 365665

Application	Type	Description	Outcome
005.2024.00000095.001	Development Application	DA24/95 - 138, 144 & 146, Military Road, East Lismore - Subdivision &	Conditional Consent - Council
005.2010.00000421.001	Development Application	Demolition of Eleven (11) Structures	Conditional Consent - Council
005.2000.00000662.001	Development Application	Earthworks roadworks kerb & guttering	Conditional Consent - Council
005.1999.00000738.001	Development Application	Road opening road closure and road	Conditional Consent - Council

146 Military Road, East Lismore – Lot 3 DP365665

Application	Type	Description	Outcome
005.2024.00000095.001	Development Application	DA24/95 - 138, 144 & 146, Military Road, East Lismore - Subdivision &	Conditional Consent - Council
005.2010.00000421.001	Development Application	Demolition of Eleven (11) Structures	Conditional Consent - Council
005.2000.00000662.001	Development Application	Earthworks roadworks kerb & guttering	Conditional Consent - Council
005.1999.00000738.001	Development Application	Road opening road closure and road	Conditional Consent - Council

The panel should be made aware of development approval DA24/95 (5.2024.95.1) as this approval creates the lot where the subject development is proposed. The SEE states this allotment is currently pending registration with Land Registry Services.

The SEE also provides an extract of the lodged Deposited Plan on page 10.

6. Statutory Controls

Lismore LEP 2012

- Zoning –MU1 Mixed Use
- Item of Heritage – No
- In vicinity of Heritage Item – Yes
- Conservation Area – No

S94 Contributions Plan (S7.11)

Environmental Planning & Assessment Act 1979

State Environmental Planning Policy (Housing) 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021

State Environmental Planning Policy (Planning Systems) 2021

State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy (Sustainable Buildings) 2022

State Environmental Planning Policy (Transport and Infrastructure) 2021

Biodiversity Conservation Act 2016

Environmental Planning and Assessment Act 1979

7. Policy Controls

Lismore Development Control Plan

Community Consultation Plan – Appendix 1 (*Council's Community Engagement Strategy and Community Participation Plan*)

1.2.20 Council Briefings Policy

1.8.4 Undergrounding of Electricity Mains & Provision of Street Lighting

1.8.6 Undergrounding of Telephone Plant in Subdivisions

5.2.4 Naming of New Roads

- 5.2.29 Development Application Determination
- 5.2.30 Social Impact Assessment
- 5.2.33 Affordable and Diverse Housing Incentives Policy
- 5.3.2 Planning Agreements Policy
- 5.3.3 Provision of Public Transport Infrastructure Policy

8. Internal Referrals

Set out below is a summary of each of the relevant referral officer's comments. A full copy of each of the referral comment reports is included with this report as **Attachment 2**.

8.1 Development Engineer

Supportive Subject to Conditions.

8.2 Ecologist

Supportive subject to conditions.

8.3 Parkes & Gardens

Supportive Subject to conditions.

9. External Referrals

Set out below is a summary of each of the relevant external referrals comments. A full copy of each of the external referral comment is included with this report as **Attachment 3**.

9.1 NSW Police

Non-statutory referral to the NSW Police as a potentially interested party. NSW Police have provided a response, and are supportive subject to recommendations (CCTV, lighting, landscape treatments, etc.). The recommendations are recommended for inclusions as conditions.

9.2 Ngulingah Local Aboriginal Land Council

Non-statutory referral to the Ngulingah Local Aboriginal Land Council as a potentially interested party. The referral provided fourteen (14) date, which ended on 26 September 2024. No response has been received, as of the date of this report.

9.3 Rous Water

Non-statutory referral to the Rous Water as a potentially interested party. Rous Water have provided a response, and are supportive, with no comments or conditions.

9.4 Essential Energy

Referral was made to Essential Energy, pursuant to clause 2.48 of *State Environmental Planning Policy (Transport and Infrastructure) 2021*. Essential Energy have provided general comments and the following statement identifying they are not objectionable to the proposed development from a safety perspective.

Strictly based on the documents submitted, Essential Energy has no comments to make as to potential safety risks arising from the proposed development.

10. Lismore Local Environmental Plan 2012

Part 1 Preliminary

Aim of the Plan (cl 1.2)

The proposal is considered consistent with the aims of the plan, particularly the following:

- *to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents,*
- *to encourage a diverse range of housing, and the equitable and appropriate provision of services,*

Part 2 - Permitted or Prohibited Development

Zone objectives and Land Use Table (cl 2.3)

The subject site is zoned MU1 Mixed Use, the objectives of the zone are;

- *To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To encourage a range of housing within a vibrant mixed use environment that is accessible to community facilities, commercial services and transport.*

The site is zoned MU1 Mixed Use Zone. The proposal is defined as “residential flat buildings”, which are permissible with consent.

The proposal is of contemporary design, with active street frontages that contribute to vibrant, diverse and functional streets and public spaces. There is no anticipated conflict with adjoining zones. The proposal provides a range of housing to meet the needs of the community.

The proposal is permissible with consent and is not antipathetic to the zone objectives.

Part 4 – Principal Development Standards

Height of buildings (cl 4.3)

The proposal seeks to utilize the provisions of clause 18 of SEPP Housing that enable an increase to the maximum permissible building height of up to 30% based on the calculation within subsection 3. The maximum height permitted under the Lismore LEP is 11.5 metres. The proposed building height is 14.95 metres. Therefore a 30% increase in height is proposed.

Subsection (3) of clause 18 of SEPP Housing provides the following calculation methodology.

$$\text{affordable housing component} = \frac{\text{additional building height}}{(\text{as a percentage})} \div 2$$

A suitable calculation is provided below illustrating the height is not greater than allowed by the calculation. Given a 30% maximum is identified within Clause 18 (2) of SEPP Housing the proposal complies and the additional height is permissible via the provisions of the clause.

$$20\% = 30\% / 2 (15\%)$$

No adjoining amenity implications are identified with this height increase given the adjoining allotment to the south is an electrical substation. The shadow diagrams submitted also illustrate a satisfactory outcome. Privacy is also adequate given the separational distance of the proposal from adjoining residential properties.

The development is considered of suitable bulk and scale and its streetscape presentation is considered to remain well mannered.

The increased building height is permitted under clause 18 of SEPP Housing, and supported by Council.

Floor space ratio (cl 4.4)

There is no prescribed maximum floor space ratio on the Floor Space Ratio Map for this site.

Part 5 Miscellaneous Provisions

Heritage Conservation (cl 5.10)

The subject land does not contain any listed heritage item/s and the site is not located within a heritage conservation area.

It is identified a listed heritage item I21 Lismore Cemetery is located immediately adjacent across Crawford Road. It is not considered the proposed development presents any significant impacts to the appreciation of the adjoining listed heritage item. The retention of existing and additional landscape embellishment proposed will ensure the setting of the cemetery is adequately preserved.

A Heritage Impact Statement (HIS) has been supplied with the application given the adjoining item. The general conclusion agreed with by Council is provided below:

Heritage 21 is therefore confident that the proposed development complies with pertinent heritage controls and would engender neutral impact on the heritage significance of the subject site and the heritage item located in the vicinity of the site. We therefore recommend that Lismore City Council view the application favourably on heritage grounds.

In relation to clause 5.10(8) Aboriginal places of heritage significance an Aboriginal Due Diligence Assessment has been supplied with the application.

One Aboriginal archaeological site was identified in the study area as well as fig trees that may have significance to the Aboriginal community. The archaeological site (Crawford Road AFT 1) is depicted below.



The proposed works avoid the Aboriginal archaeological site depicted above. An extract from the Aboriginal Due Diligence Assessment summary is provided below for context.

..... One Aboriginal archaeological site (Crawford Road AFT 1) was identified within the study area as a result of visual inspection (Figure 4).

Fig trees identified within the study area may have cultural significance for the local Aboriginal community. In addition, intangible Aboriginal cultural values identified by previous assessments are associated with the study area. It is recommended that an Aboriginal cultural values assessment of the study area be undertaken prior to any development or related impacts to the study area.

The location of the newly recorded Aboriginal archaeological site (Crawford Road AFT 1) should be avoided by all pre-construction and construction activities. Further archaeological assessment of the site identified within the study area would be required if it cannot be avoided by the proposal.

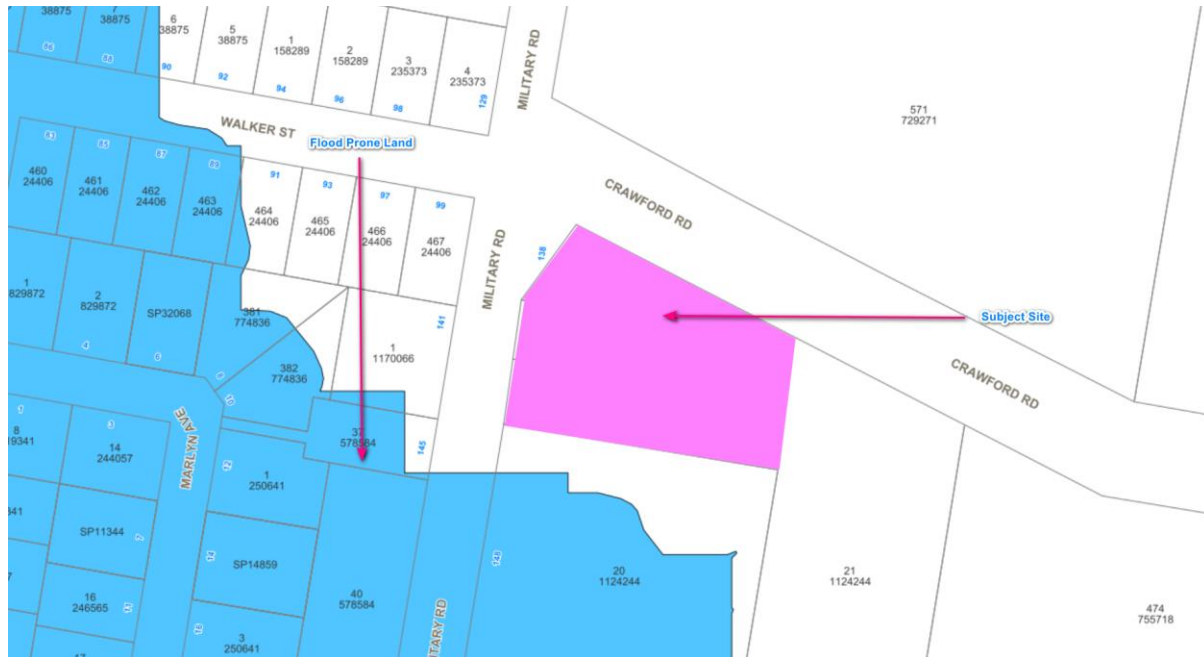
The identified Aboriginal archaeological site does not pose a constraint to future development, but it will require a process of further assessment, Aboriginal community consultation and mitigation to comply with relevant legislation and associated requirements prior to any impact.

Alternatively, if the identified site is avoided by the proposed works, there are no archaeological constraints to the proposal and according to the Heritage NSW Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales, the proposed works can proceed with caution.

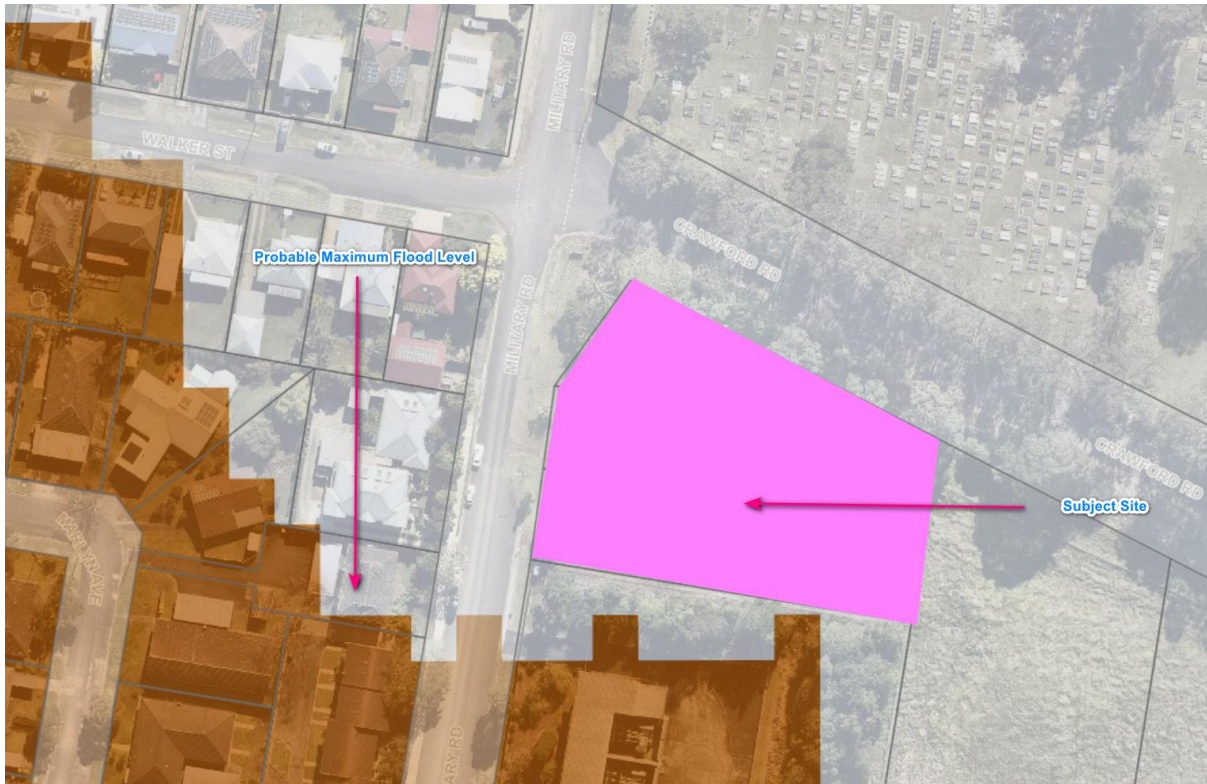
The proposal does not meet the referral thresholding identified by Clause 5.10(8)(b), however Council still made a non-statutory written referral to the Ngulingah Local Aboriginal Land Council as a potentially interested party. The referral provided fourteen (14) date, which ended on 26 September 2024. No response has been received, as of the date of this report.

Clauses 5.21 Flood Planning & 5.22 Special Flood Considerations

The subject land to be developed is not mapped as being flood prone land. A suitable Map is provided below.



The subject development is not a sensitive and hazardous development as defined within Clause 5.22. In addition, the subject land proposed to be developed is located above the Probable Maximum Flood Level as provided below.



Part 6 – Additional Local Provisions

Earthworks (cl 6.2)

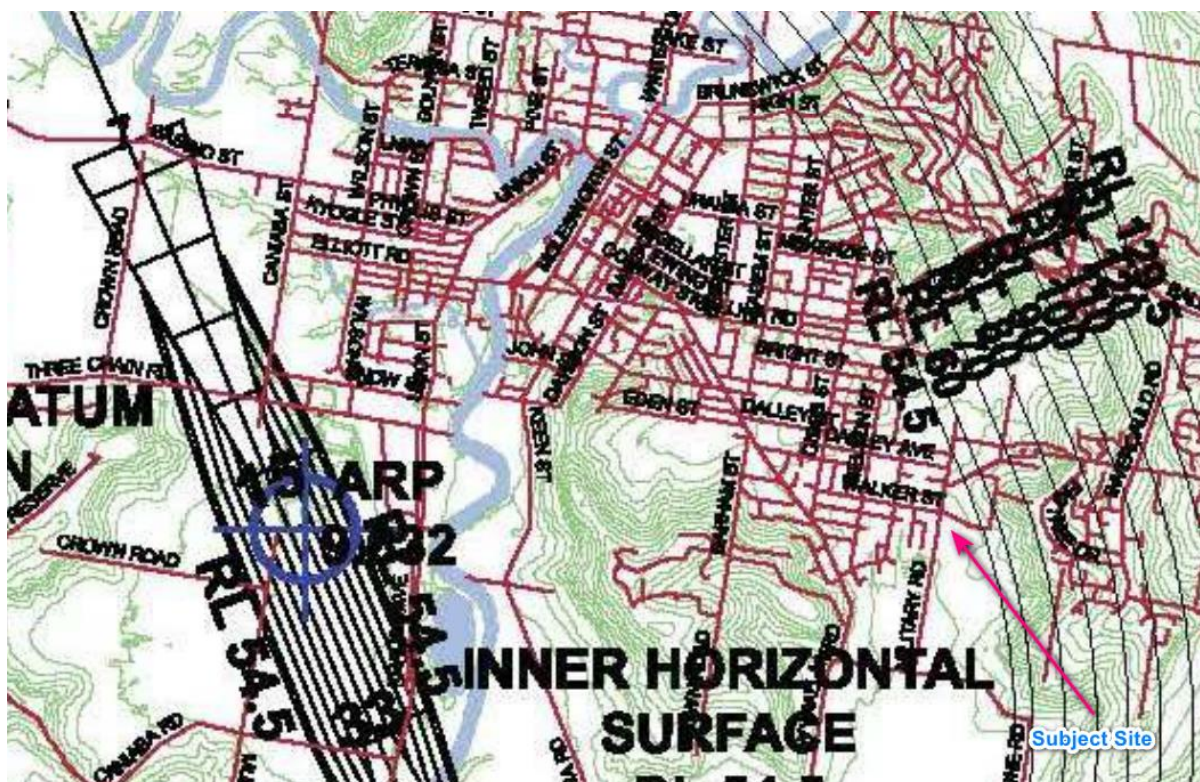
The proposal has been considered against the objectives of this clause and the heads of consideration under cl 6.2 (3). The following comments are applicable.

The development is unlikely to disrupt or have any detrimental effect on drainage patterns and soil stability in the locality of the development. Conditions have been applied in relation to unexpected finds, fill quality and excavation noise management. A geotechnical report has been provided and assessed and determined to demonstrate there will be satisfactory level of soil stability. Adequate stormwater and drainage works can be put in place to manage the flow, concentration, and purification of stormwater. The proposal is not near a drinking water catchment or any environmentally sensitive area. The proposal is not likely to disturb any relics, being a highly disturbed site in an existing urban area.

Construction noise is capable of being managed by the implementation of suitable conditions.

Clause 6.5 Airspace Operations

The overall height of the development sits at RL28.3. This is below the Aircraft Obstacle RL of RL54.5 as identified below.



Essential services (cl 6.9)

Development consent must not be granted to development unless the consent authority is satisfied that services that are essential for the development are available or that adequate arrangements have been made to make them available when required. Council is satisfied that essential services are available and either adequate or have the capacity to be made so.

The supply of water

Council's development Engineer has advised the following in relation to water supply:

A 100 mm diameter UPVC main runs along the northern frontage of the site on Crawford Road, offering a connection point. As part of the Section 68 application, hydraulic design plans must be submitted by a qualified and experienced hydraulic consultant. These plans will also need to include onsite pressure testing to validate the water models used in the predictions.

Please note that there are cast iron water mains in the vicinity of the site, which are highly susceptible to failure. Therefore, no new connections to these mains will be permitted.

Fire Coverage

As part of the Section 68 application, hydraulic design plans must be submitted by a qualified and experienced hydraulic consultant to ensure that the development complies with all firefighting requirements. These plans will also need to include onsite pressure testing to validate any water models used in the predictions.



The Diversion Report states the following in relation to stormwater management works.

The existing table drain within the road widening area will be removed to make room for the new road widening. The existing open channel within the site and existing stormwater connection will be demolished and diverted west along Crawford Rd, then south to discharge into an existing table drain 90m downstream of the site. Refer to Figure 1 for details.

This diversion will involve a new 600mm diameter RCP and six 3m kerb inlet pits. Additionally, a diversion swale has been proposed along the north site frontage, following the same alignment as the diversion and connecting to the new diversion line with a 300mm diameter RCP. The internal drainage system consists of a pit and pipe system that drains into a rainwater tank and bio-retention basin before discharging to west into the proposed stormwater diversion on Military Rd. Refer to Appendix D for further details on the internal drainage system and external works.

The proposed stormwater management works have been reviewed by Council's Development Engineer and Environmental Health Officer who are supportive of the proposal subject to conditions. Their full commentary in relation to stormwater is provided within **Attachment 2**.

Suitable vehicular access

The Civil Engineering & Design Report identifies road widening to upgrade Military Road is proposed. The works are described as follows:

In accordance with Lismore City Council's guidelines, the upgrade of Military Road to collector road is required for the proposed development. Therefore, in accordance with Lismore City Council's design guideline "D1-Geometric Road Design (Urban and Rural)", the widening of the existing Military Road from 7.4m-wide to minimum of 13m wide collector road. As part of

the road widening works, the road centreline and kerb line would need to be re-aligned. The proposed extent of road widening has been shown in the Stormwater Management Plan prepared by ADP Consulting. Refer to Appendix A for more details.

The proposed road upgrade works have been reviewed by Council's Development Engineer as well as the driveway and access arrangements who is satisfied with the proposal subject to conditions. Their full comments are provided within **Attachment 2**

11. State Environmental Planning Policy (Housing) 2021

State Environmental Planning Policy (Housing) 2021 (Housing SEPP) commenced on 26 November 2021 and aims to enable the delivery of diverse housing types to meet the needs of the community including affordable housing, boarding houses, secondary dwellings, group homes, co-living housing, build to rent and seniors housing.

On 14 December 2023, the NSW Government consolidated the provisions of *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* (SEPP 65) into the Housing SEPP and the *Environmental Planning and Assessment Regulation 2021* (the Regulation). The process of consolidation does not affect the operations of the provisions or the Apartment Design Guide (ADG).

Chapter 2 Affordable housing

Part 1 Preliminary

Before imposing a condition under the Act, section 7.32, the consent authority must consider the following—

- (a) affordable housing must aim to create mixed and balanced communities,*
- (b) affordable housing must be created and managed so that a socially diverse residential population, representative of all income groups, is developed and maintained in a locality,*
- (c) affordable housing must be made available to very low, low and moderate income households, or a combination of the households,*
- (d) affordable housing must be rented to appropriately qualified tenants and at an appropriate rate of gross household income,*
- (e) land provided for affordable housing must be used for the purposes of the provision of affordable housing,*
- (f) buildings provided for affordable housing must be managed to maintain their continued use for affordable housing,*
- (g) affordable housing must consist of dwellings constructed to a standard that, in the opinion of the consent authority, is consistent with other dwellings in the area.*

Council is confident that the development is consistent with the above requirements and has recommended the imposition of a condition of consent that 20% of apartments within the development are to be utilised as affordable housing, to be managed by a registered community housing provider, for a period of at least 15 years.

Chapter 2 of Part 2 of the SEPP applies to 'in-fill affordable housing' and contains development standards, including non-discretionary development standards, for this form of development which are applicable to the subject proposal. The proposed development is for two residential flat buildings that will allocate 20% of the apartments with the entire development towards affordable housing.

Development to which division applies (CI 15C)

In accordance with Clause 15C (1)(a) residential flat buildings are permissible within the MU1 zone as identified within the Lismore LEP 2012.

15C(1)(b) requires the affordable housing to be at least 10% of the development. 20% of the apartments are identified to be dedicated as affordable housing within the SEE supplied for the proposal.

All of the development is on and within 800 metres of land in a relevant zone, as Zone MU1 Mixed Use is identified as a relevant zone within 15C(3)(b).

Development to which division applies (CI 16 & 17)

The Lismore LEP does not have a Floor Space Ratio requirement allocated to the subject land. Therefore clauses 16 and 17 are not relevant to the subject application.

Development to which division applies (CI 18)

The proposal seeks to utilise the provisions of clause 18 that enable an increase to the maximum permissible building height of up to 30% based on the calculation within subsection 3. The maximum height permitted under the Lismore LEP is 11.5 metres. The proposed building height is 14.95 metres. Therefore a 30% increase in height is proposed.

Subsection (3) of clause 18 provides the following calculation methodology.

$$\text{affordable housing component} = \frac{\text{additional building height}}{(\text{as a percentage})} \div 2$$

A suitable calculation is provided below illustrating the height is not greater than allowed by the calculation given a 30% maximum is identified within Clause 18 (2) the proposal complies and the additional height is permissible via the provisions of the clause.

$$20\% = 30\% / 2 (15\%)$$

Development to which division applies (CI 19)

The object of this section is to identify development standards for particular matters relating to residential development under this division that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.

Non-Discretionary Development Standards

The site is 4440m² being greater than 450m² the proposal complies with clause 19(2)(a).

Clause 19(2)(b) requires minimum landscape area as follows:

(b) a minimum landscaped area that is the lesser of—

(i) 35m² per dwelling, or

(ii) 30% of the site area,

$$50 \text{ dwellings} \times 35\text{m}^2 = 1750\text{m}^2$$

$$0.3 \times 4440 = 1332\text{m}^2$$

2231m² of landscape area is proposed and compliance with Clause 19(2)(b) is achieved where both requirements are easily exceeded where only the lesser is required.

Clause 19 (2)(c) requires 15% of the site area to be deep soil zones of a minimum dimension of 3 metres where if practical 65% are to be located to the rear of the site.

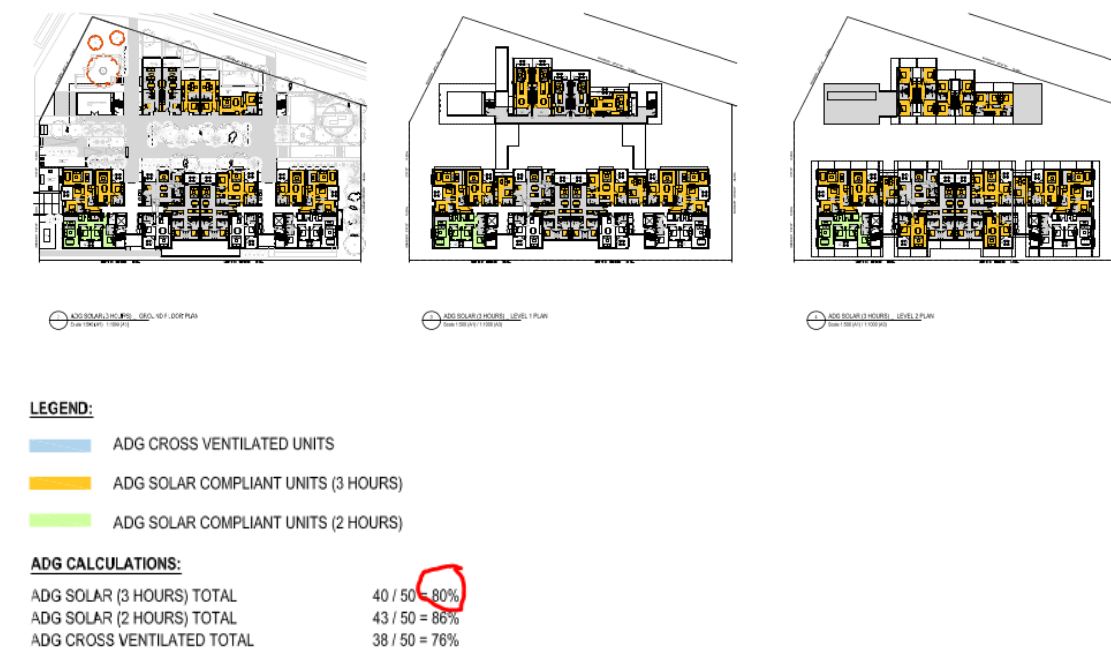
The SEE provides the following comment.

31% of the subject site comprises Deep Soil Zone designated area for landscaping.

The plan set has been reviewed where the above calculation is supportable. It is acknowledged it is unlikely 65% of the deep soil zones are to the rear. However, the site is a corner allotment where the design and layout of the structures and their associated landscaping is considered well-conceived/designed.

Clause 19(2)(d) requires living rooms and open spaces in at least 70% to achieve 3 hours of direct solar access between the hours of 9am & 3pm at the winter solstice.

The architectural Plan set has specific illustrations to demonstrate compliance with solar access requirements as provided below:



Clause 19(2)(e) & (f) identifies the required parking for the subject development as follows:

(e) the following number of parking spaces for dwellings used for affordable housing—

- (i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces,
- (ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces,
- (iii) for each dwelling containing at least 3 bedrooms— at least 1 parking space,

- (f) the following number of parking spaces for dwellings not used for affordable housing—
- (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces,
 - (ii) for each dwelling containing 2 bedrooms—at least 1 parking space,
 - (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,

The SEE supplied with the application provides the following table to illustrate compliance with Clause 19(2)(e) & (f). The numerical calculations have been reviewed and are considered accurate. A surplus of car spaces in addition to the requirements of the clause is acknowledged as provided.

Table 7: Carparking Allocation

Component	Required	Provided
Car Parking	<p>Affordable</p> <ul style="list-style-type: none"> 1 x Studio x 0.4 spaces = 0.4 spaces (1 space) 3 x 1 bedroom x 0.4 spaces = 1.2 spaces (2 spaces) 5 x 2 bed x 0.5 space = 2.5 spaces (3 spaces) 1 x 3 bedroom x 1 space = 1 <p>Total required – 7 spaces.</p> <p>Non-Affordable</p> <ul style="list-style-type: none"> 5 x Studio x 0.5 spaces = 2.5 spaces (3 spaces) 12 x 1 bedroom x 0.5 spaces = 6 spaces 17 x 2 bed x 1 space per unit = 17 spaces 6 x 3 bedroom x 1.5 spaces = 9 spaces Total required – 35 spaces. <p>Total Required – Affordable (5.4 spaces) + Non-Affordable – 42 spaces</p>	Total provided – 51 spaces (9 surplus)

In relation to clause 19(2)(g) a separate assessment table is provided within this report in relation to compliance with the Apartment Design Guide. Please refer to this table in relation to compliance with *the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development.*

In accordance with clause 21, if approved it is recommended the consent have a condition requiring an instrument placed on the title that 20% the apartments within the development must be used for affordable housing for at least 15 years from the granting of the Occupation Certificate where the affordable housing component shall be required to be managed by a registered community housing provider.

Chapter 3, Part 4 Build to Rent Housing

The SEE identifies the entire development is to be Build-to Rent Housing.

Development to which division applies (CI 72)

The subject proposal is for a residential flat building within a MU1 Mixed use zone adhering to the requirements of Clause 72 (1) & (2).

The 50 dwellings requirement of Clause 72(3) is met by the proposal given 50 units are proposed.

Development to which division applies (CI 73)

The requirements of Clause 73 are deemed capable of being met via the imposition of appropriate conditions to ensure no strata subdivision, the minimum management period is satisfied as well as the single ownership and single managing agent requirements.

The relevant period for the requirements of the above arrangements is 15 years given the MU1 zone is not listed within Clause 73(3)(a) where 73(3)(b) identifies 15 years as required.

Development to which division applies (CI 74)

Clause 74(2)(a) requires *the building height of all proposed buildings is not more than the maximum building height permitted under Chapter 5 or another environmental planning instrument for a building on the land,*

As discussed previously, the maximum height limit of the LLEP is 11.5 metres. The proposed building height is 14.95 metres. Therefore a 30% increase in height is proposed. This increase in height is permitted under Clause 18 of the Housing SEPP and is not in contravention of Clause 74(2)(a).

Residential Accommodation is permitted in the zone and no Floor Space Ratio is applicable to the Land under the LLEP. Therefore the development complies with the development standards identified within Clause 74(2)(b)&(c).

Clause 74(2)(e) identifies the car parking requirements to be as follows.

.....at least the number of parking spaces required under the relevant development control plan or local environmental plan for a residential flat building

As provided previously, 9 surplus parking spaces are provided above the requirements of Clause 19(2)(e) & (f) of the Housing SEPP.

Development to which division applies (CI 75)

The Design Requirements of Clause 75 are provided as follows with a comment provided thereafter:

(2) In determining an application for the modification of a development consent or a development application for the carrying out of development to which this section applies, the consent authority must—

- (a) be flexible in applying the design criteria set out in the Apartment Design Guide, including, in particular, the design criteria set out in Part 4, items 4E, 4G and 4K, and*

Flexibility is noted. The Apartment Design Guide is discussed within a separate table of this assessment.

- (b) in its consideration of the objectives set out in the Apartment Design Guide, Part 4, consider the following—*

- (i) the amenities proposed to be provided to tenants residing in the building through common spaces and shared facilities and services,*

Suitable open spaces and landscaped areas are provided as well as a communal room and bicycle parking. The proposal provides adequate amenities to adhere to the requirements of the objective.

- (ii) *whether the configuration and variety of dwellings in the building will provide adequate options to prospective tenants in relation to the size and layout of the dwellings,*

A range of apartment types in terms of size and number of bedrooms is proposed consistent with the objective.

- (iii) *whether tenants residing in the building will be able to relocate to other dwellings in the building that will better accommodate their housing requirements if their requirements change.*

This potential exists given the range of apartment types and sizes proposed.

Chapter 4, Design of Residential Apartment Development

Development to which division applies (CI 142)

Aims of chapter are listed within Clause 142.

The proposed development is considered consistent with the aims of this chapter particularly by:

- i) providing socially and environmentally sustainable housing, and*
- (ii) being a long-term asset to the neighbourhood, and*
- (f) by supporting housing affordability.*

Development to which division applies (CI 144)

Chapter 4 applies to the subject development as identified within Clause 144 given the proposal is for two new residential flat buildings being 3 storeys in height not including underground parking, and the building contains at least 4 dwellings.

Development to which division applies (CI 147)

Clause 147 identifies Development consent must not be granted to residential apartment development, unless the consent authority has considered the following—

- (a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9.*

The panel should be made aware the applicant has provided a Design Verification Statement + Apartment Design Guide Assessment Report where they have provided commentary in relation to the principles within Schedule 9.

Council's discussion is provided in relation to each principle as follows:

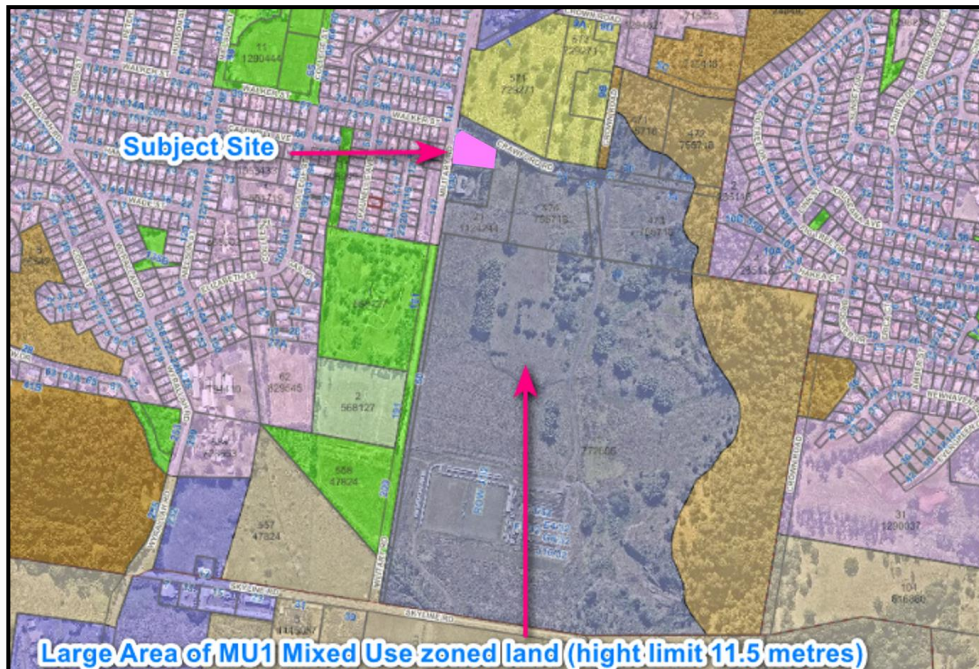
Context & Neighbourhood Character

The proposal has responded adequately to the attributes of the site. Landscaping is maintained to the corner of Crawford and Miliary Road and along the Crawford Road frontage softening the development when viewed from the public domain and preserving the setting surrounding the adjacent cemetery a listed local heritage item.

The proposal is not considered out of context with surrounding development in terms of its bulk and scale or material selection where it is also noted a significant amount of undeveloped land zoned MU1 Mixed Use is located to the west and south of the subject site where an 11.5

metre height limit is specified. Although undeveloped at this time it is considered the proposal is likely suitable in relation to the future character of the area currently undergoing change.

A suitable image of the zoning described above is provided as follows:



Built Form & Scale

As discussed above the proposal is within an area currently undergoing transition. The proposal is considered likely consistent with the future character of the area.

The bulk of the development is seen as benefited by the splitting of the development into two main structures. This is considered to avoid excessive bulk and/ or scale.

The elevations have suitable fenestration details to avoid the structure appearing as monolithic where overall the design of the development is considered well mannered.

The buildings alignments and proportions are adequate. Elevations and roof forms are well designed where this in conjunction with landscaping retention of the corner of Crawford and Military Road as well as additional landscaping proposed will produce a satisfactory streetscape and public domain, views and vistas outcome.

Density

No Floor Space Ratio is applicable to the subject site a primary regulator of density. Despite this significant landscape areas are maintained by the development in compliance with all relevant landscape areas and site cover development controls. This identifies the development as not being excessive in its proposed density.

Sustainability

A BASIX Certificate is provided with the application. In addition, it is clear the development incorporates eave overhands, recessed covered balconies and elevational shade screening to respond to the generally hot and wet climate relevant to the region.

Landscape

Although some tree removal is proposed it is identified generally effort has been made to retain mature landscaping along Crawford Road and at the Corner of Crawford and Military Road. Suitable additional landscape embellishments are also proposed within the landscaping plans provided with the application. The development will make a positive contribution to the streetscape, public domain and for its occupants given the above discussed retention and further embellishments.

Amenity

The design affords adequate amenity for future occupants where further discussions in relation to the Apartment Design Guide will be provided to solidify this statement.

Given the surrounding uses of the land being a substation and a cemetery with residential development across Military Road it is identified the development has little to no impact on the residential amenity of nearby established properties given adequate separation distances and positioning in relation to solar access.

Safety

The development is considered adequate from a safety and security perspective. The proposal has been referred to the NSW Police. Their comments are recommended to be added as conditions to any positive determination.

Housing Diversity & Social Interaction.

A range of apartment typologies are proposed to suit the social mix of the neighbourhood and region. The affordable housing component of the development is also commendable. A community room is also proposed being a positive addition in relation to social interaction.

Aesthetics

The design is of adequate architectural merit. The split nature of the development is positive from a bulk and scale perspective. Roof pitch and form and breakup are generally well executed.

Suitable elevation fenestration detail is evident where shade screens and landscaping are also provided to a high standard. A suitable materials and colours schedule is supplied to ensure confidence of the buildings final appearance can be envisaged.

Clause 147 identifies development consent must not be granted to residential apartment development, unless the consent authority has considered the

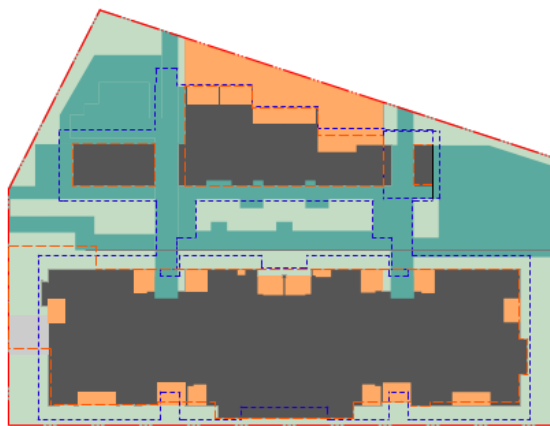
(b) the Apartment Design Guide,

A table is provided below to assess the proposal against the Apartment Design Guide.

Apartment Design Guide

The panel should be made aware the applicant has provided a Design Verification Statement + Apartment Design Guide Assessment Report where they have provided commentary in relation to the apartment design guide .

Apartment Design Guide – Design Criteria	Comment	Complies
3A Site Analysis <i>No design criteria - see ADG for design guidance</i>	The DA (plans, SEE and attachments) includes satisfactory site analysis.	Yes
3B Orientation <i>No design criteria - see ADG for design guidance</i>	The proposed orientation of the development is acceptable, the proposal does not result in unreasonable overshadowing of any adjoining residential property. Both buildings are orientated north and adequately present to the relevant street frontages.	Yes.
3C Public Domain Interface <i>No design criteria - see ADG for design guidance</i>	The proposed public domain interface of the development is assessed as being acceptable in the circumstances. A footpath is incorporated within the proposed public domain works where significant landscape retention and embellishment will achieve a positive result for the public domain interface.	Yes.
3D Communal and Open Space 1. <i>Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)</i> 2. <i>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter)</i>	Communal open space of 1116m ² is provided where the total site area is 4440m ² . Therefore (1116 / 4440) equates to a complaint 25.13%. A suitable image has been supplied by the applicant as provided below.	Yes.



OPEN SPACE

--- BOUNDARY
 --- BASEMENT FOOTPRINT
 --- OVERHEAD STRUCTURE

TOTAL SITE AREA (TSA) = 4,439sqm

LANDSCAPE AREA: 2,197sqm/ 49% OF TSA

■ BUILDING FOOTPRINT: 2,032sqm/ 45% OF TSA
 ■ COMMUNAL OPEN SPACE: 1,116sqm/ 25% OF TSA
 ■ PRIVATE OPEN SPACE AT GROUND FLOOR: 423sqm
 ■ LANDSCAPE AREA: 2,197sqm/ 49%

As can be viewed above the majority of communal open space is orientated north where, at least 50% of the ground floor lawns receive more than 2 hours sunlight between 9- 3pm on 21 June when the shadow diagrams are analysed.

3E Deep Soil Zones

1. Deep soil zones are to meet the following minimum requirements:

Site area	Minimum dimensions	Deep soil zone (% of site area)
less than 650m ²	-	7%
650m ² - 1,500m ²	3m	
greater than 1,500m ²	6m	
greater than 1,500m ² with significant existing tree cover	6m	

1367m² of deep soil zone has been provided (31% of site area) being in excess of the requirements.

The deep soil zone(s) have been located to the Crawford Road frontage, Corner of Crawford & Military Road and within the two proposed flat buildings. This positioning visually enhances the streetscape view and also provides green space for viewing for residents within the development.

Yes

3F Visual Privacy

1. Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:

Building height	Habitable rooms and balconies	Non-habitable rooms
up to 12m (4 storeys)	6m	3m
up to 25m (5-8 storeys)	9m	4.5m
over 25m (9+ storeys)	12m	6m

Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2) Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties

The proposed building does not satisfy the prescribed 6m separation distance for habitable rooms and balconies to adjoining boundaries (6m).

3 metre setback only is provided to the southern side boundary being 3 metres less than required.

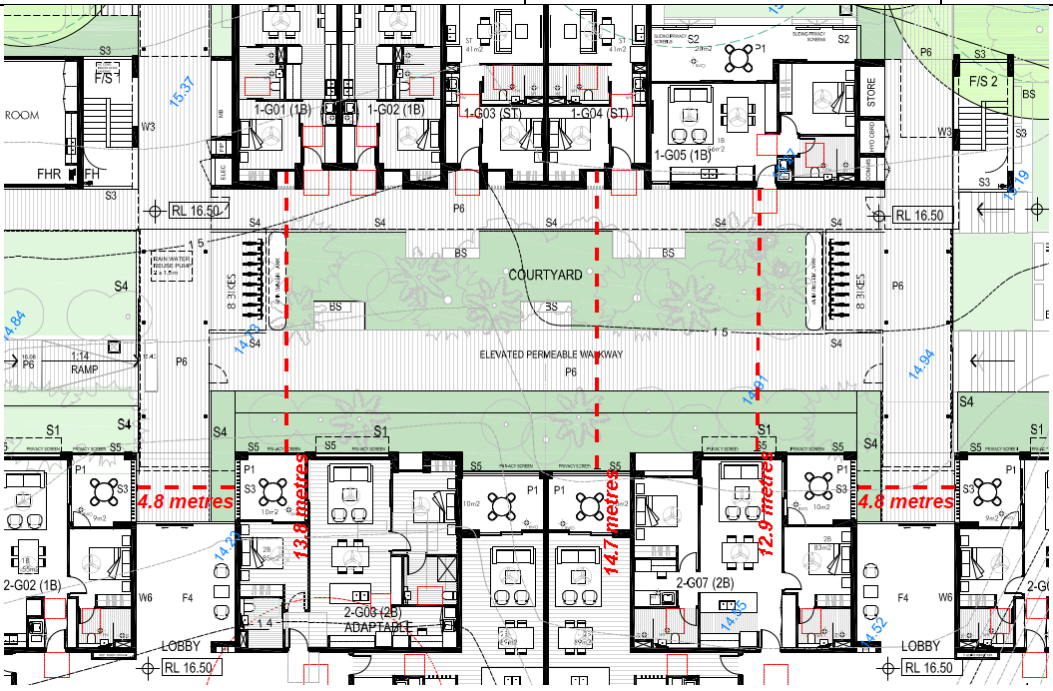
The above variation is supported given the adjoining development to the south is an existing electrical substation unlikely to be developed for similar residential purposes in the near to medium term. In addition the structure housing the substation is setback approximately 20 metres from the common boundary where vegetation is also present. This provides an adequate streetscape outcome in terms of bulk and scale and building separation. A suitable image of the substation is provided below.

No



Analysis of the separational requirements between the proposed buildings identifies

No

	<p>the two structures are provided with greater than 12 metres of separation between the two buildings. Some balconies are identified within the image below as not being strictly compliant. However suitable privacy screens are implemented in these locations where the open side of the balcony achieves the required distances. A suitable image with measurements is provided as follows.</p>	
		
<p>3G Pedestrian Access and Entries <i>No design criteria - see ADG for design guidance</i></p>	<p>The proposed development is considered to have satisfactory pedestrian access and entries.</p>	<p>Yes</p>
<p>3H Vehicle Access <i>No design criteria - see ADG for design guidance</i></p>	<p>The proposed development is considered to have a satisfactory vehicular access.</p>	<p>Yes</p>
<p>3J Bicycle and car parking 1. For development in the following locations:</p> <ul style="list-style-type: none"> on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or on land zoned, and sites within 400 	<p>Lismore is a nominated regional centre and the site is zoned Mixed Use.</p> <p>The applicable car parking rate under the RMS Guide is:</p> <ul style="list-style-type: none"> 0.6 spaces per 1 bedroom 	<p>No</p>

<p><i>metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</i></p> <p><i>the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</i></p> <p><i>The car parking needs for a development must be provided off street.</i></p>	<p>unit.</p> <ul style="list-style-type: none"> • 0.9 spaces per 2 bedroom unit. • 1.4 spaces per 3 bedroom unit • 1 space per 5 units (visitor parking). <p>21 studio or 1 beds x 0.6= 12.6 22 two bed unit x 0.9 = 19.8 7 three bed unit x 1.4 = 9.8 50 units visitor x 0.2 = 10 <u>Total Spaces Required= 52.2</u></p> <p>Proposed parking spaces are 51 and are not strictly compliant with the above. This variation is supported given the numerical shortfall is 1 space combined with the consideration the proposal complies with the Housing SEPP requirements for Affordable Rental Housing.</p> <p>The development also includes parking for bicycles, scooters and motorbikes.</p> <p>The car park design is safe and secure.</p>	
<p>4A Solar and Daylight Access</p> <p><i>1. living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter</i></p> <p><i>2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter</i></p> <p><i>3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter</i></p>	<p>The architectural plan set has specific illustrations to demonstrate compliance with solar access requirements.</p> <p>80% of units receive the required 3 hours.</p> <p>The submitted Design Verification Report states 8% of units receive no direct sunlight between 9am and 3pm at the winter solstice achieving the required numerical compliance.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>4B Natural Ventilation</p>	<p>76% of apartments are naturally cross ventilated.</p>	<p>Yes</p>

<p>1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>	<p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>													
<p>Ceiling Heights Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table><tr><th colspan="2">Minimum ceiling height for apartment and mixed use buildings</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table>	Minimum ceiling height for apartment and mixed use buildings		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	<p>The project architect within their verification statement confirm the floor to ceiling heights are all at least 2.7m for habitable rooms except for the upper levels of the 2 storey units facing Crawford Road where a 2.4m ceiling heights is proposed. The development generally complies with the numerical ceiling height requirements, given the 2 storey apartments with a 2.4m upper level ceiling height have an identical footprint for all 2 bedroom units above and below satisfying the 50% requirement. However, analysis of the 3 storey unit in this location is slightly larger on the upper level. The lower level is 52.3m² where the upper level is 57.9m². Therefore the 50% can not be stated as achieved for this unit. This variation is supported given the minor nature of the numerical non-compliance combined with 49 units out of 50 achieve compliance.</p>	<p>No (1 unit minor non compliance)</p>
Minimum ceiling height for apartment and mixed use buildings														
Habitable rooms	2.7m													
Non-habitable	2.4m													
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area													
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope													
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use													
<p>4D Apartment Size and Layout 1. Apartments are required to have the following minimum internal areas:</p> <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	<p>The Architectural Plan set includes Apartment Plan Types illustrations where the following internal areas are specified:</p> <p>Studio Type 1 = 41m² Studio Type 2 = 37m² 1 Bed Type 1 = 56m² 1 Bed Type 2 = 56m² 1 Bed Type 3 = 55m² 1 Bed Type 4 = 54m² 2 Bed Type 1 = 85m² 2 Bed Type 2 = 89m²</p>	<p>Yes</p>		
Apartment type	Minimum internal area													
Studio	35m ²													
1 bedroom	50m ²													
2 bedroom	70m ²													
3 bedroom	90m ²													

	<p>2 Bed Type 3 = 98m² 2 Bed Type 4 = 77m² 2 Bed Type 5 = 83m² 2 Bed Type 6 = 85m² 3 Bed Type 1 = 107m² 3 Bed Type 2 = 101m² 3 Bed Type 3 = 108m²</p> <p>All apartments meet the minimum internal area requirements.</p>	
<p>2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p>	Complies.	Yes
<p>3. Habitable room depths are limited to a maximum of 2.5 x the ceiling height</p>	The 6 apartments mentioned below do not appear to meet this requirement. All other apartments appear to comply. Similar justification is provided in support being the presence of north facing glazing doors providing adequate solar access and amenity.	No
<p>4. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p>	Analysis of the plan set identifies six apartments have a combined living dining and kitchen with a depth of 9.2 metres. Given the amount of variation from the standard numerically where all the units mentioned possess a large north facing window the minor variation is supportable.	No
<p>5. Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space)</p>	<p>Not all apartments appear to have a master in excess of 10m².</p> <p>Studio Type 1 bedroom is 9.3m².</p> <p>Studio Type 2 is 7m².</p> <p>1 bed type 1 is 9.9m². 1 bed type 3 is 9.6m² 1 bed type 4 is 9.6m²</p>	No

<p>6. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>7. Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments <p>8. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>	<p>2 bed type 2 has 2 beds 9.6m²</p> <p>Given the above measurements are very close to total compliance the application remains supportable from Council's perspective. Additional comment is relevant for Studio Type 2 given 7m² is tightish. This room when analysed has 2 sets of sliding doors to enable it to become open in a traditional studio format and is considered an acceptable format/layout. Studio Type 2 as discussed immediately above does not meet this requirement with dimensions of 2.8m by 2.5m given the openable nature of this room the proposal is supportable. All other apartments within the development comply.</p> <p>Complies.</p> <p>Complies</p>	<p>No</p> <p>Yes</p> <p>Yes</p>															
<p>4E Private Open Space and balconies All apartments are required to have primary balconies as follows:</p> <table border="1" data-bbox="212 1576 746 1841"> <thead> <tr> <th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr> </thead> <tbody> <tr> <td>Studio apartments</td><td>4m²</td><td>-</td></tr> <tr> <td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr> <tr> <td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr> <tr> <td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr> </tbody> </table>	Dwelling type	Minimum area	Minimum depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	<p>The apartment types open space is as follows:</p> <p>Studio Type 1 = 12m² Studio Type 2 = 4.3m² 1 Bed Type 1 = 12m² 1 Bed Type 2 = 20.4m² 1 Bed Type 3 = 9m² 1 Bed Type 4 = 9m² 2 Bed Type 1 = 10.1m² 2 Bed Type 2 = 10.4m² 2 Bed Type 3 = 12m² 2 Bed Type 4 = 11.4m² 2 Bed Type 5 = 9.3m² 2 Bed Type 6 = 10.1m² 3 Bed Type 1 = 12.1m² 3 Bed Type 2 = 12.1m²</p>	<p>No</p>
Dwelling type	Minimum area	Minimum depth															
Studio apartments	4m ²	-															
1 bedroom apartments	8m ²	2m															
2 bedroom apartments	10m ²	2m															
3+ bedroom apartments	12m ²	2.4m															

	<p>3 Bed Type 3 = 19.5m²</p> <p>2 Bed Type 5 is strictly non-complaint being under the 10m² requirement given 9.3m² is provided.</p> <p>3 Bed Type 1 is strictly non-compliant given its depth is 2.05m where 2.4 is required.</p> <p>Numerically the non-compliances are marginal and supportable given the quality of the landscape and open space area provided within the development overall.</p>	
<p><i>The minimum balcony depth to be counted as contributing to the balcony area is 1m</i></p>	<p>Studio Type 2 has a depth of 0.9 metres and does not strictly comply with the 1 metre requirement. Given the proximity of compliance numerically this variation is supportable.</p>	No
<p><i>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m</i></p>	<p>Not all ground and podium apartments comply with this requirement. As discussed above generally apartments meet the required minimum open space areas and dimensions for non ground level apartments. The following justification that is supported by Council is provided within the Apartment Design Guide Report supplied.</p> <p><i>'Ground' level apartments to the south building are situated in excess of 1.4m above the ground and level of planting and therefore provided with balconies in lieu of external terraces. Balconies are augmented by adjacent and secure communal open space. This approach was supported by Landcom's design review panel.</i></p>	No

	<p>Ground level apartments to the north building are provided with balconies and external terraces extending into the landscape and in excess of 15m2.</p> <p>Generous public domain spaces are also available to residents, including the cemetery grounds to the north.</p>											
<p>4F Common circulation and spaces</p> <p>1. The maximum number of apartments off a circulation core on a single level is eight</p>	<p>The southern building circulation core provides access to 7 units. The Northern Building circulation core provides access to 5 units. The 8 units circulation core requirements are complied with.</p>	<p>Yes</p>										
<p>4G Storage</p> <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m³</td></tr><tr><td>1 bedroom apartments</td><td>6m³</td></tr><tr><td>2 bedroom apartments</td><td>8m³</td></tr><tr><td>3+ bedroom apartments</td><td>10m³</td></tr></table> <p>At least 50% of the required storage is to be located within the apartment</p>	Dwelling type	Storage size volume	Studio apartments	4m³	1 bedroom apartments	6m³	2 bedroom apartments	8m³	3+ bedroom apartments	10m³	<p>The plan set and following table have been reviewed. compliant storage is provided.</p>	<p>Yes.</p>
Dwelling type	Storage size volume											
Studio apartments	4m³											
1 bedroom apartments	6m³											
2 bedroom apartments	8m³											
3+ bedroom apartments	10m³											

RESIDENTIAL SUMMARY OF UNIT TYPES AND ADG STORAGE							
Building	Level	Dwelling No.	Type	ADG Storage			
				Required volume (m3)	Actual volume within apartment (m3)	Min volume within carpark (m3)	Complies
1 (North)	Ground	1.G01	1 Bed	6	4	2	✓
		1.G02	1 Bed	6	4	2	✓
		1.G03	Studio	4	4.5	-	✓
		1.G04	Studio	4	4.5	-	✓
		1.G05	1 Bed	6	4	2	✓
	Level 1	1.101	2 Bed (2 storey)	8	8	-	✓
		1.102	2 Bed (2 storey)	8	8	-	✓
		1.103	2 Bed (2 storey)	8	4.6	3.4	✓
		1.104	2 Bed (2 storey)	8	4.6	3.4	✓
		1.105	3 Bed (2 Storey)	10	10	-	✓
2 (South)	Ground	2.G01	2 Bed	8	8	-	✓
		2.G02	1 Bed	6	6	-	✓
		2.G03	2 Bed ADAPTABLE	8	4.3	3.7	✓
		2.G04	2 Bed	8	5.7	2.3	✓
		2.G05	1 Bed	6	6	-	✓
		2.G06	3 Bed	10	5.9	4.1	✓
		2.G07	2 Bed	8	8	-	✓
		2.G08	1 Bed	6	6	-	✓
		2.G09	2 Bed	8	8	-	✓
		2.G10	3 Bed	10	10	-	✓
		2.G11	1 Bed	6	6	-	✓
		2.G12	2 Bed	8	5.7	2.3	✓
	Level 1	2.101	2 Bed	8	8	-	✓
		2.102	1 Bed	6	6	-	✓
		2.103	Studio	4	2	2	✓
		2.104	2 Bed ADAPTABLE	8	4.3	3.7	✓
		2.105	2 Bed	8	5.7	2.3	✓
		2.106	1 Bed	6	6	-	✓
		2.107	3 Bed	10	10	-	✓
		2.108	2 Bed	8	8	-	✓
		2.109	Studio	4	2	2	✓
		2.110	1 Bed	6	6	-	✓
		2.111	2 Bed	8	8	-	✓
		2.112	3 Bed	10	10	-	✓
		2.113	1 Bed	6	6	-	✓
	2.114	2 Bed	8	5.7	2.3	✓	
	Level 2	2.201	2 Bed	8	8	-	✓
		2.202	1 Bed	6	6	-	✓
		2.203	Studio	4	2	2	✓
		2.204	2 Bed ADAPTABLE	8	4.3	3.7	✓
		2.205	2 Bed	8	5.7	2.3	✓
		2.206	1 Bed	6	6	-	✓
		2.207	3 Bed	10	10	-	✓
		2.208	2 Bed	8	8	-	✓
		2.209	Studio	4	2	2	✓
		2.21	1 Bed	6	6	-	✓
		2.211	2 Bed	8	8	-	✓
		2.212	3 Bed	10	10	-	✓
		2.213	1 Bed	6	6	-	✓
		2.214	2 Bed	8	5.7	2.3	✓

4H Acoustic Privacy No design criteria - see ADG for design guidance	The proposed development is considered to have a satisfactory regard to acoustic privacy.	Yes
4J Noise and Pollution No design criteria - see ADG for design guidance	<p>The proposed development is considered to have a satisfactory regard to Noise and Pollution. The proposal is adjacent to a electrical substation.</p> <p>During the pre-lodgement process the presence of the substation and health</p>	Yes

	<p>implications were considered. Council's Environmental Health officer stated Essential Energy had been contacted/consulted in relation to health concerns with the substation and advised his discussions with essential energy identified no concerns in relation to health associated with electro magnetic fields were raised.</p> <p>An Electromagnetic Field Assessment Review has been supplied by the applicant that relates to the Crawford Road rezoning.</p> <p>An extract from this report is provided below indicating the electromagnetic fields are within the exposure limits as follows.</p> <p><i>.....Thus, the recorded EMF emission levels ranging from a minimum of 0 mG to a maximum of 5.5 mG within the Substation site are well within the EMF exposure limit of 1000 mG. as per ARPANSA (2006) and are unlikely to impact on the proposed adjoining land use</i></p> <p>Council's Environmental Health Officers referral provided within Attachment 2 also provides additional supportive commentary in relation to the electro magnetic field levels being acceptable.</p>	
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4K Apartment Mix <i>No design criteria - see ADG for design guidance</i>	The proposal provides Studio, 1, 2 and 3 bedroom units, which is considered to be an acceptable mix.	Yes
4L Ground Floor apartments	The ground floor units are considered to have a	Yes

<i>No design criteria - see ADG for design guidance</i>	satisfactory regard to this guideline.	
4M Facades <i>No design criteria - see ADG for design guidance</i>	<p>The proposed facades are considered to have a satisfactory regard to this guideline in that they include:</p> <ul style="list-style-type: none"> • good articulation, which enhances visual interest and lessens the perceived bulk and scale; and • a mix of materials, textures and colours. 	Yes
4N Roof Design <i>No design criteria - see ADG for design guidance</i>	<p>The proposed roof design is considered to have a satisfactory regard to this guideline. The split nature of the buildings assists in the breakup of bulk of the roof form avoiding a monolithic presentation where the southern larger building also has additional articulation within its design. In addition, the roof form presents substantial eave overhang being a suitable design for the hot and wet climatic conditions typical to the northern rivers region.</p>	Yes.
4O Landscape Design <i>No design criteria - see ADG for design guidance</i>	<p>The proposed landscaping is considered to have a satisfactory regard to this guideline.</p> <p>The retention of existing landscaping on the Corner of Military Road and Crawford Road and along Crawford Road generally is commendable given it provides preservation of the setting of the adjacent cemetery a listed heritage item. The additional landscape embellishments proposed are also positive additions.</p>	Yes.
4U Energy Efficiency	The DA includes a Basix certificate.	Yes

No design criteria - see ADG for design guidance		
4V Water Management and Conservation No design criteria - see ADG for design guidance	The proposal is considered to have adequate regard to the design guidelines.	Yes
4W Waste Management No design criteria - see ADG for design guidance	The proposal has a waste storage area located within the enclosed carpark that is sited and design to be consistent with the design guidelines.	Yes
Building Maintenance No design criteria - see ADG for design guidance	The proposal is considered to be have adequate regard to the design guidelines.	Yes

12. State Environmental Planning Policy (Planning Systems) 2021

Section 2.19(1) and Clause 4 of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* declares the proposal regionally significant development as:

The development is a Crown Development with an estimated development cost of more than 5 million.

13. State Environmental Planning Policy (Resilience & Hazards)

Chapter 4: Remediation of Land

Clause 4.6 – Councils Environmental Health Officer has reviewed the application and has provided the following comments identifying the subject land is suitable for the proposed development given remediation works have been completed.

The proponent has submitted a contaminated site assessment report and while no heavy metals or organochlorines were found above Health Investigation Levels for a medium density development. Asbestos was found on site and the report recommends that a Remedial Action Plan be developed for the area impacted by asbestos presence and Council accepted the plan on July 30, 2024 and notice was given to undertake remediation work of the site as a Category 2. On Oct 1, 2024 Council received the "Validation Report East Lismore – Build to Rent" advising that the site had successfully been remediated.

14. State Environmental Planning Policy (Transport & Infrastructure)

Determination of development applications—other development (CI 2.48)

This section applies to a development application involving 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,*

The subject development is located immediately adjacent a substation to the south.

Before determining a development application (or an application for modification of a consent) for development to which this section applies, the consent authority must—

- (a) *give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and*
- (b) *take into consideration any response to the notice that is received within 21 days after the notice is given.*

Determination of development applications—other development – notice was given to the electricity supply authority for the area (Essential Energy), inviting comments about potential safety risks given the proposal is adjacent to an electricity substation.

Essential Energy has provided a response to Council's referral as follows:

Strictly based on the documents submitted, Essential Energy has no comments to make as to potential safety risks arising from the proposed development.

Their general and full comments are also available within **Attachment 3**.

Significant discussion is provided in relation to the proximity of the development to the adjoining substation in relation to any potential health/amenity implications. Please review the comments provided within the ADG table assessment of this report in relation to aspect of the development.

15. Biodiversity Conservation Act 2016

The proposed development is not on land included on the Biodiversity Values Map and does not involve clearing of native vegetation in excess of the area clearing threshold. The proposed development is not likely to significantly affect threatened species or ecological communities, or their habitats, and is not in a declared area of outstanding biodiversity value. A test under section 7.3 of the *Biodiversity Conservation Act 2016* has been conducted as per assessment requirement.

16. State Environmental Planning Policy (Biodiversity & Conservation) 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021, applies to land zoned MU 1 Mixed Use Zone. Clause 2.6 – requires development consent to be provided by council for removal of vegetation in non-rural areas. Council's Ecologist has no objections on the removal of the vegetation identified provided the site is landscaped appropriately prior to occupation.

The Flora & Fauna Impact Assessment provided with the application states the thresholds for entry into the Biodiversity Offsets Scheme were not exceeded by the proposal.

The SEPP also requires Council to consider whether the development will impact on koala habitat.

In relation to Koala the Flora and Fauna Assessment states the following in relation to the mapped Secondary A Koala Habitat illustrated below.



It was determined that the planted vegetation did not conform to the definition of 'Secondary A' habitat, and instead, impediments to safe Koala movement were considered. Recommendations and management measures were provided to ensure continued safe koala movement through the site, as well as the reducing the impacts of minor increased vehicle movement, interactions with dogs, and disturbance during construction.

Recommendations to further mitigate residual impacts to biodiversity were provided. With mitigation measures in place, no significant impact is expected to the biodiversity values associated with the proposed development.

The mitigation measures abovementioned are provided on page 31 of the Flora & Fauna Impact Assessment.

Council's Ecologist as reviewed the application and is supportive subject to Conditions. Their full commentary is provided within **Attachment 2**.

17. North Coast Regional Plan 2036

The proposed development is considered consistent with primary directions of the *North Coast Regional Plan 2036* including:

- Direction 1: Deliver environmentally sustainable growth
- Direction 14: Provide great places to live and work
- Direction 15: Develop healthy, safe, socially engaged and well-connected communities
- Direction 22: Deliver greater housing supply
- Direction 23: Increase housing diversity and choice
- Direction 25: Deliver more opportunities for affordable housing

18. Draft Instruments

No draft instruments are applicable to the site

19. Lismore Development Control Plan

The application has been assessed against the relevant controls in the Lismore DCP as indicated in the following table. Comments are provided where the proposal does not strictly comply with the applicable provisions or conditions are required to address certain matters.

Part, Chapter Number and Name	ASSESSMENT												
Part A Chapter 1 – Residential Development	<p>General Provisions</p> <p><i>4.1 – Element – Setbacks, Design, Density and Height</i></p> <p><u>Setbacks</u></p> <p>The DCP does not provide specific setbacks for land zoned MU1 Mixed Use. Given the allotment is a corner allotment where R1 General Residential zoned land is located to the northwest west and southwest the applicants design providing a 6 metre front setback to Military Road and a 3.8 metre front setback to Crawford Road is consistent/complies with Part A1.2 where Part A1.2 specifically applies to R1 zoned lands.</p> <p><i>A1.2 For a corner allotment in zones R1, R2, R3 and RU5, the setback is 6m from the primary street and 3m from the secondary road.</i></p> <p>Given the above, the proposed setbacks are supported.</p> <p><u>Density</u></p> <p>Part A3 provides the following density table applicable to residential flat buildings:</p> <table><tr><th>Dwelling Size</th><th>Site area per dwelling with lot < 1200m²</th><th>Site area / dwelling with lot > 1200m²</th></tr><tr><td>1 bedroom</td><td>200m²</td><td>180m²</td></tr><tr><td>2 bedroom</td><td>250m²</td><td>220m²</td></tr><tr><td>3 bedroom</td><td>300m²</td><td>270m²</td></tr></table> <p>The following calculation is provided</p> <p>21 (1 bed) x 180 = 3,780 22 (2 bed) x 220 = 4,840 7 (3 bed) x 270 = 1,890</p> <p>Total = 10, 510</p> <p>Given the site area is 4440m² the proposal exceeds the density requirements of Part A3. Given overall</p>	Dwelling Size	Site area per dwelling with lot < 1200m ²	Site area / dwelling with lot > 1200m ²	1 bedroom	200m ²	180m ²	2 bedroom	250m ²	220m ²	3 bedroom	300m ²	270m ²
Dwelling Size	Site area per dwelling with lot < 1200m ²	Site area / dwelling with lot > 1200m ²											
1 bedroom	200m ²	180m ²											
2 bedroom	250m ²	220m ²											
3 bedroom	300m ²	270m ²											

	<p>compliance with the Housing SEPP the DCP variation is supported.</p> <p><u>Building Height</u></p> <p>The proposed building height does not conform to A4.1 that requires compliance with the LEP height provisions. The Housing SEPP permits variation (increase in maximum permitted) to building height. Significant discussions is provided in relation height within the Housing SEPP and LLEP2012 discussions of this report. The proposed building height is considered suitable and not to generate any significant implications to adjoining residential amenity.</p> <p><u>Bulk & Scale</u></p> <p>The split building design, roof articulation and overall form are considered well designed where no undue overshadowing, privacy implications or obstruction of views are identified as required to be contemplated and assessed as adequate within Part A4.2.</p> <p><i>4.2 – Element - Visual Privacy</i></p> <p>The proposal has adequate separation provided within the development and to adjoining residential properties. The proposal has a cemetery located to the north across Crawford Road, a substation to the south, vacant land to the east and the width of Military Road to the west provides adequate separation from nearby residential properties. The proposal conforms to the requirements of Section 4.2.</p> <p><i>4.3 – Element - Acoustic Privacy</i></p> <p>The carpark entrance is not located close to adjacent dwellings as required in accordance with Part A6.1.</p> <p>There is an apartment above the carpark entrance. Analysis of Figure 9 illustrates the control within Part A6.2 is only concern with horizontal separation. Therefore the proposal maintains compliance with this part.</p> <p><i>4.4 – Element - Open Space and Landscaping</i></p> <p><u>Landscape Area</u></p>
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Part A7.1 requires the following:

Landscaping and open space shall comprise 40% of the site. 70% of the landscaping and open space area is to be permeable.

49% of the site is landscaped area complying with the 40% requirement. The site area is 4440m² where the following calculation is provided in relation to the permeable landscape area requirements.

$$4440 \times 0.4 \times 0.7 = 1,243.2$$

The deep soil landscaped area proposed is 1367m² and exceeds the 1243.2m² required.

Open Space Area

The Housing SEPP and Apartment Design Guide specify the required open space areas for residential flat buildings. It is not considered significant analysis of the DCP requirements is beneficial or warranted given this fact. It is noted variations to council's DCP requirements are identified.

4.5 – Element - Earthworks, Retaining Walls and Erosion Controls

The site is generally level where earthworks are primarily to facilitate the carparking for the development. The proposed earthworks comply with Section 4.5.

4.6 – Element – Off Street Car Parking, Carports, Garages, Outbuildings and Driveways

The DCP car parking requirements under Part A12.4 are as follows.

Off Street Car Parking

No. of Bedrooms	Car parking Spaces/Unit
1	1
2	1.5
3 or more	2
Visitor Parking	
Multi dwelling housing and residential flat.	1 space for each five dwelling units.

	<p> 21 (1 bed) x 1 = 21 22 (2 bed) x 1.5 = 33 7 (3 bed) x 2 = 14 50 x 0.2 = 10 </p> <p>Total = 78 car spaces</p> <p>The proposal does not provide car parking spaces in compliance with Council's DCP. However, given the carparking spaces required for the development are provided in accordance with the Housing SEPP the proposed car parking arrangements are supported/justified.</p> <p><u>Driveway</u></p> <p>The plan set identify the driveway as being 1:8 (12.5% gradient). The proposal complies with A16.3 that requires the following:</p> <p><i>The maximum gradient for driveways is 25% with a maximum change in grade of 12.5%.</i></p> <p><i>4.7 – Element - Fences and Walls</i></p> <p>The proposal complies with Section 4.7.</p> <p><i>4.8 – Element – Service Areas</i></p> <p>A suitable waste collection area is provided within the enclosed car park.</p> <p><i>4.9 – Element – Orientation, Glazing and Shade Control</i></p> <p>Analysis of the shadow diagrams identifies 50% of open Space within the development and to adjoining properties is maintained as required by Part A22.2.</p> <p>The two proposed residential flat buildings are orientated to face north where the positioning of primary living area is in accordance with the requirements of A22.3.</p> <p>Eave Structures and shade control screens are provided to the development in accordance with Part A22.4.</p>
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	The proposal has been previously assessed as complying with the solar access amenity requirements of the Apartment Design Guide.
Part A Chapter 12- Heritage Conservation	<p>The site is not listed as an item of heritage and is not located within a heritage conservation area. It is noted the cemetery across Crawford Road is a heritage item.</p> <p>Given Chapter 12 essentially relates to design and form of built heritage items and buildings within conservation areas generally, extensive discussions are not considered essential given the adjoining item is not a built form. It is considered the commentary provided within Clause 5.10 of the LLEP table is sufficient in relation to implications to heritage.</p>
Part A Chapter 13- Crime Prevention Through Environmental Design	<p>Subject to conditions, the proposed development is considered to have adequately addressed the relevant CPTED principles,</p> <p>The proposal has been referred to the NSW Police who have responded. Their recommendations are recommended to be incorporated as conditions and/or advisory notes as appropriate.</p> <p>See the SEE for more detail on safety and security measures.</p>
Part A Chapter 14- Tree Preservation Order	Council's ecologist has reviewed the application and is supportive. Their referral comments provided within Attachment 2 contain specific commentary in relation to Chapter 14.
Part A Chapter 22 – Water Sensitive Design	Council's Development Engineer and Environmental Health Officer has reviewed the stormwater aspects of the application and are supportive. Their referral comments provided within Attachment 2 contain specific commentary in relation to Chapter 22.

20. Section 7.11 Contributions Plan

The proposed development will result in increased demand for public services and amenities, and therefore Section 7.11 Contributions are applicable.

Lismore City Council adopted the Lismore Affordable and Diverse Housing Strategy on 14 March 2023. On 9 May 2023 the Affordable & Diverse Housing Incentives Policy was created where Operable Clause 2 and 5 are applicable to the development which are as follows;

2. Any housing that is to be provided by and managed by a registered Community Housing Provider (CHP) or an Indigenous Community Housing Organisation (ICHO) will have a discount of 50% applied to Lismore City Council's Section 64 and Section 7.11 / 7.12 Contributions that would have been levied had the discount policy not applied. The discount does not apply to any Section 64 Contributions collected on behalf of Rous County Council. If a development application includes a mix of affordable housing to be managed by the CHP / ICHO and housing that is to be sold at market value, the discount will only be applied to the affordable housing component of the development.

5. The following development types will have a condition of consent applied, deferring the payment of all Development Contributions until such time as any **Occupation Certificate** is required:

a) New Shop Top Housing (other than development covered by the change of use provision above). b) Secondary Dwellings

c) New 1-2 bedroom dual occupancies with a floor area <115m²

d) Multi-Dwelling Housing

e) **Residential Flat Buildings**

f) Co-living housing g) Seniors Housing

h) Build-to-rent housing

As the development provides for 20% of apartments to be affordable rental housing, a 50% discount will be applied to Council levies in accordance with Policy 5.2.33 for those (20%) apartments as per Clause 2.

The following two tables are provided for the levies charged under Section 7.11 of the Environmental Planning and Assessment Act 1979 and amounts payable are set out below the tables are broken into one for the affordable rental housing where the discount is applicable and the later table is for the build to rent component/units.

Build to Rent Units – (80%)

Development Application: DA24/200 - Build to Rent units (80% of Units)		
Property Address: 138, 144, 146 Military Road, East Lismore		
CPI/HPI Quarter In Use: June 2024		
Lismore City Council Section 7.11 Infrastructure Contributions Plan 2024 - 2041		
Community Infrastructure Type	Receipt No.	Amount Payable
Community Facilities		
Residential (All)	1100	\$2,680.52
Public Domain		
Residential (All)	1101	\$4,531.20
Open Space and Recreation Capital		
Residential (Urban)	1103	\$22,482.98

Open Space and Recreation Land		
Residential (Urban)	1106	\$1,050.90
Walking and Cycling		
Residential (All)	1109	\$15,782.92
Traffic Management Capital		
Residential (Urban)	1111	\$77,565.73
Traffic Management Land		
Residential (Urban)	1117	\$23,325.53
Stormwater		
Residential (All)	1126	\$18,477.51
Plan Preparation and Administration		
All	1128	\$7,465.38
Total		\$173,362.67

Affordable Housing Units (20%) where 50% discount applies

<i>Development Application: DA24/200 - Affordable Housing Units (20% of Units)</i>				
<i>Property Address: 138, 144, 146 Military Road, East Lismore</i>				
<i>CPI/HPI Quarter In Use: June 2024</i>				
<i>Lismore City Council Section 7.11 Infrastructure Contributions Plan 2024 – 2041</i>				
Community Infrastructure Type	Receipt No.	Amount applicable	50% discount applicable while affordable & diverse housing incentives policy is in affect	Amount Payable
Community Facilities				
Residential (All)	1100	\$692.95	-\$346.48	\$346.48
Public Domain				
Residential (All)	1101	\$1,171.39	-\$585.70	\$585.70
Open Space and Recreation Capital				
Residential (Urban)	1103	\$5,812.22	-\$2,906.11	\$2,906.11
Open Space and Recreation Land				
Residential (Urban)	1106	\$271.67	-\$135.84	\$135.84
Walking and Cycling				
Residential (All)	1109	\$4,080.15	-\$2,040.08	\$2,040.08

Traffic Management Capital				
Residential (Urban)	1111	\$19,963.35	-\$9,981.68	\$9,981.68
Traffic Management Land				
Residential (Urban)	1117	\$6,003.37	-\$3,001.67	\$3,001.67
Stormwater				
Residential (All)	1126	\$4,776.74	-\$2,388.37	\$2,388.37
Plan Preparation and Administration				
All	1128	\$1,924.73	-\$962.37	\$962.37
<i>Total</i>		\$44,696.57	-\$22,348.30	\$22,348.27
Total Payable				\$22,348.27

21. Section 64 Contributions

As discussed within the 7.11 Contributions section of this report the Affordable & Diverse Housing Incentives Policy was created where Operable Clause 2 and 5 are applicable to the development. The relevant discount has been applied to the Section 64 contribution requirements. Suitable tables are provided below.

Table 2 & 3 below shows the contributions for Building 1 and 2 respectively.

Table 2 – Summary of 64's charges for Building 1

Levy Area	No. of ET's	Cost Per ET	Receipt Code	Amount Payable	Amount Payable - Policy 5.2.33 Applicable
Water Supply					
Lismore Water	4.32	\$1,767.79	503	\$7,636.86	\$3,818.43
Rous County Council	4.32	\$10,350.00	509	\$44,712.00	\$44,712.00
Sewerage Services					
Lismore Sewer	6.50	\$14,019.10	507	\$91,124.14	\$45,562.07
Total				\$143,473.00	\$94,092.50

Table 3 – Summary of 64's charges for Building 2

Levy Area	No. of ET's	Cost Per ET	Receipt Code	Amount Payable	Amount Payable - Policy 11.3.3 Applicable
Water Supply					
Lismore Water	15.10	\$1,767.79	503	\$26,693.66	\$26,693.66
Rous County Council	15.10	\$10,350.00	509	\$156,285.00	\$156,285.00

Sewerage Services					
Lismore Sewer	24.50	\$14,019.10	507	\$343,467.90	\$343,467.90
Total				\$526,446.57	\$526,446.57

Existing Entitlement (Credit)	Lot 3 DP 365665 – Water – 1 ET, Sewer – 1 ET Lot 4 DP 365665 – Water – 1 ET, Sewer – 1 ET Lot 21 in DP 1124244 – Water – 1.2 ET, Sewer – 1 ET Total = Water – 3.2 ET, Sewer – 3 ET
Demands for entire development	Building 1 – Water – 4.32 ET, Sewer – 6.5 ET Building 2 – Water – 15.1 ET, Sewer – 24.5 ET Total = Water – 19.42 ET, Sewer – 30.5 ET

22. Planning Agreement

A planning agreement has not been offered as part of the development.

23. Applicable Regulations

The application has been notified in accordance with requirements under Clause 56 of *EPA Regulation 2021*.

Clause 81 of *EPA Regulation 2021* identifies the following as required for build to rent housing.

- (1) *This section applies to a development consent for development permitted under [State Environmental Planning Policy \(Housing\) 2021](#), Chapter 3, Part 4.*
- (2) *It is a condition of the development consent that during the relevant period—*
 - (a) *the buildings to which the development consent relates must contain at least 50 dwellings occupied, or intended to be occupied, by individuals under residential tenancy agreements, and*
 - (b) *the tenanted component of the buildings to which the development consent relates must not be subdivided into separate lots, and*
 - (c) *(Repealed)*
 - (d) *the tenanted component of the buildings to which the development consent relates must—*
 - (i) *be owned and controlled by 1 person only, and*
 - (ii) *be operated by 1 managing agent only, who provides on-site management.*
- (3) *In this section—*
relevant period *has the same meaning as in [State Environmental Planning Policy \(Housing\) 2021](#), section 73.*
tenanted component *has the same meaning as in [State Environmental Planning Policy \(Housing\) 2021](#).*

Clause 82 of *EPA Regulation 2021* identifies the following as required for affordable housing.

82 In-fill affordable housing

- (1) *This section applies to development permitted under [State Environmental Planning Policy \(Housing\) 2021](#), Chapter 2, Part 2, Division 1, other than development carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation.*

- (2) *It is a condition of the development consent that before the issue of an occupation certificate for the development—*
- (a) *a restriction must be registered, in accordance with the [Conveyancing Act 1919](#), section 88E, against the title of the property relating to the development, which will ensure the requirements of subsection (3)(a) and (b) are met, and*
 - (b) *evidence of an agreement with a registered community housing provider for the management of the affordable housing component must be given to the Registrar of Community Housing, including the name of the registered community housing provider, and*
 - (c) *evidence that the requirements of paragraphs (a) and (b) have been met must be given to the consent authority.*
- (3) *It is a condition of the development consent that during the relevant period—*
- (a) *the affordable housing component must be used for affordable housing, and*
 - (b) *the affordable housing component must be managed by a registered community housing provider, and*
 - (c) *notice of a change in the registered community housing provider who manages the affordable housing component must be given to the Registrar of Community Housing and the consent authority no later than 3 months after the change, and*
 - (d) *the registered community housing provider who manages the affordable housing component must apply the Affordable Housing Guidelines.*
- (4) *In this section—*
- affordable housing component** *has the same meaning as in [State Environmental Planning Policy \(Housing\) 2021](#), section 21.*
- relevant period** *means a period of 15 years commencing on the day on which an occupation certificate is issued for all parts of the building or buildings to which the development consent relates.*

Suitable Draft Conditions Are nominated within Appendix 1 in relation to the above requirement.

24. Roads Act Approval

The proposal requires works within the public road reserve, and as such, a permit under the provisions of s.138 of the *Roads Act 1993* must be obtained prior to those works being undertaken. This requirement is addressed in relevant conditions of consent.

25. Local Government Act Approval

The proposal would usually require approval under the provisions of s.68 of the *Local Government Act 1993*, however Crown agencies are exempt from the need to obtain such approvals. Regardless, the Crown will work closely with Council when designing works on Council assets to ensure works and loads are designed suitably, so practically the same result is achieved.

26. Native Title (New South Wales) Act 1994

Council is aware that a Native Title claim has been made on behalf of the Widjabul Wia-bal People by NTSCORP for land within the Lismore Local Government Area. The land subject of this development application does not directly relate to any land covered by the native title determination application as it relates only to privately held freehold land over which native title has presumably been extinguished.

27. Likely Impacts of the development

All likely impacts of the proposed development have been considered within the context of this report with specific issues applicable discussed following.

ENVIRONMENTAL APPRAISAL

CONSIDERED

1. Statutory Controls	Yes
2. Policy Controls	Yes
3. Design in relation to existing building and natural environment	Yes
4. Landscaping/Open Space Provision	Yes
5. Traffic generation and Carparking provision	Yes
6. Loading and Servicing facilities	Yes
7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8. Site Management Issues	Yes
9. ESD Principles and Climate Change	Yes
10. All relevant 4.15 considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

Amenity neighbouring properties

The proposal has adequate separation provided within the development and to adjoining residential properties in relation to privacy and/or overlooking. The proposal has a cemetery located to the north across Crawford Road, a substation to the south, vacant land to the east and the width of Military Road to the west provides adequate separation from nearby residential properties. Analysis of the shadow diagrams provided show an absence of significant impact to adjoining residential amenity. The vehicular access is situated in a suitable location unlikely to acoustically affect nearby residential allotments.

Access/Traffic to the site

In relation to traffic generated by the development Council's Development Engineer has advised the increases in traffic movements are not significant where the traffic generation from the development does not warrant any upgrades to the surrounding road network.

The proposed access to the development has also been reviewed within Council's Development Engineers Referral available at **Attachment 2**. They have advised the proposed access arrangements satisfies council's requirements where adequate site distance is also achieved.

Noise Impact to adjoining properties

Construction noise will impact on the area amenity of the area for an interim period. These impacts are capable of being managed via the implementation of suitable conditions relating to construction hours.

Council's Environmental Health Officer has also reviewed noise within their internal referral commentary and advised the following:

The proponents noise modelling report is acceptable to ensure that the residence of the development and surrounding residents (including the nearby zombies) are not impacted.

28. Social and economic impacts in the locality

In response to this section of the report it is considered appropriate to identify the Statement of Environmental Effects contains a Social Impact Assessment. The assessment provided from pages 48 to 56 submitted as part of the application provides a fair assessment of the likely social impacts of the development.

The summary of the Social Impact Assessment is provided below.

There will be impacts, both positive and negative, if the proposed building is approved. While there are always consequences from change the perceived negative impact of having increased density housing, with increased population, in an area of predominantly single dwellings and increased traffic for residents in the immediate vicinity, is minor.

There will be some changes to the existing community immediately adjacent to the proposed development as they currently live next to a site containing two dwellings. Measures have been taken into account in the design, as much as possible, to ameliorate any minor negative impacts on adjoining owners. The dwellings will be managed by the Lismore Diocese, who are located immediately adjacent to the site and will endeavour to alleviate possible future issues by way of a structured management plan and dedicated staff.

There are positive benefits for the existing community, in that providing newly built housing in an area of old housing stock will uplift the area. With the proposed key worker housing in a purpose-built and designed building with its own communal open space, this can only be seen as a positive outcome for the community.

The positive benefits for the Lismore LGA outweigh the minor negative impacts, mainly in providing much-needed housing. Access to key worker/affordable housing has been proven to give improved health, social, educational and employment outcomes, leading to long term improvements in productivity.

There are positive benefits for the existing community and the community overall, in that there is increased housing availability for front line workers with housing above the flood level and with access arrangements through a centralised management and evacuation plan. The social benefits and costs of the development, with the proposed key worker housing in a purpose-built and designed building, far outweigh any negative impacts.

Housing stress/affordability has been identified as a major issue in the Lismore LGA in just about every report written about it since the 1990s. The 2022 floods greatly exacerbated the lack of housing, particularly affordable housing. The changing nature/age of the population, and predicted continuing change of the Lismore LGA and Goonellabah, point to a need for smaller housing types to accommodate this change. Given climate change scenarios and future flood events point to a need for building of housing in flood-free land in Lismore, the building of 29 dwellings is overwhelmingly a positive addition to Lismore and to the Lismore LGA particularly.

The social benefits outweigh any perceived negative impacts, which are minimal to negligible if the proposed development is approved.

The proposed development will help meet the high need for affordable housing within the LGA, which is considered to result in a very positive social impact.

The potential negative social impact associated with the proposal (i.e. crime, drug use, theft, assault) are likely to be reasonably minimised by:

- The high-quality design of the units;
- Siting and design consideration of and conditions relating to CPTED principles.

29. Suitability of the site for the development

In relation to relevant matters of s4.15 of the EP&A Act the site is considered appropriate for the proposed development.

30. Submissions

The proposal was notified in accordance with the Council's Community Participation Plan from 12 September 2024 until 26 September 2024. A total of zero (0) unique submissions, comprising zero objections and zero submissions in favour of the proposal, were received.

31. Public Interest

The likely impacts of the development, including social, economic and environmental impacts on both the natural and built environments are acceptable. The application proposes infrastructure and affordable housing in a suitable area that can cater to this demographic with services and access to Lismore CBD.

32. Consultation on Draft Conditions of Development Consent

Draft conditions of consent were provided to the applicant. The applicants project team has reviewed and accepted the draft conditions..

33. Conclusion

The proposal is a contemporary and tastefully designed RFB where the impact to the immediate vicinity is minor with positive impacts prevailing overall when considered holistically.

The land is not identified as flood prone or bushfire prone land. The mix of units has sufficient range options (dwelling typologies) where the allocation of affordable rental housing of 20% of units and rental housing stock 80% for a period of 15 years are considered positive socially and economically for Lismore.

As presented in this report the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* have been satisfactorily addressed and assessed as acceptable. The application is recommended for approval subject to the imposition of appropriate conditions of development consent as set out in attached recommended conditions.

34. Recommendation

Pursuant to section 4.16/4.46 of the *Environmental Planning and Assessment Act 1979* (as amended) that the Northern Regional Planning Panel, as the consent authority, grant consent to Development Application No. 5.2024.200.1, subject to the conditions in **Attachment 1 - Draft Conditions of Consent**.

Attachments

- **Attachment 1 - Draft Conditions**
- **Attachment 2 – Internal Referral Responses**
- **Attachment 3 – External Referral Responses**
- **Attachment 4 – Q&A from Preliminary Briefing**