

STATEMENT OF ENVIRONMENTAL EFFECTS

SHOP TOP HOUSING DEVELOPMENT

PROPERTY: 17 McDonald Place, Evans Head
OUR REF: 220269
DATE: March 2024



DOCUMENT AND PROJECT DETAILS

Document title:	Shop top housing development
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C	16/04/2024	Updated SEE – Adequacy Review	KV	KV
D	02/05/2024	Updated SEE – Alfresco Dining	KV	KV

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Attachment 1b	Pre-lodgement minutes – 25.10.2023 <i>Richmond Valley Council</i>
Attachment 1c	Meeting Notes (L Barker & J Lynch) <i>Luke Barker</i>
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Attachment 7	Engineering Services Report & Civil Plans <i>Ingen Consulting Pty Ltd</i>
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1. Executive Summary

1.1 Development Application

Development consent is sought from Richmond Valley Council for the construction of a shop top housing development comprising ground floor commercial space and ten (10) residential units within the first and second floor. The proposed development is located at Lot 7 DP 14089, commonly known as 17 McDonald Place, Evans Head.

The proposal is inclusive of demolition of the existing building, removal of existing vegetation, and ground floor carparking. The project involves awnings above the footpaths adjacent McDonald Place and Elm Street, and incorporates kerbside dining on the McDonald Place footpath to service the commercial space.

The subject site is zoned R1 General Residential under the Richmond Valley Local Environmental Plan (RVLEP 2012). The proposed shop top housing is permissible with consent in the zone, and is generally compliant with the relevant of the LEP. A Clause 4.6 variation request is provided relating to the maximum building height provisions. The proposal has also been assessed against the relevant provisions of the Richmond Valley Development Control Plan (DCP), and SEPP (Housing) 2021 and is generally compliant with the relevant controls. Variations to the applicable design controls are fully justified within this report and considered reasonable in the circumstances.

This report examines the existing development and site location, how the proposed development relates to the location and the environment, as well as the planning merits of the development with respect to the relevant legislation. Based on the assessment completed, it is requested that the application be approved subject to reasonable and relevant conditions.



Plate 1: Artist impression of the proposed shop top housing development

1.2 Site Details

The site details relevant to the proposed development are provided within **Table 1** below.

Table 1: Site Details

Property Address	17 McDonald Place, Evans Head
Property Description	Lot 7 DP 14089 Parish of Riley County of Richmond McDonald Place & Elm Street road reserves
Registered Owner	17 The Evans Pty Ltd
Proponent	17 The Evans Pty Ltd ATF 17 The Evans Trust
Applicant	Newton Denny Chapelle for and on behalf of the proponent
Local Authority	Richmond Valley Council
Site Area	822m ²
Easements	No
Existing Land Use	Existing commercial building
Local Planning Instrument	Richmond Valley Local Environmental Plan 2012
Land Zoning	R1 General Residential
Maximum Building Height	9.5 metres
Floor Space Ratio	Nil
Integrated Referrals	Nil
Other Referral	Essential Energy

1.3 Purpose

This Statement of Environmental Effects (SEE) is intended to accompany the Development Application prepared by Newton Denny Chapelle for and on behalf of the proponent of the subject development being 17 The Evans Pty Ltd ATF 17 The Evans Trust.

The intent of this report is to describe the site, its existing and proposed uses and to address all the issues relevant to this application's assessment and subsequent determination.

This report should be read in conjunction with the following plans and technical assessments identified within **Table 2**, which support the development proposal.

Table 2: Accompanying Plans and Technical Assessments

Company	Plan/Report
Richmond Valley Council	Pre-lodgment Minutes
Barker Architects	Architectural Design Plans
	Apartment Design Guide Statement
Ingen Consulting Pty Ltd	Noise Impact Assessment
	Traffic Impact Assessment
	Engineering Services Report

Alderson & Associates Landscape Architects	Landscape Architect Plans
HMC Environmental Consulting	Demolition Work Plan
	Preliminary Acid Sulfate Soil Investigation
	Preliminary Site Investigation
	Waste Management Plan
Modern Tree Consultants	Arborist Report
Club Evans RSL	Letter of Support
Australian Soil & Concrete Testing Pty Ltd	Geotechnical Site Investigation
Suxcess Rate Pty Ltd	Basix Certificate
Certified Energy	NatHERs Certificate
	Section J Report
Newton Denny Chapelle	Detail Survey & Strata Plans
	Statement of Environmental Effects
	Clause 4.6 Variation Request

1.4 Pre-lodgment Meetings

A Development Assessment Panel (DAP) meeting was held with officers of Richmond Valley Council concerning the project on 25th October 2022 and 20th July 2023. A copy of the Minutes for each meeting is provided at **Attachments 1a** and **1b**. The DAP Meeting provided a range of information with respect to Council and State government requirements associated with the development application. This has been used as a guide to form the structure of the current report. The proposal has been designed in response to the comments raised and is generally compliant with the relevant provisions of the Richmond Valley LEP, SEPP 65 and Richmond Valley DCP.

In addition to the above, the Project Architect (Luke Barker) and Council's Consultant Architect (John Lynch) held subsequent follow up discussions regarding the design. Notes from these discussions (as prepared by Mr Barker) are provided at **Attachment 1c**.

Table 3: Pre-lodgment Minutes

DAP Comment	Response
Comments from meeting held 25th October 2022	
Shop top housing is permissible in the zone. Confirm the proposal is consistent with the definition of shop top housing.	Refer to Section 4.2 .
Being in a residential zone the development will need to be consistent with the scale of surrounding development. It is a visually prominent site in the area being visible from the entrance to town, located on the main road and nearby the tourist park and foreshore areas.	The development has been designed having regard to the existing surrounding development and architectural styles provided in Evans Head. Refer to architectural plans provided at Attachment 2 and Section 4.4.2 .
The proposal will need to demonstrate good design to ensure it fits and is compatible within its surrounding area, consideration to the bulk, scale, fsr/gfa, landscape and amenity is recommended. Councils DCP chapter for Shop Top Housing has standards for development within the B zones rather than R zones, therefore the proposal should draw upon standards for Residential Flat Buildings for reference. A site analysis as outlined in the ADG is needed.	The application has addressed the relevant provisions of the RVDCP, SEPP 65 (now SEPP (Housing) 2021) and associated Apartment Design Guides.

DAP Comment	Response
The adjoining landowner has proposed residential development for the adjoining land. Consultation is required to ensure the developments will be compatible and provide adequate separation and amenity to both developments.	Refer to letter of support from Club Evans RSL provided at Attachment 15 .
Landscape open space should be provided at ground and contribute positively to the streetscape and general area. Upper floor garden spaces and green walls must be of significant quality and demonstrated to be able to be sustained for the life of the development. A landscape architect is to be consulted. Existing trees, in particular the significant Pine is to be retained, if located on the adjoining property development must be designed to not impact the tree.	Refer to landscape design plans provided at Attachment 8 , and Arborist Report provided at Attachment 13 .
The communal open spaces need to be of high quality, functional and well located. The main communal space faces west which is not ideal.	Further comments in relation to communal open space provided on pre-lodgement dated 20 th July 2023. Refer to comments below.
A Crime prevention report is required. It will need to consider how the ground floor spaces will work and what security measure would be implemented, e.g. amenities may require redesign, carparking access for café patrons need to be provided during opening hours, how delineation of private and public areas within the carpark would be managed.	CTPED provisions have been addressed within Section 4.3.5 of this report. Architectural plans have been amended with regards to redesign of amenities.
The pathway along the sites frontages is the connection between town, Evans head foreshores and South Evans Head public spaces and foreshore. Consideration of impacts on public use of the path and any safety issues is required.	The use of the footpath in relation to the proposed development and café area is considered to operate similar to other areas of Evans Head CBD including kerbside dining provided at Vespas café etc. Bollards are provided along the corner frontage to increase safety for pedestrians and patrons of the café.
Consider provision of storage for larger items, such as bikes, surfboards etc.	Refer to architectural design plans provided at Attachment 2 . Storage is provided in accordance with the ADG, with bike parking provided within the ground level parking area.
A number of legislative instruments will apply to the development including SEPP 65 and SEPP (Resilience and Hazards).	Refer to Section 4.4 of this report.
Road work on McDonald Place will have to be undertaken. Light pole to be moved, approval from Essential Energy needed.	Noted.
Egress at McDonald Place – single width to mitigate and form entry	Architectural plans have been amended since the initial pre-lodgement meeting which have made changes to access. Refer to Section 3 and Section 4.3 .
Appropriate signage for access points (ingress & egress) and pedestrian approaches to access points.	Noted.
All carparking onsite must meet AS2890.1	Parking has been designed to AS2890.1
Carparks 15 & 16 likely has conflicting vehicle movements with the ingress point to the site.	Architectural plans have been amended since the initial pre-lodgement meeting which have made changes to parking. Refer to Section 4.3 .
Loading bay – all developments requiring a loading bay must have one on-property, loading bay proposed on road reserve is not permitted.	Noted.

DAP Comment	Response
No line marking on Elm Street – formalisation of line marking will be required. Initial thoughts are that formal 45-degree angle parking may meet AS2890.5.	Line marking of Elm Street is proposed as detailed within the Traffic Impact Assessment provided at Attachment 6 .
If alfresco dining is to be provided, clarity in application is needed so a Section 125 can be conditioned	Alfresco dining is proposed along McDonald Street as detailed on the architectural design plans (Attachment 2).
Water pressure could be an issue, but booster internally could be incorporated behind storage – allow appropriate access for servicing. This would need to be confirmed by a hydraulic engineer or the like.	Refer to Engineering Services Report provided at Attachment 7 .
Development Contributions applicable – Section 64 contributions (water, sewer & Rous water) and section 7.12 Levy	Noted.
Section 64 Contributions – the proposed café space is considered to have existing credits given the pre-existing restaurant/café. The shop-top housing proposed is considered to have no credits, hence will be levied for S64 contributions.	Noted.
Section 7.12 Levy – as the development will exceed \$200,000, the Section 7.12 applicable to a future development onsite is 1% of the total cost of works.	Noted.
Mechanical ventilation provided	Refer to architectural plans provided at Attachment 2 .
Ensure grease trap location is easily accessible	
Noise Impact Statement to be addressed as site is near “Return and Earn” and the RSL. Operating hours of the RSL may affect the residents living in the units – noise attenuation to be addressed.	Refer to Noise Impact Assessment provided at Attachment 5 and addressed within Section 4.5 .
Site investigation for lead and asbestos	Refer to Preliminary Site Investigation is provided at Attachment 11 and addressed within Section 4.4.6 .
Fire separation between each units and floor to be addressed	
Compliance with BCA such as stairs to be isolated	
Lift size – proposed lift holds 14/15 people	
Fire/service shafts to be installed to carry services/ventilation from all floors through to the ceiling in accordance with AS1668	
How is the hood for the coffee (if cooking is taking place) to work in accordance with AS1668	
Comments from meeting held 20th July 2023	
Clarification sought on proposed occupancy of the development, as information provided for pre-lodgement indicated the development would cater for travellers and holidaymakers. Plans show interconnected rooms and cleaners store? Confirmation provided that the development would be for residential occupancy and not accommodation for tourist or visitors. Interconnected rooms have been popular on other developments whereby a carer can reside with the unit owner. Justification must be provided clearly in any application and must clearly confirm occupancy.	Refer to Section 3.4 of this report.
Exceedance of the building height to be further considered, Councils consultant architect suggested ADG variation for communal spaces could be considered based upon locality and access to wider community open spaces for residents of the building. Therefore, the communal open spaces were not required (these were removed however the rooftop terrace is retained in the current plans). He further indicated exceedance of the building height was not recommended. Applicant advised	Refer to Clause 4.6 variation request provided at Attachment 20 .

DAP Comment	Response
<p>exceedance was required to due mechanical plant necessary to be on rooftop. Exceedance for mechanical plant is usual however further consideration of rooftop terrace is recommended.</p>	
<p>Overall revision of original advice from Councils consultant architect suggested. Design review would occur as part of DA assessment process.</p>	<p>Meeting noted provided at Attachment 1C provide a record of the most recent discussions between the Project Architect and Council's Consultant Architect. Refer also to architectural design plans provided at Attachment 2 and Apartment Design Guide Statement provided at Attachment 3.</p>
<p>Side and rear setbacks are of high concern. Development must demonstrate how it does not compromise use of adjoining RSL Club land. Applicant advises RSL are supportive of development. Council requires further information demonstrating how/what extent development on the adjoining site would be conceded considering for example, overshadowing, separation, view loss, fire separation etc. Consider if a similar development were to be proposed on the adjoining land what setbacks would be needed?</p>	<p>Refer to letter of support from Club Evans RSL provided at Attachment 15.</p>
<p>Concern raised regarding kerbside dining/bollards and accessible access requirement under Council standards, (clear zones required adjacent buildings).</p>	<p>Architectural plans have been amended to address Council's comments. Refer to architectural plans provided at Attachment 2.</p>
<p>Conflict with existing pathway and public users has been previously advised and remains a concern. Council may consider a Planning agreement for example to relocate the pathway, further discussion can be had in this regard.</p>	
<p>At ground landscape planting area is very minimal, primary reliance is upon green walls to achieve landscape and soften building. Greater detail required in application including landscape architects report and plans outlining installation, servicing and ongoing maintenance and replacement requirements, planter bed, irrigation equipment etc location, how access for maintenance would occur etc. Plans need to show location of any required equipment. Overall success of development is reliant upon green walls also being successful, their establishment and perpetual maintenance cost could be high. Council will require valuation and security over the landscape to ensure sufficient funding is secured for the ongoing maintenance and replacement of landscape over the life of the development.</p>	<p>Refer to landscape design plans provided at Attachment 8.</p>
<p>Reconfiguration of the kerb blister along McDonald Place will be required, this is to be detailed.</p>	<p>Refer to civil engineering plans provided at Attachment 7.</p>
<p>As there is only a single entry/exit for this development it must be designed as to not obstruct safe vehicle movements, resulting in the need for the entire entry/exit being a minimum width of 5.5m.</p>	<p>Architectural design plans have been modified in relation to access.</p>
<p>The area behind car parks 13 to 16 is tight – ideal if additional space could be provided.</p>	<p>Architectural design plans have been modified in relation to car parking.</p>
<p>Existing water pressure may be an issued, an internal booster may need to be implemented to reach third storey. Hydraulic Engineer or similar will need to confirm this.</p>	<p>Refer to Engineering Services Report provided at Attachment 7.</p>
<p>Condition of footpath will need to be assessed</p>	<p>Noted</p>
<p>Storm water outlet to McDonald Place</p>	<p>Noted</p>

DAP Comment	Response
Liquid trade waste – Now that the Elm Street vehicle access is not proposed, access to the grease arrestor must be considered (such as pump out point) in conjunction with formalisation of Elm St parking and delivery/loading zone considerations.	Architectural design plans have been modified in relation to access and location of liquid trade waste.
Should the bin storage have any form of bin washing or water access, this must be included in the liquid trade waste design. Note that a tap/hose in this area would likely require backflow prevention to protect reticulated system.	Refer to Waste Management Plan prepared by HMC Environmental Consulting Pty Ltd provided at Attachment 12 .

1.5 Further Information

Should Council require any additional information or wish to clarify any technical matter raised by this proposal or submissions made to same, Council is requested to consult with **Ms Karina Vikstrom** on (02) 6622 1011 or kvikstrom@ndc.com.au prior to determination of this application.

2. Site Description

2.1 Location & Land Use

The subject site is located at 17 McDonald Place, Evans Head and is identified as Lot 7 DP 14089. The site has a total area of 822m². It is generally rectangular in shape and forms the corner allotment on the McDonald Place and Elm Street frontages.

The site is centrally located within Evans Head, and is zoned R1 General Residential Zone pursuant to the Richmond Valley Local Environmental Plan 2012. The subject site contains an existing commercial building previously used as a takeaway food and drink premises, positioned within the north-western corner of the property. The rear of the property contains vacant grassed area which existing landscape vegetation.

The subject site is bordered on all four frontages by the following uses:

- McDonald Place to the north, with an existing public reserve further north;
- Club Evans RSL to the east, with existing carparking associated with the Club directly adjacent the site;
- Elm Street to the west, with residential development further west; and
- Carparking associated with the Club Evans RSL to the south; with residential development further south.

Plate 2 identifies the site within the local context, **Plate 3** provides an air view of the land and **Plate 4** provides an extract of the deposited plan for the site.



Plate 2: Locality Plan of the Subject Site



Plate 3: Aerial View of Site

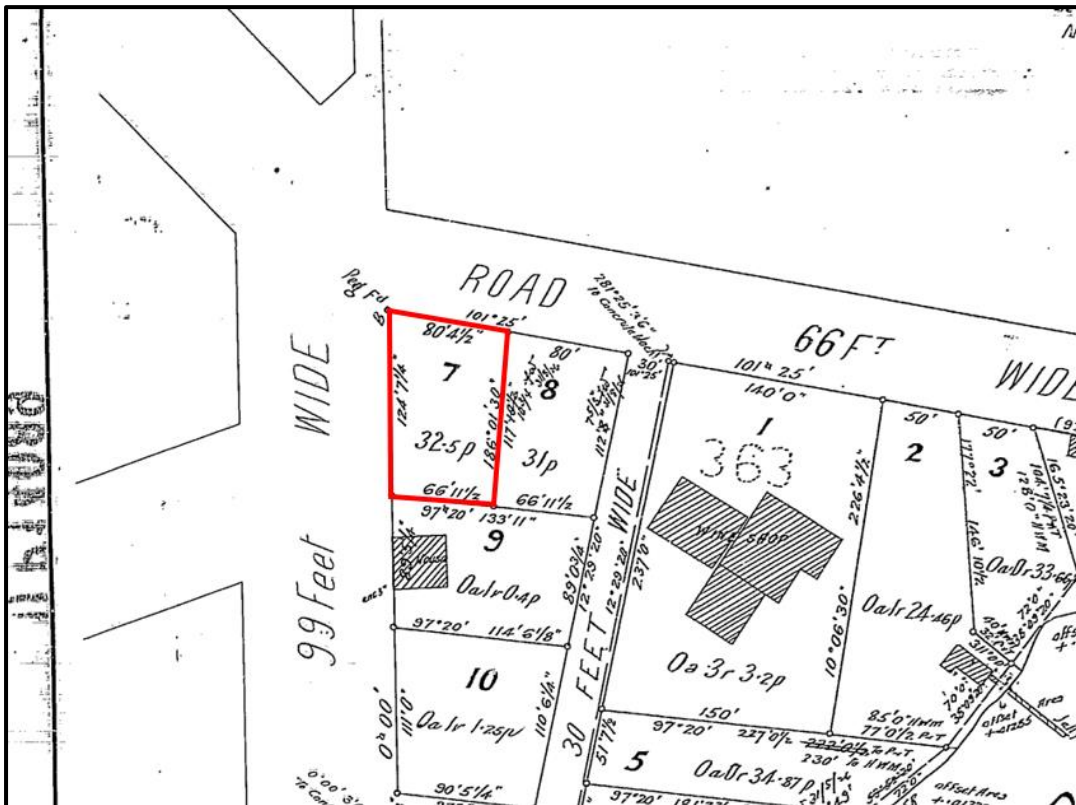


Plate 4: Extract from Deposited Plan

2.2 Photographic Plates

Plates 5 to 7 illustrate the site the subject of the current application.



Plate 5: View of subject site from McDonald Place frontage

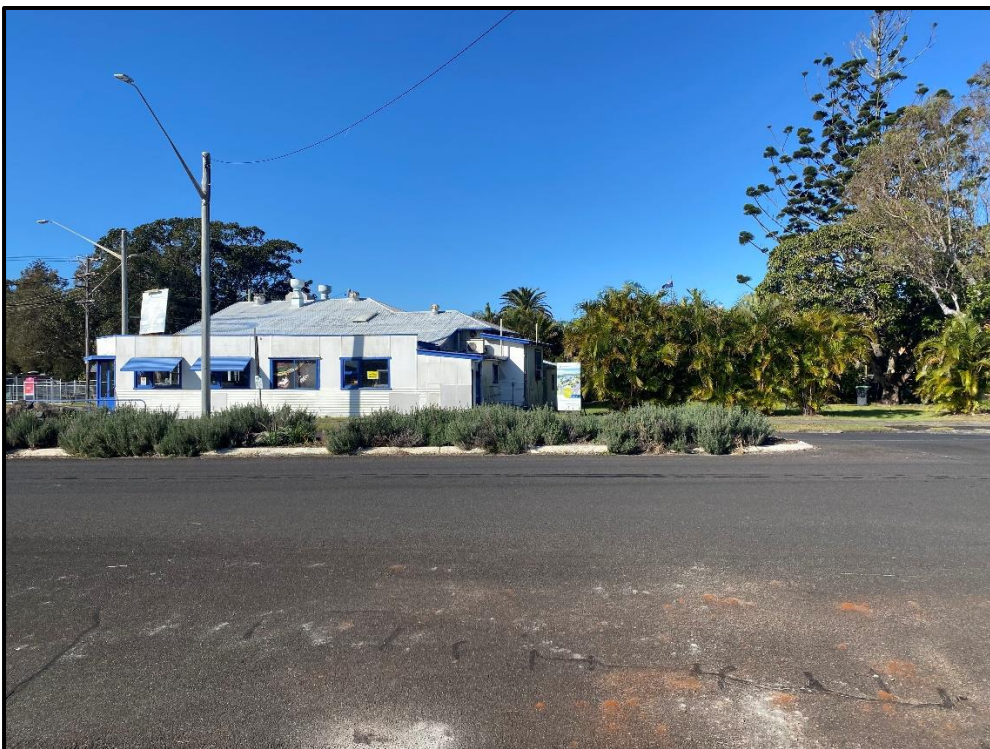


Plate 6: View of subject site from Elm Street frontage



Plate 7: View of subject site from corner

2.3 Site Analysis

Site inspection and searches of local government records indicate the key site characteristics as outlined within **Table 4** below.

Table 4: Site Analysis

Site Characteristics	Comment
Existing structures within the subject site	Existing commercial building
Easements	Nil
Topography within the subject site	Generally flat. Site Survey provided at Attachment 14 .
Vegetation within the subject site	Existing landscape vegetation is provided at the site which will be removed as part of this development.
Infrastructure services	The subject site is connected to all essential infrastructure including water, sewer, NBN, telecommunications and electricity. The site has frontage to two public roads being McDonald Place & Elm Street.
Hazard Mapping	<ul style="list-style-type: none"> • Acid Sulfate Soils – The site is mapped as containing Class 3 Acid Sulfate Soils. Attachment 16 contains a Geotech report which provides comments regarding acid sulfate soils, whilst Attachment 10 provides an Acid Sulfate Soils Investigation. • Coastal Management SEPP – The subject site is mapped within the coastal use and coastal environment areas of the SEPP.
Adjoining land uses	Refer to above.
Biodiversity Conservation	The site is <u>not</u> identified on the Biodiversity Values Map. Clearing of existing landscape vegetation is proposed. Further consideration of the Biodiversity Conservation Act is provided at Section 4.8 .

2.4 Consent Register

A search of Council's records indicated the following existing approvals on the land:

Table 5: Existing Applications

Consent Number	Proposal
DA2005/0134	Fitout of takeaway food shop
DA2007/0326	Motel, Managers Flat & Associated Carparking & Demolition of Existing Building
DA2011/0116	Kerbside Dining

3. Development Proposal

3.1 Description of Proposal

Development consent is sought from Richmond Valley Council for the construction of a shop top housing development comprising ground level commercial premises and parking, and ten (10) residential apartments located on the first and second storey, and associated works at 17 McDonald Place, Evans Head. The development is proposed to include three storeys comprising the following components:

- **Ground floor**
 - Commercial premises located on the corner of McDonald Place & Elm Street;
 - Car and bicycle parking accessed from Elm Street, with exit onto McDonald Place;
 - Waste, general storage and services; and
 - Residential foyer and lift access;
- **First and Second Floor**
 - Ten (10) residential units with 5 units located on each level.
- **Roof top terrace and lift overrun including mechanical plant and equipment**

Each element of the development is described in more detail below.

The project includes awnings above the footpaths within the adjacent McDonald Place and Elm Street road reserves, and is inclusive of demolition works, vegetation removal, infrastructure servicing including stormwater management, sewer and water servicing. Strata title subdivision is also proposed.

Alfresco dining will be provided on the McDonald Place footpath as identified on the site plan for the project. We note that alfresco dining on the on the public footpath is able to proceed as ‘exempt development’ in certain circumstances utilizing the framework provided by *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifically Part 2, Division 1, Subdivision 20A, Footpaths – Outdoor Dining. However, in this instance, development consent is specifically sought for this activity.

The maximum building height provided is 12 metres, which exceeds the allowable building height at the site (9.5 metres), and therefore the application is accompanied by a Clause 4.6 request to vary the development standard provided at **Attachment 20**.

The proposed development will be constructed of a variety of materials including face brick, concrete balustrade, timber cladding, green walls, glass, screen metal doors and metal timber look balustrade.

Reference should also be made to *Barker Architects* design set within **Attachment 2** of this report, which provide detailed design of the proposed development.

3.2 Demolition Works

As detailed above, the proposed development involves the demolition of the existing commercial structure on the site. The structure being previously utilized as a take away food and drink premises, is dilapidated and is required to be demolished to make way for the proposed shop top housing development. The existing structure to be demolished is identified within **Plates 5 to 7** at **Section 2.2** above, with the demolition plan provided below.

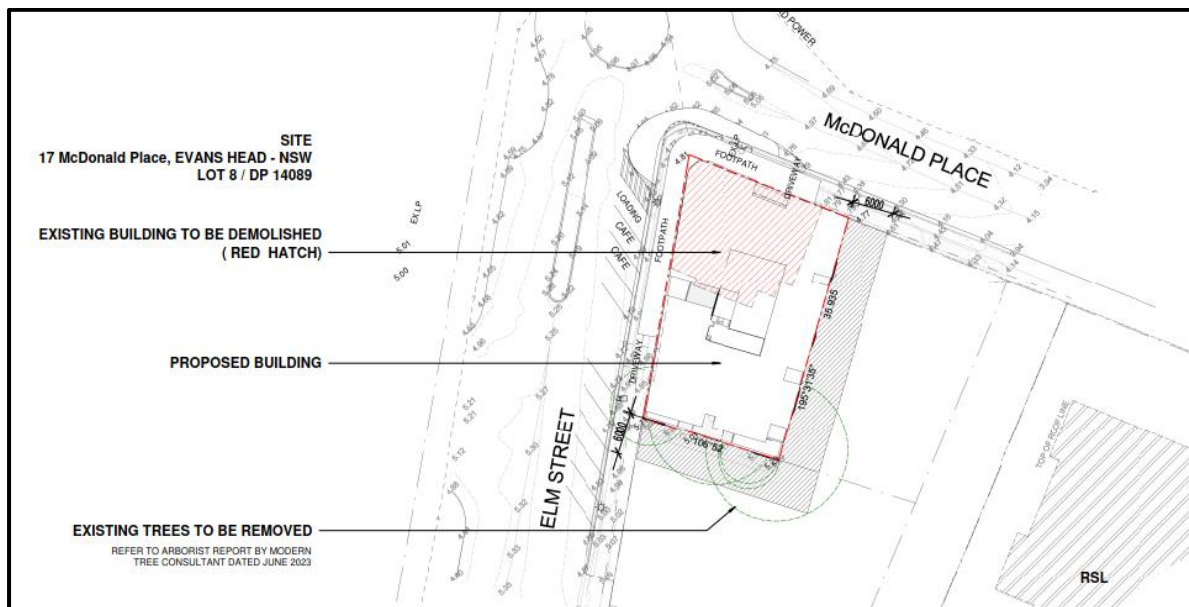


Plate 8: Demolition Plan

The demolition works will be undertaken in accordance with the Demolition Work Plan prepared by *HMC Environmental Consulting Pty Ltd* provided at **Attachment 9**, Council's conditions of consent, and AS2601-2001 The Demolition of Structures.

3.3 Commercial Development

The proposed development involves a commercial premises on the ground floor level. The proposed commercial premises will be utilised as a restaurant or café, being located within the north-western corner of the ground floor of the building fronting McDonald Place and Elm Street.

The proposed commercial premises comprises a total area of 131.1m² (plus bathroom facilities) with pedestrian access being provided from McDonald Place. The kitchen area also provides access from the ground floor parking area. A large commercial kitchen is located within the rear of the commercial space, with seating provided internally and also as kerbside dining along the McDonald Street frontage.

The commercial premises will be serviced by communal waste bins. The commercial waste refuse area is located in the south west corner of the development within the ground floor parking area, with provision available for general, recyclables and green waste. A Waste Management Plan prepared by *HMC Environmental Consulting Pty Ltd* is provided at **Attachment 12**, which documents the approach taken to managing the commercial waste within the premises.

An accessible bathroom, two (2) male and one (1) female bathroom are provided within the commercial premises to service the restaurant / café.

The proposed café will maintain the following hours of operation, which have been utilised for the required technical reports accompanying this development application:

- 6am to 10pm daily.

As detailed within the attached architectural plan set, the proposed café will a maximum capacity of 50 patrons, and will provide a total of 20 staff. The amenities have been provided in accordance with the requirements for the maximum patron and stuff numbers.

3.4 Residential Units

The primary component of the proposed development involves the construction of ten (10) residential units above the proposed commercial premises and ground floor parking. Five (5) units are provided on the first floor, with another five (5) units provided on the second floor. The breakdown of unit types and the layout of each unit types is outlined in **Table 6**.

Table 6: Residential Units Layout

Unit Type	Unit Numbers	Unit Layout
1BR	2, 3, 7 & 8	<ul style="list-style-type: none"> • Open planned kitchen / living / dining • 1 x bedroom • Bathroom, • Laundry, and • Balcony.
2BR	4, 5, 9 & 10	<ul style="list-style-type: none"> • Open planned kitchen / living / dining, • 2 x bedrooms, • 2 x bathrooms, • Laundry, and • Balcony.
3BR	Units 1 & 6	<ul style="list-style-type: none"> • Open planned kitchen / living / dining, • 3 x bedrooms, 1 x with ensuite & WIR, • Laundry, • Bathroom, and • Balcony

As detailed within **Section 3.1** above, the proposed development is submitted as shop top housing. In this regard, the units are outlined above are proposed as residential units. Unit type '2BR' have been designed to provide a bedroom and bathroom with a separate entry point to the main section of the unit. This design has stemmed from market research and demand for separate spaces that are able to service older children living at home, or live in carers. The design provides a bedroom and bathroom only, with the kitchen and living space provided within the main portion of the building. There is no intention for the space to be separately occupied / tenanted.

Carparking for the residential units is proposed within the ground level parking with lifts and staircases centrally located within the building to provide access to the first and second floor. Ground floor access is provided via the proposed lobby/foyer access from Elm Street, with internal access also available from the carparking area.

As the proposal involves only five (5) units on each level, each level maintains a single service corridor which the units connect to. Rooftop gardens are provided at the end of each corridor on both levels. The lift and stairwell are centrally located within the corridor, with cleaners storage area and seating also being provided.

A communal waste refuse area is provided within the ground floor parking area to service the proposed residential units. Individual units will include adequate internal storage for household waste prior to it being taken to the communal waste storage area.

The proposed residential units have been designed with regard to NSW Housing SEPP requirements and the associated Apartment Design Guide. Further assessment is provided at **Section 4.4.2** and **Attachment 3**.

3.5 Roof Terrace

As detailed within the architectural design plans provided at **Attachment 2**, a roof top terrace is provided as part of the development. The roof top terrace will provide communal open spaces for the residential units, and provides a maximum floor area of 65m².

The proposed roof terrace is accessible via lift and staircase. A mechanical plant and equipment enclosure is proposed along the southern elevation of the roof terrace. The mechanical plant and equipment enclosure, and the lift overrun results in a maximum building height of 12 metres, which requires a Clause 4.6 variation to the development standard as detailed within **Section 3.1** above.

The proposed roof terrace provides setbacks from the property boundaries of:

- North: 8.975 – 10.476 metres
- South: 13.194 metres
- East: 6.694 metres
- West: 6.735 – 8.162 metres

As shown within the 3D view of the proposed development provided from ground level, as a result of the location of the roof terrace, being setback within the centre of the building, the roof terrace is not visible from the street, and is not considered to result in any impacts on privacy to the surrounding residential and commercial developments. **Plates 9 and 10** depict the 3D view of the building from street level.



Plate 9: 3D NE Perspective from McDonald Place



Plate 10: 3D SW Perspective from Elm Street

3.6 Vehicle Access, Carparking & Services

3.6.1 Vehicle Access & Loading Facilities

Vehicle access is provided to the ground floor car parking off Elm Street being an entry only, with the exit being located off McDonalds Place. The vehicle entry off Elm Street provides a minimum width of 3.220 metres, whilst the width of the exit onto McDonald Place is 5.5 metres. Bollards will be provided to the McDonald Place exist to provide sightlines to pedestrians, and force exiting vehicles to drive out in the middle of the door.

The provision of loading and unloading facilities on site is not possible due to impractical service bay height clearance requirements for a ground-level car park within a multi-storey building. As a result, an on-street loading facility is provided within the Elm Street road reserve which is proposed to be line-marked to 45° parking as part of this development. It is understood the proposed on-street loading area has been discussed between the Project Traffic Engineer, and Richmond Valley Council's Development Engineer, Travis Eggins, which was determined *"there is potential for loading/unloading to occur on-street (for example – there are loading bays in the Casino CBD) however the location would need to be confirmed as acceptable by Council's Assets Section and the Local Traffic Committee."*

A Traffic Impact Assessment has been prepared by *Ingen Consulting Pty Ltd* provided at **Attachment 6** which incorporates details with respect to the vehicular access and loading / unloading arrangements to the building.

3.6.2 Parking

The proposed development ground floor parking to service the residential and commercial components. **Table 7** outlines the car parking provided as part of this development.

Table 7: Carparking Provision

Component	Required	Provided
Car Parking	<u>Shop top housing</u> 1 per dwelling, plus 1 visitor space per 10 dwellings Required: 11 spaces	16 spaces Including two (2) spaces provided within the formalised and line marked area of Elm Street.
	<u>Restaurant or cafe</u> 1 per 30m ² (>1,000m ²) Required: 5 spaces	
Loading / Delivery	No DCP requirements	As detailed within Section 3.6.1 , a loading / unloading area will be provided with Elm Street.

As detailed above, the proposal involves the provision of two (2) parking spaces required for the café within the Elm Street Road reserve. Whilst on-street parking is generally not permitted in the RVC LGA, the following justification is provided to support the proposal:

- Parking along Elm Street is proposed to be line-marked as part of this development to formalise the existing parking arrangements on the street. As a result, it is considered additional parking will be achievable in comparison to the existing arrangements, as parking in this area is generally parallel, or where angled, space is lost as a result of no line marking and guidance. As detailed within the Traffic Impact Assessment provided at **Attachment 6**, the proposed line marking along Elm Street road reserve will result in a total of eight (8) parking spaces, and one (1) loading bay being provided. In comparison, due to the current non-line-marked parking, the same area currently accommodates approximately six (6) vehicles. As a result, the line-marking provides an additional two spaces which would otherwise not be available.
- Patrons at the proposed restaurant / café will likely stay for short periods of time over the course of the opening hours, and therefore, parking proposed on street will not be utilized for long-term parking.
- The hours of operation of the café are proposed as 6am to 10pm daily. In this regard, the two (2) spaces located on Elm Street will be available for parking of locals at times outside these hours.
- The proposal is fully compliant in relation to carparking required for the residential component of the development which will be long term parking.

3.6.3 Infrastructure Services

Attachment 7 provides Engineering Services Report prepared by *Ingen Consulting Pty Ltd*. As indicated, the project will be serviced by connection to the existing reticulated infrastructure services as follows:

- **Roads** – The property maintains road frontages on two (2) property boundaries. Works will be required in the Elm Street and McDonald Place road reserves associated with the proposed driveway crossover, linemarking, and reconfiguration of the existing central island which will require a Section 138 approval.
- **Water** – The site will be connected to reticulated water supply.
- **Sewer** – The subject site maintains existing connections to reticulated sewer. The proposal will continue to be serviced by reticulated sewer.
- **Stormwater** – The available lawful point of discharge for the site is the kerb and gutter in Elm Street and McDonald Place. The proposal involves onsite detention of stormwater with the provision of a 10kL rainwater tank, before being gradually release to the existing stormwater infrastructure.
- **Electricity & telecommunications** – The electricity and telecommunication services will be provided to the site in accordance with supplier requirements.

3.7 Earthworks

The project involves relatively minor earthworks to facilitate the demolition of the existing building, and construction of the proposed new shop top housing development. The proposed earthworks are detailed within the Engineering Services Report prepared by *Ingen Consulting Pty Ltd* provided at **Attachment 7**. The ESR determined:

“The proposal involves no significant earthworks other than levelling and regrading to achieve a ground floor level of approximately RL5.00 and thus complies with the DCP requirements.”

3.8 Subdivision

The application includes the proposed Strata subdivision of the development. A plan illustrating the indicative Strata arrangements is provided at **Attachment 4**. Please note, this plan is conceptual in nature. Confirmation of strata lot boundaries and areas will be confirmed following construction of the building.

3.9 Signage

The proposed development incorporates signage panels of uniform size and placement within the building form. As the commercial tenancy is currently unknown, future signage will be designed for placement within the nominated panels at a later time. The signage arrangements are illustrated on the Elevation SW Plan (Sheet A501) within the Architectural Plan Set.

3.10 Landscaping

The proposed development incorporates a range of planting types to soften to façade of the development to the streetscape and surrounding developments. Plantings to the street frontage are provided on the McDonald Place frontage, whilst planters are provided surrounding the ground floor parking.

On Levels 1 and 2 of the proposed development, podium plantings are provided within the communal garden areas, with a vertical green wall proposed above the entry court to the building on the Elm Street frontage.

The landscaping design is detailed within the Landscape Concept Plans prepared by *Alderson & Associates Landscape Architects* provided at **Attachment 8**. An installation and product specification guide is also provided detailing how the landscaping is installed and maintained into the future.

3.11 Alfresco Dining

Alfresco dining is proposed on the McDonald Place footpath as identified on the Site Plan and Renders for the project. As per the recommendations of the Noise Impact Assessment, the future Alfresco Dining has been limited to McDonald Place, with no alfresco provided on the Elm Street footpath.

We note that alfresco dining is possible on the public footpath in certain circumstances as ‘exempt development’ utilizing the framework provided by *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifically Part 2, Division 1, Subdivision 20A, Footpaths – Outdoor Dining. However, development consent is specifically sought for this aspect of the proposal to provide certainty for this element of the project moving forward.

3.12 Architectural Design Plans

The proposed development is illustrated within the following plans prepared by *Barker Architects* and provided at **Attachment 2**.

Table 8: Architectural Design Plans

Barker Architects				
Job No.	Sheet No.	Description	Revision	Date
2205	A000	Title Sheet	A	12.03.24
2205	A001	Location & Overall Site Plan	A	12.03.24
2205	A002	Local Context Plan	A	12.03.24
2205	A003	Streetscape – Section & Views	A	12.03.24
2205	A004	Site Analysis Plan	A	12.03.24
2205	A005	Shadow Diagrams	A	12.03.24
2205	A006	Solar Access NE Units 1, 2, 3, 6, 7, 8	A	12.03.24
2205	A007	Solar Access NW West Units 4, 5, 9 & 10	A	12.03.24
2205	A008	Natural Ventilation	A	12.03.24
2205	A100	Proposed Site Plan	A	12.03.24
2205	A200	Ground Floor	A	12.03.24
2205	A201	Level One	A	12.03.24
2205	A202	Level Two	A	12.03.24
2205	A400	Roof	A	12.03.24
2205	A500	Elevations NE	A	12.03.24
2205	A501	Elevations SW	A	12.03.24
2205	A600	Sections	A	12.03.24
2205	A601	Sections	A	12.03.24
2205	A900	Window Schedule	A	12.03.24
2205	A901	Door Schedule	A	12.03.24

4. Statutory Assessment

4.1 Introduction

Section 4 documents the range of planning controls applicable in the subject case pursuant to Section 4.15(1)(a) of the Act and tabulates the effect of these instruments in the circumstances of the development proposal described at Section 3. Section 4 also examines policy adopted by Council or other authority applicable in the subject matter which, whilst relevant, are not controls within the meaning of Section 4.15(1)(a).

4.2 Richmond Valley Local Environmental Plan 2012

4.2.1 Introduction

Table 9 summarises the provisions of the Richmond Valley Local Environmental Plan 2012 and its applicability to the current application.

Table 9: RVLEP2012 Applicability

Richmond Valley Local Environmental Plan 2012		Applicable
<u>Part 2: Permitted or prohibited development</u>		
2.1	Lane use zones	<input type="checkbox"/>
2.2	Zoning of land to which Plan applies	<input type="checkbox"/>
2.3	Zone objectives and Land Use Table	<input checked="" type="checkbox"/>
2.4	Unzoned land	<input type="checkbox"/>
2.5	Additional permitted uses for particular land	<input type="checkbox"/>
2.6	Subdivision – consent requirements	<input type="checkbox"/>
2.7	Demolition requires development consent	<input checked="" type="checkbox"/>
2.8	Temporary use of land	<input type="checkbox"/>
2.9	Canal estate development prohibited	<input type="checkbox"/>
<u>Part 4: Principal development standards</u>		
4.1	Minimum subdivision lot size	<input type="checkbox"/>
4.1AA	Minimum subdivision lot size for community title schemes	<input type="checkbox"/>
4.1A	Minimum subdivision lot size for strata plan schemes in certain rural, residential and environmental protection zones	<input type="checkbox"/>
4.1B	Minimum lot sizes for dual occupancies	<input type="checkbox"/>
4.1C	Exceptions to minimum lot size for dual occupancies	<input type="checkbox"/>
4.2	Rural subdivision	<input type="checkbox"/>
4.2A	Exceptions to minimum lot sizes for certain rural subdivisions	<input type="checkbox"/>
4.2B	Erection of dual occupancies and dwelling houses on land in Zone RU1, R5 and E3	<input type="checkbox"/>
4.2C	Exceptions to minimum subdivision lot size for lot boundary adjustments	<input type="checkbox"/>
4.3	Height of buildings	<input checked="" type="checkbox"/>
4.4	Floor space ratio	<input checked="" type="checkbox"/>
4.5	Calculation of floor space ratio and site area	<input type="checkbox"/>
4.6	Exceptions to development standards	<input checked="" type="checkbox"/>
<u>Part 5: Miscellaneous provisions</u>		
5.1	Relevant acquisition authority	<input type="checkbox"/>
5.1A	Development on land intended to be acquired for public purposes	<input type="checkbox"/>
5.2	Classification and reclassification of public land	<input type="checkbox"/>
5.3	Development near zone boundaries	<input type="checkbox"/>

5.4	Controls relating to miscellaneous permissible uses	<input type="checkbox"/>
5.5	Controls relating to secondary dwellings on land in a rural zone	<input type="checkbox"/>
5.6	Architectural roof features	<input type="checkbox"/>
5.7	Development below mean high water mark	<input type="checkbox"/>
5.8	Conversion of fire alarms	<input type="checkbox"/>
5.9	Dwelling house or secondary dwelling affected by natural disaster	<input type="checkbox"/>
5.10	Heritage conservation	<input checked="" type="checkbox"/>
5.11	Bushfire hazard reduction	<input type="checkbox"/>
5.12	Infrastructure development and use of existing buildings of the Crown	<input type="checkbox"/>
5.13	Eco-tourist facilities	<input type="checkbox"/>
5.14	Siding Spring Observatory – maintaining dark sky	<input type="checkbox"/>
5.15	Defence communications facility	<input type="checkbox"/>
5.16	Subdivision of, or dwellings on, land in certain rural, residential or conservation zones	<input type="checkbox"/>
5.17	Artificial waterbodies in environmentally sensitive areas in areas of operation of irrigation corporations	<input type="checkbox"/>
5.18	Intensive livestock agriculture	<input type="checkbox"/>
5.19	Pond-based, tank-based and oyster aquaculture	<input type="checkbox"/>
5.20	Standards that cannot be used to refuse consent – playing and performing music	<input type="checkbox"/>
5.21	Flood planning	<input checked="" type="checkbox"/>
5.22	Special flood considerations	<input type="checkbox"/>
5.23	Public bushland	<input type="checkbox"/>
5.24	Farm stay accommodation	<input type="checkbox"/>
5.25	Farm gate premises	<input type="checkbox"/>
<u>Part 6: Additional local provisions</u>		
6.1	Acid sulfate soils	<input checked="" type="checkbox"/>
6.2	Essential services	<input checked="" type="checkbox"/>
6.3	Earthworks	<input checked="" type="checkbox"/>
6.4	Protection of historic New Italy village area	<input type="checkbox"/>
6.5	(Repealed)	<input type="checkbox"/>
6.6	Terrestrial biodiversity	<input type="checkbox"/>
6.7	Landslide risk	<input type="checkbox"/>
6.8	Riparian land and watercourses	<input type="checkbox"/>
6.9	Drinking water catchments	<input type="checkbox"/>
6.10	Wetlands	<input type="checkbox"/>
6.11	Airspace operations	<input type="checkbox"/>
6.12	Development in areas subject to aircraft noise	<input type="checkbox"/>
6.13	Development of The Glebe, Coraki	<input type="checkbox"/>
6.14	Rural workers' dwellings	<input type="checkbox"/>
6.15	Location of sex services premises	<input type="checkbox"/>

4.2.2 Zoning and Permissibility

As detailed within **Plate 11** below, the subject site is zoned R1 General Residential pursuant to the Richmond Valley Local Environmental Plan 2012.

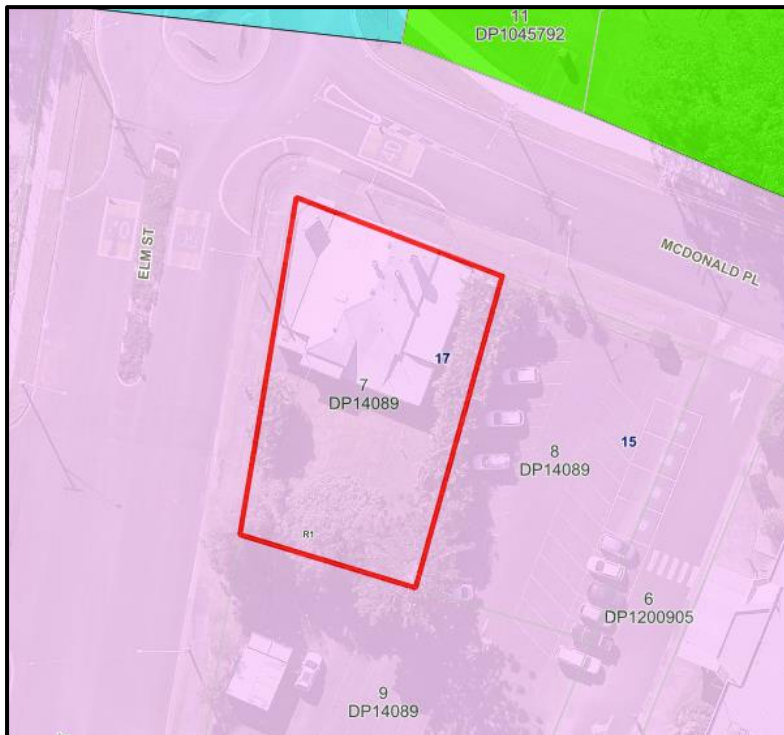


Plate 11: RVLEP Land Zone Map

Clause 1.2 – Aims of the Plan

The aim of the plan set out under Clause 1.2 are as follows:

- (2) The particular aims of this Plan are as follows—
- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,
 - (a) to encourage the proper management, development and conservation of natural and man-made resources,
 - (b) to support and encourage social and economic benefits within Richmond Valley,
 - (c) to ensure that suitable land for beneficial and appropriate uses is made available as required,
 - (d) to manage appropriate and essential public services, infrastructure and amenities for Richmond Valley,
 - (e) to minimise the risk of harm to the community through the appropriate management of development and land use.

Comment: The proposed development involves the construction of a shop top housing development within a R1 General Residential zoned area. As a result, the proposed development aims to achieve the desired strategic outcome of the area while encouraging the social and economic benefits within Richmond Valley.

Clause 2.3 – Zone Objectives and Land Use Table

Comment: The site is zoned R1 – General Residential pursuant to the Richmond Valley Local Environmental Plan (LEP) 2012. Shop top housing is permissible with development consent in the zone. The relevant planning definitions pursuant to the Dictionary within the LEP are provided below:

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

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

As detailed above, shop top housing is permissible with development consent in the R1 General Residential zone. The proposal is considered to comply with the land definition, being that the ground floor is utilised for a commercial premises and carparking, and the residential units are located above the ground floor of the building.

As detailed within **Section 3.4** above, the units as outlined above are proposed as residential units. Unit type '2BR' have been designed to provide a bedroom and bathroom with a separate entry point to the main section of the unit. This design has stemmed from market research and demand for separate spaces that are able to service older children living at home, or live in carers. The design provides a bedroom and bathroom only, with the kitchen and living space provided within the main portion of the building. There is no intention for the space to be separately occupied / tenanted.

The relevant zone objectives of the R1 zone are addressed below, together with the proposal's response:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that housing densities are generally concentrated in locations accessible to public transport, employment, services and facilities.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*

Comment: The proposal relates to the construction of a shop top housing development with ground floor commercial premises, and ten (10) residential units over the first and second floor. The proposed development is considered to be consistent with the objectives of the R1 General Residential zone. The proposed development provides for the housing needs to the community, providing a variety of housing densities, and provides facilities to meet the day to day needs of residents. The development is located within an accessible location, and is not considered to result in land use conflict issues.

With respect to the proposed future provision of al-fresco dining on the footpath, this will be provided as 'Exempt Development' via the framework provided by *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifically Part 2, Division 1, Subdivision 20A, Footpaths – Outdoor Dining. Refer also to Section 3.11 of this report.

Clause 2.7 – Demolition requires development consent

Comment: This development application seeks consent for the demolition of the existing commercial building on the site.

4.2.3 Applicable Provisions

Clause 4.3 – Height of Buildings

Comment: Pursuant to Clause 4.3 and the associated *Height of Buildings Map*, the maximum height for buildings on the subject site should not exceed 9.5m (as measured from ground level existing to the highest point of the building). The proposed shop top housing development provides a lift overrun and mechanical plant and equipment located on the roof, which results in a departure to the maximum building height development standard. The proposal provides a maximum building height of 12 metres, and therefore a Clause 4.6 variation request to vary the development standard is provided at **Attachment 20**.

Clause 4.4 – Floor Space Ratio

Comment: The subject site is not mapped as being subject to a Floor Space Ratio requirement.

Clause 4.6 – Exceptions to development standards

Comment: As detailed above, the proposed development provides a maximum building height of 12 metres, which exceeds the allowable building height of 9.5 metres. In this regard, the exceedance represents a departure to the maximum building height standard of 29.16 percent, and requires a Clause 4.6 request to vary a development standard be prepared, which is provided at **Attachment 20** of this report.

In accordance with Planning Circular 20-002 Variations to Development Standards published by NSW Department of Planning and Environment, as the variation is greater than 10%, the Secretary's concurrence cannot be assumed by a delegate of Council, and therefore the variation must be reported to a Council meeting for determination. Whilst it is noted the Planning Circular 20-002 is currently within the archived section of the NSW Department of Planning and Environment's website, it is assumed this process will continue to be followed.

Clause 5.10 – Heritage Conservation

Comment: The subject site is not mapped as containing a heritage item, or being within a heritage conservation zone pursuant to Schedule 5 of the RVLEP. The subject site is however within the buffer area of two adjoining heritage items being *I129 Woodburn- Evans Head RSL Palm Tree, adjacent to Club entrance on McDonald Place* and *I130 Evans Head Recreation Reserve, avenue of pine trees and stands of paperbark trees*.

I129 Woodburn- Evans Head RSL Palm Tree, adjacent to Club entrance on McDonald Place

Item 129 is located approximately 42 metres to the east of the subject site, within the front setback of the existing RSL building adjoining McDonald Place on Lot 1 DP 315114. The listed item is a palm tree, and is significant for *'its association with the McDonald family. It also indicates the site of McDonald's guesthouse, possibly the best-known guesthouse operation at Evans Head in the 1930s'*. The proposed development is not considered to result in adverse impacts on the existing pine street, and will not result in any adverse impacts on the significance of the tree to the Evans Head locality.

I130 Evans Head Recreation Reserve, avenue of pine trees and stands of paperbark trees.

Item 130 is located approximately 180 metres to the north-east of the site, within the existing reserve area fronting Evans River being Lot 7303 DP 1136547 and Lot 172 DP 755624. The listed item being an avenue of pine trees and paperbark trees are identified as significant for *'indicating a period when the community was concerned with the beautification of the riverfront. They are also an aesthetically pleasing addition to this parkland and have landmark qualities'*. Due to the significant distance

provided between the heritage item and the subject site, it is not considered the proposed development will result in any adverse impacts on the heritage item or its significance to the area.

Clause 5.21 – Flood Planning

Comment: The subject site is not identified as being affected by the flood planning event.

Clause 6.1 – Acid Sulfate Soils

Comment: The subject site is mapped as Class 3 acid sulfate soils. A Preliminary Acid Sulfate Soil Investigation has been undertaken by *HMC Environmental Consulting Pty Ltd* and is provided at **Attachment 10**.

The investigation determined:

This ASS investigation, and the previous ASS investigation in June 2023 by ASCT, did not record ASS exceeding action criteria within the excavation zone.

The four selected samples subjected to the qualitative SCR/TAA analysis recorded generally all results below the action criteria for the sandy soil. A single result at 2m depth BGL recorded a TAA of 211 mol (H+/t) which was above the action criteria of 18 mol (H+/t) in sandy soils. However, this sample was recorded in indurated sand below the maximum depth of excavation and the elevated TAA was not associated with a field pH indicative of ASS. In fact, the field pH was close to neutral. It appears that as there was no reduced inorganic sulfur recorded in this sample, or other selected samples in the soil profile, the acidity may have been due to non-ASS sources, including organic acids associated with indurated sand.

Acid sulfate soils have not been identified as being a constraint to proposed earthworks associated with the proposed shop-top development to be located Lot 7 DP 14089, 17 McDonald Place, Evans Head NSW. No further investigation or ASS management is required.

Clause 6.2 – Essential Services

Comment: The proposed development will be provided all relevant essential services as detailed within **Section 3.6.3** of this report.

Clause 6.3 - Earthworks

Comment: As described in **Section 3**, the proposed development involves relatively minor earthworks to facilitate the demolition of the existing building, and construction of the proposed new shop top housing development. Reference should be made to the comments provided against the relevant heads of consideration below.

(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,

Comment: The subject site is located within 130-170 metres of the Evans River, located to the east. The proposed earthworks required as part of this development are considered minor and relate to the demolition of the existing building, and construction of footings, and the lift shaft. As the earthworks are minor in nature, and the separation between the subject site and Evans River, it is not considered any adverse impacts will occur on the existing drainage patterns and river system. Appropriate erosion and sediment controls measure will be in place during demolition and construction to ensure works are managed appropriately.

(b) *the effect of the development on the likely future use or redevelopment of the land,*

Comment: The proposed works facilitate the development of the site as proposed. The earthworks associated with the proposed development will not adversely impact the redevelopment of the site in the future.

(c) *the quality of the fill or the soil to be excavated, or both,*

Comment: A Preliminary Site Investigation has been prepared by *HMC Environmental Consulting Pty Ltd* and is provided at **Attachment 11**. The Preliminary Site Investigation concluded: *Based on the information presented, in relation to potential site contamination, the investigation area located at Lot 7 DP 14089, 17 McDonald Place, Evans Head, as shown in Appendix 1 & 2 of this report, is considered suitable for the proposed shop top mixed use development subject to:*

2. *All bonded asbestos containing material including fragments located on the ground surface around the perimeter of the building is to be removed by a Safework NSW - licensed contractor and transported to an approved facility for disposal.*

Based on the information presented, in relation to potential site contamination associated with the current and former land use, no further investigation or remediation is required for the site of the proposed shop-top mixed use development to be located Lot 7 DP 14089, 17 McDonald Place, Evans Head, as shown in Appendix 1 & 2 of this report.

(d) *the effect of the development on the existing and likely amenity of adjoining properties,*

Comment: The proposed excavation earthworks will have no material impact upon the future development of adjoining lands. Accordingly, no adverse visual or amenity impacts are expected as the result of the earthworks. Demolition and construction works will be undertaken in accordance with conditions of consent, and to ensure minimal impact on the surrounding area.

(e) *the source of any fill material and the destination of any excavated material,*

Comment: The proposal does not involve any fill material being brought to site. Any excavated material will be disposed of at any appropriately licenced facility to take such waste.

(f) *the likelihood of disturbing relics,*

Comment: An AHIMS search was undertaken in November 2023 which did not identify any Aboriginal places or sites being identified on the site. A listed Aboriginal site was identified within the 50 metre buffer of the property, which appears to be located within the reserve area to the north-east of the site (Lot 172 DP755624). Due to the existing physical separation provided between the site and the identified Aboriginal site, including the existing McDonald Place road reserve, it is not considered the proposed development will result in adverse impacts on the mapped Aboriginal site.

(g) *the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area,*

Comment: The subject site is not mapped as being within a drinking water catchment, or within close proximity to an environmentally sensitive area. As detailed above, the subject site is located with 130-170 metres of the Evans River, located to the east. Due to the physical separation of the site to the river, and erosion and sediment control measures proposed to be implemented during demolition and construction, no adverse impact on the existing river is considered likely as a result of the development.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment: Works will be undertaken in accordance with conditions of development consent. Appropriate erosion and sediment control measures will be implemented during demolition and construction to ensure works are managed appropriately.

4.3 Richmond Valley Development Control Plan 2021

4.3.1 Introduction

The Richmond Valley Development Control Plan (DCP) applies to the Richmond Valley Council Local Government Area and as such the subject site. The provisions contained within the DCP are intended to form a guideline under which development can take place that meet the underlying objectives of the Richmond Valley Local Environmental Plan. Where demonstrated, scope exists to allow meritorious assessment through alternate solutions where practicable. **Table 10** below summarises the application of the Richmond Valley Development Control Plan.

Table 10: Richmond Valley DCP Applicability

Richmond Valley Development Control Plan 2021		Applicable
<u>Part A: Residential Development</u>		<input type="checkbox"/>
A-1	Dwelling houses in the R1 General Residential and RU5 Village zones	<input type="checkbox"/>
A-2	Dwelling houses in the RU1 Primary Production, R5 Large Lot Residential and E3 Environmental Management zones	<input type="checkbox"/>
A-3	Dual Occupancies in the R1 General Residential and RU5 Village zones	<input type="checkbox"/>
A-4	Dual Occupancy in the RU1 Primary Production, R5 Large Lot Residential and E3 Environmental Management zones	<input type="checkbox"/>
A-5	Secondary dwellings in the R1 General Residential, RU5 Village and R5 Large Lot Residential zones	<input type="checkbox"/>
A-6	Ancillary residential development in R1 General Residential and RU5 Village zones	<input type="checkbox"/>
A-7	Ancillary residential development in the RU1 Primary Production, R5 Large Lot Residential and E3 Environmental Management zones	<input type="checkbox"/>
A-8	Multi-dwelling Housing and Residential Flat Buildings	<input type="checkbox"/>
A-9	Shop Top Housing	<input checked="" type="checkbox"/>
A-10	Seniors Housing and Affordable Housing	<input type="checkbox"/>
A-11	DCP Explanatory Notes	<input type="checkbox"/>
Part B: Commercial Development		<input checked="" type="checkbox"/>
<u>Part C: Industrial Development</u>		<input type="checkbox"/>
<u>Part D: Rural Land Uses</u>		<input type="checkbox"/>
D-1	Roadside Stalls	<input type="checkbox"/>
D-2	Kiosks	<input type="checkbox"/>
D-3	Intensive Livestock Agriculture	<input type="checkbox"/>
<u>Part E: Visitor Accommodation, Caravan Parks and Manufactured Home Estates</u>		<input type="checkbox"/>
E-1	Eco-tourist Facilities	<input type="checkbox"/>
E-2	Bed and Breakfast Accommodation	<input type="checkbox"/>
E-3	Serviced Apartments	<input type="checkbox"/>
E-4	Hotel and Motel Accommodation	<input type="checkbox"/>
E-5	Backpackers Accommodation	<input type="checkbox"/>
E-6	Farm Stay Accommodation	<input type="checkbox"/>
E-7	Manufactured Home Estates, Caravan Parks and Camping Grounds	<input type="checkbox"/>

Part F: Signage	<input checked="" type="checkbox"/>
Part G: Subdivision	<input type="checkbox"/>
Part H: Natural Resources and Hazards	<input type="checkbox"/>
H-1 Flood Planning	<input type="checkbox"/>
H-2 Acid Sulfate Soils (ASS)	<input checked="" type="checkbox"/>
H-3 Natural Resources (NRS)	<input type="checkbox"/>
Part I: Other Considerations	<input type="checkbox"/>
I-1 Environmental Heritage	<input type="checkbox"/>
I-2 Development in, on, over or under a Public Road	<input checked="" type="checkbox"/>
I-3 Building Setbacks	<input checked="" type="checkbox"/>
I-4 Car Parking Provisions	<input checked="" type="checkbox"/>
I-5 Landscaping Guidelines	<input type="checkbox"/>
I-6 Animal Boarding and Training Establishments	<input type="checkbox"/>
I-7 Noise Impact Assessment (NIA)	<input checked="" type="checkbox"/>
I-8 Social Impact Assessment (SIA)	<input type="checkbox"/>
I-9 Water Sensitive Urban Design (WSUD)	<input checked="" type="checkbox"/>
I-10 Crime Prevention through Environmental Design (CPTED)	<input checked="" type="checkbox"/>
I-11 Land Use Conflict Risk Assessment (LUCRA)	<input type="checkbox"/>
I-12 Context and Site Analysis	<input type="checkbox"/>
I-13 Use of Shipping Containers	<input type="checkbox"/>
I-14 Sex Service Premises, Restricted Premises and Home Occupations (Sex Services)	<input type="checkbox"/>
I-15 Lane Widening and Access to Narrow Streets	<input type="checkbox"/>
I-16 Historic New Italy Village Area	<input type="checkbox"/>

4.3.2 Part A-9 Shop Top Housing

The relevant parts of Part A-9 Shop Top Housing of the Richmond Valley Development Control Plan are discussed below within **Table 11** below.

Table 11: Part A-9 Shop Top Housing

Chapter A Residential Development		
Part A-9 – Shop Top Housing		
A-9-1 Height of Buildings	<p>(1) The maximum height a structure may be built is shown in the Height of Buildings Map in Richmond Valley Local Environmental Plan 2012.</p> <p>a) Generally the maximum height is 8.5m.</p> <p>b) Some areas of Evans Head and South Casino have 9.5m maximum.</p> <p>c) (c) The High density area in proximity to the Casino CBD has a 14m maximum</p>	<p>Comment</p> <p>As detailed within Section 4.2.3, the maximum height for buildings on the subject site should not exceed 9.5m (as measured from ground level existing to the highest point of the building). The proposed shop top housing development provides a lift overrun and mechanical plant and equipment located on the roof, which results in a departure to the maximum building height development standard. The proposal provides a maximum building height of 12 metres, and therefore a Clause 4.6 variation request to vary the development standard is provided at Attachment 20.</p>

Chapter A Residential Development

Part A-9 – Shop Top Housing

<p>A-9.2 Building Setbacks, Footprint & Floor Space Ratio</p>	<p>(1) Density on the Ground Floor Commercial component as per Part B – Commercial Development.</p>	<p>Comment Part B – Commercial Development does not provide density provisions.</p> <p>In this regard, the size and scale of the proposed restaurant/café has been determined based on provision of car parking, and amenities.</p>
	<p>(2) Zone B1 – Neighbourhood Centre—development is required to most closely align with residential development and the surrounding area. If there are commercial examples to draw upon nearby, and generally the streetscape is dominated by similar ‘older’ style development, higher density ‘shopfront’/‘awning’ development may be acceptable if the design aligns closely.</p>	<p>N/A The subject site is not within the E1 or E2 zones.</p>
	<p>(3) Zone B2 & B3—As per Part B – Commercial Development for first 2 storeys</p>	
	<p>(4) Density Area H1 – High Density—there is likely to be little or no examples of the ideal form to follow, however the podium style typology described within Chapter A-4.3 will be considered atop Commercial density.</p>	<p>N/A The subject site is not located within the H1 High Density area.</p>
	<p>(5) Setbacks for residential development shall have regard to the existing and desired character of the locality and the amenity of residents of the building and nearby residential properties, and the setbacks of the ground floor commercial development. Guidance can be found in Part I-3 of this DCP.</p>	<p>Comment As detailed within the attached architectural design plans, balconies for the residential units are provided zero (0) setbacks, with setbacks to the wall of residential units ranging from 1.132 metres to 3.1 metres.</p> <p>Whilst the subject site is zoned R1 General Residential, it is considered the surrounding area provides unique characteristics and a mixture of land uses that do not directly correlate to the R1 zoning.</p> <p>The subject site is directly adjacent the existing Club Evans RSL, which whilst zoned R1, is a commercial land use. Directly north of the site is RE1 Public Recreation, and E1 Commercial Core zoned land which maintains existing commercial buildings, and the Evans Head temporary housing village. To the west and south of the site maintains existing residential development generally comprising single and two storey, single dwelling or unit developments. It is however noted, the subject site does not directly adjoin</p>

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Part A-9 – Shop Top Housing

		<p>existing residential development, with the Elm Street road reserve, and existing parking associated with the Club Evans RSL located between the site and existing residential development.</p> <p>In this regard, the proposed development has been designed having regard to the existing and desired character of the locality, and amenity of the nearby adjoining residential properties. The closest residential property being 2 Cedar Street contains a new construction two storey dwelling which provides three balconies facing the Elm Street and Cedar Street frontages.</p>
	<p>(6) The residential component should also comply with the provisions of the Apartment Design Guide – Part 4 designing the building.</p> <p><u>Developments exceeding 3 storeys</u> Developments exceeding three storeys may only be proposed within areas with a building height limit of 14 metres within and near the Casino CBD area.</p> <p>The Density provisions apply to residential flat buildings will be applied to development 3 storeys or greater. Setbacks and apartment design will need to be designed to comply with the requirements of the Apartment Design Guide.</p> <p>Any building height three (3) storeys and higher as a stand-alone development must be set back a minimum of six (6) metres from the side and rear boundaries, from the ceiling height of the second storey up. When proposed within a commercial area, lesser or even zero building line setback from the side boundaries may be permissible dependent upon dominant adjacent building bulk and form. Council reserves the right to ultimate resolution as to the proposal’s built form and setbacks.</p>	<p>Refer to Section 4.4.2 and Attachment 3 which provide an assessment against the Apartment Design Guide.</p>
<p>A-9.3 Visual & Amenity Impacts</p>	<p>Visual and Amenity Impact considerations include:</p> <p>a) Bulk form</p> <ul style="list-style-type: none"> • Overall scale & height, • Roof forms & pitch • Materials of external front walls • Street setbacks & spacings between building. <p>b) Character</p>	<p>Comment</p> <p>The proposed shop top housing has been designed having regard to potential visual and amenity impacts.</p> <p>a) <u>Bulk form</u></p> <p>The proposed development has been designed in accordance with the Apartment Design Guide and other relevant standards. The proposal</p>

Chapter A Residential Development

Part A-9 – Shop Top Housing

	<ul style="list-style-type: none"> • Overall architectural style • Maintaining or continuing existing horizontal lines • Finishes & decorative detail • Architectural elements <p>c) Reducing continuous walls, Windows or structures (entranceways, porticos, windows including bay windows, balconies etc.) are to be used to break up the façade. Any section of front façade may not exceed five metres without a building element to disrupt continuous wall area. In addition, any side wall may not exceed 14 metres in length without a recess, or building element, in the wall to break the continuity and lessen visual and ‘bulky’ impacts.</p> <p>d) Amenity The design of the shop top housing development is to have regard amenity controls in Part B – Development in Commercial Centres to ensure that the impact of commercial development on the residential component is minimised and the development as a whole does not unreasonably impact on the amenity of any nearby sensitive land uses such as residential accommodation.</p>	<p>provides an architecturally designed building, which incorporates a number of materials along external walls and interesting design features. As detailed above, the proposal exceeds the maximum building height, however is a key site within the Evans Head locality and is considered to be consistent with surrounding developments including the adjoining Club Evans RSL building.</p> <p>b) <u>Character</u> As detailed above, the proposed development has been architecturally designed, and provides a number of architectural elements to provide an interesting façade. As detailed within the design plans, the development is provided landscape feature walls, battens, recessed portions to appropriately articulate the building façade. The architectural design of the building aims to pay homage to the existing building environment within Evans Head with the proposed curve façade, linking the development to the Illawong Hotel, Vespas Café building and other art deco architecture in Evans Head.</p> <p>c) <u>Reducing continuous walls</u> As detailed above, the proposed shop top housing has been architecturally designed with recessed portions to provide articulation, and reduce the impact of continuing walls.</p> <p>d) <u>Amenity</u> The proposed development has been designed to reduce any adverse impacts on surrounding land uses. A Noise Impact Assessment has been prepared by <i>Ingen Consulting</i> and is provided at Attachment 5. The NIA provides recommendations to reduce the impacts of the commercial and residential development on surrounding uses.</p>
A-9.4 Driveways and Access	3. Generally one (1) access per street or lane frontage is appropriate. In instances where there is ample width to the development lot, two (2) accesses may be permitted if the development has	Comment The proposed development provides an access point from Elm Street, and an exit onto McDonald Place.

Chapter A Residential Development

Part A-9 – Shop Top Housing

		frontage to appropriately constructed and dimensioned streets or laneways.	
A-9.5 Parking	Car	<p><u>Car Parking Requirements</u></p> <p>Residential Shop Top Housing: 1 per dwelling, plus, 1 visitor space per every 10 dwellings (or part thereof)</p> <p>Commercial: Parking must be provided at the rates required for commercial development in Part B of this DCP.</p> <p>Restaurant or cafes 1 per 30m² GFA (<=1,000m²)</p>	<p>Comment</p> <p>16 spaces</p> <p>Including two (2) spaces provided within the formalised and line marked area of Elm Street.</p>
		<p><u>Accessibility – Car Parking</u></p> <p>Car parking provision for mobility impaired must be provided minimum one (1) per development and located closest to the most suitable entranceway.</p> <p>Unit development must provide one (1) mobility impaired space per five (5) units, or as prescribed by most recent Australian Standards and requirements.</p>	<p>Comment</p> <p>Two (2) accessible parking spaces are provided.</p>
A-9.6 Earthworks		<p>Applications involving earthworks and retaining walls must:</p> <p>(a) provide details of the extent of all cut and fill, and</p> <p>(b) where fill is greater than 600mm high provide geotechnical certification to verify the structural stability of any fill material, and</p> <p>(c) not redirect the flow of any surface water or ground water in a concentrated manner onto an adjoining property, and</p> <p>(d) be located outside the Clear Zone of and have footings outside which extend below the Zone of Influence for any sewer main, water main, or stormwater pipeline, and</p> <p>(e) have footings extend below the Zone of Influence for any sewer main, water main, or stormwater pipeline, and</p> <p>(f) have adequate drainage lines connected to the existing stormwater drainage system for the site, and</p> <p>(g) retaining walls must be of masonry construction and have engineering certification if:</p> <ul style="list-style-type: none"> ➤ 900mm or higher in height, or ➤ if located within 900mm of a boundary, and (h) if the fill is imported to the site—be 	<p>Comment</p> <p>Earthworks are proposed to facilitate the development. No retaining walls are required.</p> <p>The proposed earthworks are detailed within the Engineering Services Report prepared by <i>Ingen Consulting Pty Ltd</i> provided at Attachment 7 of this report.</p>

Chapter A Residential Development

Part A-9 – Shop Top Housing

	free of building and other demolition waste, and only contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997.	
A-9.7 Overshadowing, Solar Access & Orientation	<p>Overshadowing (1) The proposed development must maintain adequate solar access to adjoining residential accommodation, in accordance with the provisions of this DCP for the relevant form of adjoining development. (2) Council may require a shadow diagram if it suspects there will be excessive overshadowing of an adjacent lot or public land.</p>	<p>Comment Shadow diagrams are provided within the architectural plan set provided at Attachment 2.</p>
	<p>Solar Access (3) Consideration should also be given to the orientation of design elements and the location of central living rooms and open space areas within any proposed development to maximise: Energy Conservation - Development should orientate living areas to best maximise conservation of heat gained from solar access, and utilise predominating breezes and other natural light, wind, water occurrences to provide maximum efficiency within dwellings reducing the need for artificial energy usage. Sunlight Infusion - Important daytime living areas within a dwelling should be orientated toward the northernmost areas of the design to provide warmth and light. Solar Power Generating Equipment - North-facing roofing should have consideration for the ideal slope, surface area, orientation and structural integrity to facilitate the immediate or possible future installation of Solar Power receptacles (Solar Hot Water Systems and Photovoltaic Cells).</p>	<p>Comment The residential units have been designed in accordance with the requirements outlined with the Apartment Design Guide, including requirements for solar & daylight access and natural ventilation. Refer to Section 4.4.2 for further consideration.</p>
	<p>Orientation (4) The proposed development should be orientated in a way to benefit street and front yard surveillance (as satisfying CPTED principles, see below). The orientation of the development should also have regard for the other existing elements within the streetscape, and the way and style in which they are orientated.</p>	<p>Comment The development is orientated to both the McDonald Place and Elm Street frontages and has been designed with regards to CPTED principles.</p>
A-9.8 Safety & Security	Safety considerations and principles are particularly important for residential design.	Refer to Section 4.3.5 .

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Part A-9 – Shop Top Housing		
	Safety and security considerations are referred to as Crime Prevention Through Environmental Design (CPTED) and are outlined in detail in Chapter – I-10.	
A-9.9 Additional Notes & Provisions	Prior to construction, a dwelling must have a Waste Management Plan submitted and approved in accordance with Richmond Valley Council Waste Minimisation and Management Policy.	A Demolition Work Plan, and Waste Management Plan have been prepared by <i>HMC Environmental Consulting Pty Ltd</i> and are provided at Attachments 9 and 12 of this report.

4.3.3 Part B Commercial Development

The relevant parts of Part B Commercial Development of the Richmond Valley Development Control Plan 2021 are discussed below within **Table 12**.

Table 12: Part B Commercial Development

Chapter B Commercial Development		
A-9-1 Height of Buildings	The maximum building height at the site is 9.5 metres.	Comment As detailed within Section 4.2.3 , the maximum height for buildings on the subject site should not exceed 9.5m (as measured from ground level existing to the highest point of the building). The proposed shop top housing development provides a lift overrun and mechanical plant and equipment located on the roof, which results in a departure to the maximum building height development standard. The proposal provides a maximum building height of 12 metres, and therefore a Clause 4.6 variation request to vary the development standard is provided at Attachment 20 .
B-3 Building Setbacks	Street Setbacks Other Zones Commercial Premises ➤ See Part I-3	Refer to comments in Section 4.3.6 .
	Side and Rear Setbacks All Other Zones Commercial Premises ➤ See Part I-3	
B-4 Streetscape & Character	(1) The design of a building must relate to its locality in terms of scale, form proportions and materials; and contribute to the development of an attractive streetscape and town character. (2) Proposed commercial development of a heritage item, or adjacent to a heritage item or proposed within the Casino heritage conservation area must comply with the	Comment The subject site is not listed as a heritage item. As detailed within Section 4.2.3 , the site is mapped within the heritage buffer for two items, however is not considered to result in any adverse impacts on the significance on the items. As detailed within Section 4.3.2 above, the proposed shop top housing and

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	<p>applicable heritage requirements in Part I-1 of this DCP.</p> <p>(3) Commercial development, particularly in the main streets and business districts, is to be consistent with existing streetscape elements, including:</p> <ul style="list-style-type: none"> i. Overall scale and setbacks ii. Roof form and pitch iii. Materials and colour of external walls, awnings, and embellishments such as decorative detail on gable ends iv. Scale and position of windows and other architectural features v. Landscaping <p>(4) New development shall incorporate active retail or office uses and provide direct and inviting access from the street level.</p> <p>(5) For commercial premises permitted in residential areas, the street setback and landscaping is to comply with the requirements applying for residential development in the street.</p>	<p>commercial component has been architecturally designed, with the design having specific regard for the surrounding existing architectural styles within the Evans Head area.</p> <p>The commercial component of the development is considered consistent with the scale of the existing commercial building at the site. The design of the commercial component activates the streetscape, and provides direct and inviting access at the street level.</p> <p>A setback of zero (0) metres is provided to the building which is consistent with the existing commercial building at the site.</p>
<p>B-5 Access & Loading</p>	<p>(1) Vehicular access, parking and loading/unloading must comply with:</p> <ul style="list-style-type: none"> (a) Australian Standard AS2890; and (b) Council’s Vehicular Accessway Policy. 	<p>Comment</p> <p>Parking and access is provided in accordance with AS2890.</p>
	<p>(2) Loading areas for new developments should be located so as to:</p> <ul style="list-style-type: none"> (a) reduce on-street loading; and (b) be freely available for use at all times. 	<p>Comment</p> <p>As detailed within the architectural design plans, and Traffic Impact Assessment prepared by Ingen Consulting (Attachment 6), a loading bay is proposed within Elm Street frontage. The development proposes to line-mark the existing parking area along Elm Street to formalise 45° parking, with one space dedicated as a loading bay.</p> <p>As detailed within the TIA, the provision of a loading bay on site is impractical due to the height clearances required for a ground-floor level car park within a multi-storey building.</p> <p>It is understood the proposed on-street loading area has been discussed between the Project Traffic Engineer, and Richmond Valley Council’s Development Engineer, Travis Eggins, which was determined “<i>there is potential for loading/unloading to occur on-street (for example – there are loading bays in the Casino CBD) however the location would need to be confirmed as acceptable by</i></p>

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		<i>Council's Assets Section and the Local Traffic Committee."</i>
B-6 Car Parking	<p>Restaurant or café 1 space per 30m² (<1,000m²)</p> <p>(2) On site parking is only permitted within the street setback where it is not inconsistent with the established development pattern in a commercial centre, and the landscaping requirements outline in this chapter are achieved.</p> <p>(3) For commercial premises in the R1 General Residential Zone or the residential precincts in the RU5 Zone, on site parking within the street setback is not supported unless the landscaped area requirements outlined below can be satisfied.</p>	<p>Comment</p> <p>As detailed within Section 3.6.2 above, a total of 5 parking spaces are required to service the café.</p> <p>As detailed within the attached architectural design plans, three (3) parking spaces are provided within the ground floor parking onsite, whilst two (2) parking spaces are provided within the Elm Street line-marked area.</p> <p>Whilst on-street parking is generally not permitted in the RVC LGA, the following justification is provided to support the proposal:</p> <ul style="list-style-type: none"> • Parking along Elm Street is proposed to be line-marked as part of this development to formalise the existing parking arrangements on the street. As a result, it is considered additional parking will be achievable in comparison to the existing arrangements, as parking in this area is generally parallel, or where angled, space is lost as a result of no line marking and guidance. As detailed within the Traffic Impact Assessment provided at Attachment 6, the proposed line marking along Elm Street road reserve will result in a total of eight (8) parking spaces, and one (1) loading bay being provided. In comparison, due to the current non-line-marked parking, the same area currently accommodates approximately six (6) vehicles. As a result, the line-marking provides an additional two spaces which would otherwise not be available. • Patrons at the proposed restaurant / café will likely stay for short periods of time over the course of the opening hours, and therefore, parking proposed on street will not be utilized for long-term parking. • The hours of operation of the café are proposed as 6am to 10pm daily. In this regard, the two (2) spaces located on Elm Street will be available for parking of locals at times outside these hours. • The proposal is fully compliant in relation to carparking required for the residential component of the

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		development which will be long term parking.
B-7 Amenity	<p>(1) Development in commercial centres which has an interface with residential accommodation and other sensitive uses such as parks, childcare centres and community facilities is to be compatible with its surroundings, having regard to:</p> <p>(a) the physical impacts of the development (including noise, odour, overshadowing, view loss, privacy, traffic and parking, loading, hours of operation, constraints on development of the adjoining sites), and</p> <p>(b) the visual impact (whether the proposal is in harmony with the buildings around it and the character of the street).</p>	<p>Comment</p> <p>As detailed within Section 4.3.2 above, the subject site is surrounded by a number of land uses, including residential dwellings/units to the south and west, and the existing Evans Head temporary housing village located to the north, which provides temporary housing for flood victims.</p> <p>In regards to the above the land uses, it is noted:</p> <ul style="list-style-type: none"> • The subject site does not directly adjoin existing residential development, with the Elm Street road reserve, and existing parking associated with the Club Evans RSL located between the site and existing residential development. • The existing Evans Head temporary housing village provides housing to flood impacted people for up to 2 years. A requirement of the leasing agreement is that the site is rehabilitated to its prior use at the end of occupation, and as agreed with Crown Land as the landowner. On this basis, it is understood the site will be rehabilitated back to the pre-existing land use being a vacant public reserve. <p>Notwithstanding the above, the following comments are provided with regards to the potential amenity impact on the surrounding sensitive land uses:</p> <ul style="list-style-type: none"> • Due to the separation distance between the proposed development and existing residential dwellings, overshadowing is not considered to be an issue. • The proposed development is not considered to result in view loss issues. • A Noise Impact Assessment has been prepared by <i>Ingen Consulting (Attachment 5)</i>, which provides recommendations to reduce any potential noise impacts on surrounding properties. • A Traffic Impact Assessment has been undertaken <i>Ingen Consulting (Attachment 6)</i>. As detailed within the TIA, access to the development will be from Elm Street, with the exit being to McDonald Place. A loading bay is proposed within Elm Street, with 45° angle parking being line-marked within

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		<p>Elm Street. The parking arrangements at the site are not considered to result in any adverse impacts on the surrounding locality as compared the existing available parking in the area.</p> <ul style="list-style-type: none"> • The proposed shop top housing development and commercial frontage has been architecturally designed having regard to the existing architectural features and styles found within the Evans Head locality.
B-8 Safety & Security	The design of any proposed development needs to demonstrate compliance with the Crime Prevention Through Environmental Design (CPTED) guidelines.	Refer to Section 4.3.6 below.
B-9 Signage	All signage intended for the development in commercial centres must be outlined within formal application for the development. Part F of this DCP relates to signage. In addition, some forms of Business Identification Signage may be carried out as exempt development under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	<p>Comment</p> <p>The proposed development incorporates signage panels of uniform size and placement within the building form. As the commercial tenancy is currently unknown, future signage will be designed for placement within the nominated panels at a later time. The signage panels are identified within the architectural plans provided at Attachment 2.</p>
B-10 Landscaping	<p>A landscaping component is also required in commercial centres in situations where adjoining uses and overall built form also incorporates landscaping. Where the proposed development adjoins residential development, particularly where car parking areas are required, landscaping shall be incorporated to screen these areas from adjoining land uses</p> <p>For commercial premises permitted in residential areas, a minimum of 50% of the street setback is to be landscaped area.</p>	<p>Comment</p> <p>As detailed within the architectural plan set, landscaping in the form of planter boxes and screening has been provided as part of the development. Further consideration is provided by a landscape architect, refer to Section 8.</p>
B-11 Stormwater, Sewage & Water	<p>Stormwater</p> <p>All urban lots are required to connect or maintain adequate connection to town infrastructure where provided and have consideration for Water Sensitive Urban Design principles. All stormwater is to be directed to the street drainage system, or to an inter allotment drainage easement where available.</p>	<p>Comment</p> <p>The available lawful point of discharge for the site is the kerb and gutter in Elm Street and McDonald Place. The proposal involves onsite detention of stormwater with the provision of a 10kL rainwater tank, before being gradually release to the existing stormwater infrastructure.</p>
	<p>Sewage</p> <p>All greywater and toilets are required to be connected to sewer infrastructure, where provided.</p>	<p>Comment</p> <p>The proposed development will be serviced by Council reticulated sewer.</p>
	<p>Liquid Trade Waste</p>	<p>Comment</p>

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	<p>Where a commercial development generates liquid trade waste, mechanisms for disposal of liquid waste must be identified as part of the development application. Approval from Council is required to discharge liquid trade wastes into the sewerage system. Refer to Council's Policy - Discharge of Liquid Trade Waste to the Sewerage System. In areas not connected to the sewerage system, the development application must also demonstrate how liquid trade waste for the proposed development will be managed</p> <p>Water All commercial development is required to be connected to water infrastructure, where provided</p>	<p>As detailed within the architectural design plans, a grease trap is provided within the ground floor parking / bin area.</p> <p>A liquid trade waste approval will be required. It is considered the requirement for a liquid trade waste approval will be conditioned as part of any development consent notice.</p> <p>Comment The proposed development will be connected to reticulated water.</p>
B-12 Earthworks & Retaining Walls	All earthworks and retaining walls proposed for the development must be detailed within the development application.	<p>Comment Minor earthworks are required to facilitate the development including demolition of the existing structure, and construction of footings. Further details are provided within the Engineering Services Report provided at Attachment 7.</p> <p>No retaining walls are proposed as part of this development.</p>
B-13 Garbage Waste & Storage	<p>A garbage and waste storage area for recyclable and non-recyclable waste materials and receptacles for those materials must—</p> <ol style="list-style-type: none"> be provided as part of the development, and be located entirely within the lot on which the development is being carried out and not on a road or road reserve, and comply with the following appendices in the document entitled Better Practice Guidelines for Waste Management and Recycling in Commercial and Industrial Facilities (ISBN 978-1-74293-944-5), published by the NSW Environment Protection Authority in December 2012 	<p>Comment A Waste Management Plan (WMP) has been prepared by HMC Environmental Consulting Pty Ltd and is provided at Attachment 12.</p> <p>As detailed within the architectural design plans, a bin storage area servicing both the café and residential units is provided within the ground floor parking area.</p> <p>As detailed within the WMP, waste would be sorted within units and the café, before being transported into the appropriately signed bins within the waste storage area. The WMP determined the following would be required:</p> <ul style="list-style-type: none"> • General waste <ul style="list-style-type: none"> ○ 1 x 1.5m³ bulk bin serviced weekly, ○ 1 x 240L MGB serviced weekly • Co-mingled recycled waste <ul style="list-style-type: none"> ○ 1 x 1.5m³ bulk bin serviced weekly • Organic waste

Chapter B Commercial Development		
B-14 Natural Hazards and Constraints	Any development application shall consider the constraints of the land, including: <ul style="list-style-type: none"> • Flooding • Acid sulfate soils • Contaminated Lands 	<p>Comment</p> <p>As detailed above, the subject site is mapped as Class 3 acid sulfate soils. A Preliminary Acid Sulfate Soil Investigation has been undertaken and is provided at Attachment 10. Further consideration is provided at Section 4.2.3 and Section 4.3.4.</p> <p>The subject site is not mapped as potentially contaminated land. A Preliminary Site Investigation has been prepared by <i>HMC Environmental Consulting Pty Ltd</i> and is provided at Attachment 11. Further consideration is provided at Section 4.4.6.</p>
B-15 Development over Roads	Commercial Development often incorporates some form of development over public roads. This development may be in the form of Footway Activities (kerbside dining, footpath trading, erection of signage), erection of awnings and verandahs, flagpoles etc.	<p>Comment</p> <p>The proposed development incorporates an awning over the road reserve, and kerbside dining. Further consideration is provided at Section 4.3.6.</p>

4.3.4 Part F – Signage

Business identification signage forms part of the overall development as outlined in **Section 3.9** of this report. Signage panels are provided within the elevation of the ground floor commercial component of the proposed shop top housing development. The signage will relate entirely to the ground floor commercial development.

In response to the controls applicable to Clause F.4 the following comments are provided:

All Signage Types & Wall Signs

- The signage will relate to the proposed commercial component of the shop top housing development;
- The signage is not considered to detract from the amenity or visual qualities of the streetscape and is consistent with existing approved signage at the site;
- The proposal will not obscure an architectural element of the building;
- The sign will not be attached to a vehicle;
- The signage will be illuminated however Council will require the signage to be managed by the proponent so as not to cause unacceptable glare;
- The signs will be wholly contained within the allotment and not located over a footpath;
- The signs will be attached to the building;
- The sign will not exceed 25% of the wall area.

4.3.5 Part H-2 Acid Sulfate Soils

Part H-2 of the Richmond Valley Development Control Plan 2021 relates to land mapped as potentially containing acid sulfate soils. Part H-2 replicates the requirements for acid sulfate soils as provided within Clause 6.1 of the RVLEP.

As detailed within **Section 4.2.3** above, the subject site is mapped as Class 3 acid sulfate soils (refer to **Plate 12** below).



Plate 12: Acid Sulfate Soils Mapping

A Preliminary Acid Sulfate Soil Investigation has been undertaken by *HMC Environmental Consulting Pty Ltd* and is provided at **Attachment 10**. The investigation determined:

This ASS investigation, and the previous ASS investigation in June 2023 by ASCT, did not record ASS exceeding action criteria within the excavation zone.

The four selected samples subjected to the qualitative SCR/TAA analysis recorded generally all results below the action criteria for the sandy soil. A single result at 2m depth BGL recorded a TAA of 211 mol (H+/t) which was above the action criteria of 18 mol (H+/t) in sandy soils. However, this sample was recorded in indurated sand below the maximum depth of excavation and the elevated TAA was not associated with a field pH indicative of ASS. In fact, the field pH was close to neutral. It appears that as there was no reduced inorganic sulfur recorded in this sample, or other selected samples in the soil profile, the acidity may have been due to non-ASS sources, including organic acids associated with indurated sand.

Acid sulfate soils have not been identified as being a constraint to proposed earthworks associated with the proposed shop-top development to be located Lot 7 DP 14089, 17 McDonald Place, Evans Head NSW. No further investigation or ASS management is required.

4.3.6 Part I Other Considerations

The relevant parts of Part I Other Considerations of the Richmond Valley Development Control Plan 2021 are discussed below within **Table 13**.

Table 13: Part B Commercial Development

Chapter I Other Considerations		
Part I-2 Development In, On, Over or Under a Public Road		
I-2.3 Structures in, on, over or under a public road	The width of a cantilever awning or verandah that extends beyond a road alignment, from the alignment of the road to the outside edge of the fascia plate is to be at least 600 mm less than the width of the footway over which it is to be erected. However, the decorative treatment on the fascia plate of any such awning may project for a distance not exceeding 75 mm.	<p>Comment</p> <p>As detailed within the architectural design plans, the proposal involves an awning over the existing footpath, extending for a portion of the Elm Street and McDonald Place frontages. The proposed awning provides the following dimensions:</p> <ul style="list-style-type: none"> • 906mm front McDonald Place kerb and 1.229 metres from Elm Street kerb, • Maximum width of 2.951 metres • 2.8 metres above footpath.
	The maximum width of a cantilever awning that extends beyond the road alignment must not exceed 3660 mm.	
	No part of the awning or verandah (including any fittings, fixtures, advertisements or the like) shall be less than 2600 mm above the pathway level of the road over which it projects.	
I-2.4 Footway activities, kerbside dining and other trading	<p>Kerbside Dining</p> <p>(5) Kerbside dining will require approval under section 125 of the Roads Act 1993, Development consent under the EP&A Act, and where permanent structures are proposed, a section 138 approval under the Roads Act 1993. The following matter will be considered by Council when determining any consent or approval for kerbside dining:</p> <p>(a) Kerbside dining to be located adjacent to primary food premises</p> <p>A kerbside dining area shall only be permitted where there is an existing or proposed food premises within the building located immediately adjacent to the proposed kerbside dining area.</p>	<p>Comment</p> <p>As detailed within the architectural design plans, kerbside dining is proposed along the McDonald Street frontage of the proposed new restaurant / café. It is expected a condition of consent will be included in any development consent notice requiring a Section 138 approval under the Roads Act be sought prior to the installation of the kerbside dining at the site.</p> <p>The proposed kerbside dining is directly related to the proposed restaurant/café as detailed within the design plan set.</p>
	<p>(b) Safety/crash protection</p> <p>A kerbside dining area is not permitted in a position which, in the opinion of Council, compromises the safety of any users or the kerbside area or will create conflict between pedestrians, vehicles and diners.</p> <p>Crash protection barriers and/or clearance areas from the kerb must be provided when additional protection for diners is required. These requirements will be determined by Council depending upon the type of road which the proposal fronts, existing car</p>	

Chapter I Other Considerations

	<p>parking arrangements, location of existing services, the condition of the existing footpath and the like.</p> <p>In the event a crash protection barrier is required by Council, certification from a suitably qualified professional shall be submitted demonstrating the barrier has been designed and constructed so as to maximise safety of diners and vehicle occupants.</p>	
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Part I-3 Building Setbacks

<p>I-3.3 Street Setbacks</p>	<p>R1 General Residential All development ➤ Consistent with the requirements for residential accommodation in Part A of this DCP</p> <p>Street Setbacks Other Zones Commercial Premises ➤ See Part I-3</p>	<p>As detailed within the attached architectural design plans, the ground floor parking and commercial component of the development provide a zero (0) setback to all four property boundaries. Balconies for the residential units are provided zero (0) setbacks, with setbacks to the wall of residential units ranging from 1.132 metres to 3.1 metres.</p> <p>Whilst the subject site is zoned R1 General Residential, it is considered the surrounding area provides unique characteristics and a mixture of land uses that do not directly correlate to the R1 zoning.</p>
<p>I-3.4 Side Boundary & Rear Boundary Setbacks</p>	<p>R1 General Residential All Development Consistent with the requirements for residential accommodation in Part A</p> <p>Side and Rear Setbacks All Other Zones Commercial Premises ➤ See Part I-3</p>	<p>The subject site is directly adjacent the existing Club Evans RSL, which whilst zoned R1, is a commercial land use. Directly north of the site is RE1 Public Recreation, and E1 Commercial Core zoned land which maintains existing commercial buildings, and the Evans Head temporary housing village. To the west and south of the site maintains existing residential development generally comprising single and two storey, single dwelling or unit developments. It is however noted, the subject site does not directly adjoin existing residential development, with the Elm Street road reserve, and existing parking associated with the Club Evans RSL located between the site and existing residential development.</p> <p>In this regard, the proposed development has been designed having regard to the existing and desired character of the locality, and amenity of the nearby adjoining residential properties. The closest residential property being 2 Cedar Street contains a new construction two</p>

Chapter I Other Considerations		
		storey dwelling which provides three balconies facing the Elm Street and Cedar Street frontages.
Part I-4 Car Parking Provisions		
I-4.3 Car Rates	General Parking	<p>Shop Top Housing (excluding any commercial GFA) 1 per dwelling, plus 1 visitor space per 10 dwellings</p> <p>Restaurants or Cafes 1 per 30 m2 of GFA (<=1000m²)</p>
		<p>Comment 16 spaces</p> <p>Including two (2) spaces provided within the formalised and line marked area of Elm Street.</p> <p>As detailed within Section 3.6.2 above, a total of 5 parking spaces are required to service the café.</p> <p>As detailed within the attached architectural design plans, three (3) parking spaces are provided within the ground floor parking onsite, whilst two (2) parking spaces are provided within the Elm Street line-marked area.</p> <p>Whilst on-street parking is generally not permitted in the RVC LGA, the following justification is provided to support the proposal:</p> <ul style="list-style-type: none"> • Parking along Elm Street is proposed to be line-marked as part of this development to formalise the existing parking arrangements on the street. As a result, it is considered additional parking will be achievable in comparison to the existing arrangements, as parking in this area is generally parallel, or where angled, space is lost as a result of no line marking and guidance. As detailed within the Traffic Impact Assessment provided at Attachment 6, the proposed line marking along Elm Street road reserve will result in a total of eight (8) parking spaces, and one (1) loading bay being provided. In comparison, due to the current non-line-marked parking, the same area currently accommodates approximately six (6) vehicles. As a result, the line-marking provides an additional two spaces which would otherwise not be available. • Patrons at the proposed restaurant / café will likely stay for short periods of time over the course of the opening hours, and therefore, parking proposed on street will not be utilized for long-term parking.

Chapter I Other Considerations		
		<ul style="list-style-type: none"> The hours of operation of the café are proposed as 6am to 10pm daily. In this regard, the two (2) spaces located on Elm Street will be available for parking of locals at times outside these hours. The proposal is fully compliant in relation to carparking required for the residential component of the development which will be long term parking.
Part I-7 Noise Impact Assessment		
I-7.4 Determining what NIA is required	<p>Development types which will require an extensive and comprehensive degree of Noise Impact Assessment accompanying the application:</p> <ul style="list-style-type: none"> ➤ Any other development Council's Planning or Environmental Health Officers interpret to likely present comparable noise impacts to those listed above. 	<p>Comment</p> <p>A Noise Impact Assessment has been undertaken by <i>Ingen Consulting</i> and is provided at Attachment 5. Refer to Section 4.5 below.</p>
Part I-9 Water Sensitive Urban Design (WSUD)		
I-9 WSUD	<ul style="list-style-type: none"> WSUD Principles Water Quality controls Stormwater Generation 	<p>Comment</p> <p>An Engineering Services Report has been prepared by <i>Ingen Consulting Pty Ltd</i> and is provided at Attachment 7 of this report. As detailed within the ESR, stormwater will be dealt with in the following manner:</p> <ul style="list-style-type: none"> The available lawful point of discharge for the site is the kerb and gutter in Elm Street and McDonald Place. The proposal involves onsite detention of stormwater with the provision of a 10kL rainwater tank (2x 5kL tanks), before being gradually release to the existing stormwater infrastructure. A 7kL water tank is proposed to be installed for reuse purposes.
Part I-10 Crime Prevention through Environmental Design (CPTED)		
I-10.2 CPTED Principles	<ul style="list-style-type: none"> Territorial reinforcement Surveillance Access control Space/activity management 	<p>Comment</p> <p>The proposed development has been designed having regard to CPTED principles. In this regard, the following will be provided:</p> <ul style="list-style-type: none"> Access to the carparking area will be open from 7am to 8pm for patrons of the café, and will be closed during the evening. Residences will be provided electronic key entrance to enable access to the

Chapter I Other Considerations	
	<p>parking area at all times.</p> <ul style="list-style-type: none"> • The entrance foyer will only be accessible to residences. • All entrances will be adequately lit. • Surveillance cameras will be provided at entrances and within common areas.

4.4 State Environmental Planning Policies

4.4.1 Introduction

Table 14 summarises the State Environmental Planning Policies which apply to the land and form of development.

Table 14: SEPP Applicability

State Environmental Planning Policy (SEPP)	Applicable
SEPP (Biodiversity and Conservation) 2021	<input checked="" type="checkbox"/>
SEPP (Sustainable Buildings) 2022	<input checked="" type="checkbox"/>
SEPP (Exempt and Complying Development Codes) 2008	<input type="checkbox"/>
SEPP (Housing) 2021	<input type="checkbox"/>
SEPP (Industry and Employment) 2021	<input checked="" type="checkbox"/>
SEPP (Housing) 2021	<input checked="" type="checkbox"/>
SEPP (Planning Systems) 2021	<input checked="" type="checkbox"/>
SEPP (Precincts – Central River City) 2021	<input type="checkbox"/>
SEPP (Precincts – Eastern Harbour City) 2021	<input type="checkbox"/>
SEPP (Precincts – Regional) 2021	<input type="checkbox"/>
SEPP (Precincts – Western Parkland City) 2021	<input type="checkbox"/>
SEPP (Primary Production) 2021	<input type="checkbox"/>
SEPP (Resilience and Hazards) 2021	<input checked="" type="checkbox"/>
SEPP (Transport and Infrastructure) 2021	<input checked="" type="checkbox"/>

4.4.2 SEPP (Housing) 2021

Comment: The proposal involves a shop top housing comprising 3 or more storeys and 4 or more dwellings. As such the provisions of *Chapter 4 Design of Residential Apartment Development* apply to the project. The proposed building has been designed pursuant to the framework provided by the SEPP and the associated Apartment Design Guide.

Schedule 9 of the SEPP provides 9 ‘Design Quality Principles’ which are required to be taken into consideration by the consent authority when assessing the development application (pursuant to Clause 147(1)(a) of the SEPP). In this regard, the Project Architect has provided a Design Verification Statement detailing compliance with the relevant Design Principles. A copy of this statement is provided at **Attachment 3**.

In addition, Clause 148 of the SEPP states that certain criteria cannot be used as a grounds to refuse an application made under the SEPP. **Table 15** provides an assessment against the Standards documented in Clause 148 of the SEPP. As illustrated, the project is compliant with these requirements.

Table 15: Clause 148 Assessment Requirement

Clause 148 Assessment Requirements				
	Parameter	ADG Requirement	Provided	Complies
(a)	if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide	11	11	Yes
(b)	if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,	One bed – 50m ² Two bed – 70m ² Three bed – 90m ²	One bed – 53m ² Two bed – 83m ² – 92m ² Three bed – 115m ²	Yes
(c)	if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.	2700mm habitable 2400mm non-habitable	>2700mm for habitable and non-habitable areas.	Yes

Parts 3 and 4 of the Apartment Design Guide provide a range of ‘Objectives’, ‘Design Guidance’ and ‘Design Criteria’. **Tables 16** and **17** demonstrate that the project is generally consistent with each of the applicable ‘Design Criteria’ relevant to the project.

Table 16: ADG Part 2 Design Criteria

Apartment Design Guide - Part 3 - Siting the Development				
ADG Design Criteria			Provided	Complies
3D Communal and Open Space				
3D-1	1	Communal open space has a minimum area equal to 25% of the site	A roof terrace is provided as communal open space with an area of 65m ² . Two smaller garden terrace areas are provided on each level which are accessible by residents. Whilst the development does not provide a communal area equal to 25% of the site, the close proximity of the development to parks, beaches and reserves collectively afford a high level of residential amenity for future occupants. Additionally, to offset the reduction in communal space provided, significantly larger balconies are provided to all units than those required under the ADG.	No
	2	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)		N/a
3E Deep Soil Zones				
3E-1	1	Deep soil zones are to meet the following minimum requirements:	N/a, The development form involves a shop top housing development, with the ground floor building envelope	N/a

		<table border="1"> <thead> <tr> <th>Site area</th> <th>Minimum dimensions</th> <th>Deep soil zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td>less than 650m²</td> <td>-</td> <td rowspan="4">7%</td> </tr> <tr> <td>650m² - 1,500m²</td> <td>3m</td> </tr> <tr> <td>greater than 1,500m²</td> <td>6m</td> </tr> <tr> <td>greater than 1,500m² with significant existing tree cover</td> <td>6m</td> </tr> </tbody> </table>	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	<p>established by both the commercial use on that level and ground level parking.</p> <p>Landscaping has been provided in the form of planter boxes and screening.</p>	
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															
3F Visual Privacy																
3F-1	1	<p>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:</p> <table border="1"> <thead> <tr> <th>Building height</th> <th>Habitable rooms and balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table>	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	<p>The property is adjoined on two frontages by public roads. The east and western boundaries adjoin the existing Club Evans RSL carparking area. In this regard, separation between windows and balconies is not an issue based on the existing development.</p> <p>Notwithstanding, Council have raised concern with the proposed developments impact on the development potential of the adjoining Club Evans RSL land.</p> <p>As detailed within the architectural design plans, Sheet A100 demonstrates the required setbacks for a similar development to be undertaken on the adjoining Club Evans RSL land. As detailed, sufficient land is provided within the RSL site to enable a compliant setback, and a developable area.</p> <p>In addition to the above, a letter of support has been provided by Club Evans RSL (Attachment 15), which outlines support of the proposed development, and confirmation any potential impacts on the RSL land are understood with no objections raised.</p>	Yes
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														
3J Bicycle and Car Parking																
3J-1	1	<p>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 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated 	<p>Comment</p> <p>16 spaces in total 11 spaces – residential units 5 spaces – commercial space</p> <p>Including two (2) spaces provided within the formalised and line marked area of Elm Street.</p>	Yes												

	<p>regional centre</p> <p>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</p> <p>The car parking needs for a development must be provided off street</p>	<p>As detailed within Section 3.6.2 above, a total of 5 parking spaces are required to service the café.</p> <p>As detailed within the attached architectural design plans, three (3) parking spaces are provided within the ground floor parking onsite, whilst two (2) parking spaces are provided within the Elm Street line-marked area.</p> <p>Whilst on-street parking is generally not permitted in the RVC LGA, the following justification is provided to support the proposal:</p> <ul style="list-style-type: none"> • Parking along Elm Street is proposed to be line-marked as part of this development to formalise the existing parking arrangements on the street. As a result, it is considered additional parking will be achievable in comparison to the existing arrangements, as parking in this area is generally parallel, or where angled, space is lost as a result of no line marking and guidance. As detailed within the Traffic Impact Assessment provided at Attachment 6, the proposed line marking along Elm Street road reserve will result in a total of eight (8) parking spaces, and one (1) loading bay being provided. In comparison, due to the current non-line-marked parking, the same area currently accommodates approximately six (6) vehicles. As a result, the line-marking provides an additional two spaces which would otherwise not be available. • Patrons at the proposed restaurant / café will likely stay for short periods of time over the course of the opening hours, and therefore, parking proposed on street will not be utilized for long-term parking. • The hours of operation of the café are proposed as 6am to 10pm daily. In this regard, the two (2) spaces located on Elm Street will be available for parking of locals at times outside these hours. • The proposal is fully compliant in relation to carparking required for the residential component of the development which will be long term parking. 	
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Table 17: ADG Part 4 – Designing the Building

Apartment Design Guide - Part 4 – Designing the Building																
ADG Design Criteria			Provided	Complies												
4A Solar and Daylight Access																
4A-1	1	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas	N/A	N/A												
	2	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	All apartments achieve direct sunlight to habitable rooms or private open space between 9am - 3pm for a minimum of 3 hours in mid-winter. Refer to Sheets A006 – A007 within the architectural design plans provided at Attachment 2 .	Yes												
	3	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter		Yes												
4B Natural Ventilation																
4B-3	1	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	80% of units are provided with natural cross ventilation.	Yes												
	2	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	Overall depth does not exceed 18 metres.	Yes												
4C Ceiling Heights																
4C-1	1	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <table border="1" data-bbox="338 1630 783 1973" style="margin-top: 10px;"> <thead> <tr> <th colspan="2">Minimum ceiling height for apartment and mixed use buildings</th> </tr> </thead> <tbody> <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> </tbody> </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	Floor to ceiling heights comply or exceed these requirements.	Yes
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															

4D Apartment Size and Layout														
4D-1	1	<p>Apartments are required to have the following minimum internal areas:</p> <table border="1"> <thead> <tr> <th>Apartment type</th> <th>Minimum internal area</th> </tr> </thead> <tbody> <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> </tbody> </table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	<p>One bed – 50m² Two bed – 70m² (plus 5m²) for additional bathroom – 75m² Three bed – 90m² (plus 5m²) for additional bathroom – 95m²</p> <p><u>The proposal provides:</u> One bed – 53m² Two bed – 83m²– 92m² Three bed – 115m²</p>	Yes
	Apartment type	Minimum internal area												
Studio	35m ²													
1 bedroom	50m ²													
2 bedroom	70m ²													
3 bedroom	90m ²													
2	<p>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>	Provided	Yes											
4D-2	1	Habitable room depths are limited to a maximum of 2.5 x the ceiling height	Provided	Yes										
	2	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	<p>Open plan living arrangements for the following unit types are provided:</p> <ul style="list-style-type: none"> • 1 bed – 7.04 metres • 2 bed – 7.82 metres • 3 bed – 7.04 metres 	Yes										
4D-3	1	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)	<p>Minimum area for master bedrooms = 12.3m²</p> <p>Minimum area for other bedrooms = 11.8m²</p>	Yes										
	2	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	Provided	Yes										
	3	<p>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 	Provided	Yes										
	4	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Provided	Yes										
4E Private Open Space and Balconies														
4E-1	1	All apartments are required to have primary balconies as follows:	All primary balconies comply with the minimum area requirement and minimum depth requirement.	Yes										

		<table border="1"> <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> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</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		
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																	
	2	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 15m ² and a minimum depth of 3m	N/A	N/A															
4F Common Circulation Spaces																			
4F-1	1	The maximum number of apartments off a circulation core on a single level is eight	Each level provides a total of five (5) units, access off a single circulation core.	Yes															
	2	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	N/A	N/A															
4G Storage																			
4G	1	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1"> <thead> <tr> <th>Dwelling type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <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> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment</p>	Dwelling type	Storage size volume	Studio apartments	4m ³	1 bedroom apartments	6m ³	2 bedroom apartments	8m ³	3+ bedroom apartments	10m ³	Each apartment is provided compliant storage requirements being located within the apartment, and within the storage area provided within the carpark.	Yes					
Dwelling type	Storage size volume																		
Studio apartments	4m ³																		
1 bedroom apartments	6m ³																		
2 bedroom apartments	8m ³																		
3+ bedroom apartments	10m ³																		

4.4.3 SEPP (Biodiversity and Conservation) 2021

Chapter 4 – Koala Habitat Protection 2021

Chapter 4 of the State Environmental Planning Policy (Biodiversity & Conservation) 2021 aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas.

Chapter 4 of the SEPP applies to land within a local government area identified within Schedule 2 of the SEPP. The subject site is located within the Richmond Valley Council Local Government Area, which is identified within Schedule 2 of the SEPP, and therefore Chapter 4 is applicable to the development.

4.9 Development assessment process—no approved koala plan of management for land

Richmond Valley Council does not have an approved koala plan of management for the local government area. The subject site is not greater than 1 hectare in land area, and as there is not approved KPOM, this section is not applicable to the development application. Therefore, no further consideration of the Biodiversity & Conservation SEPP is considered warranted.

4.4.4 SEPP (Sustainable Buildings) 2022

Comment: The project does not meet the triggers identified nor non-residential buildings as listed in Chapter 3 of the SEPP. As such, the provisions of S3.2 and S3.3 do not apply to the current application.

The proposed development is, however, accompanied by BASIX & NatHERS Certification (**Attachment 17**) and a Section J Report (**Attachment 18**).

4.4.5 SEPP (Planning Systems) 2021

Comment: The current application involves the construction of a shop top housing development with an estimated Capital Investment Value less than \$30 million. As such, the project does not meet the criteria to be considered Regionally Significant Development as listed in Schedule 5, Item 5.

4.4.6 SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

Comment: Chapter 2 of the SEPP relates to development in the coastal zone and protect the environmental assets of the coast, through a planning framework which promotes the objects of the Coastal Management Act 2016.

The 'coastal zone' is defined as being the area of land comprising one or more of the following coastal management areas:

- coastal wetlands and littoral rainforest area;
- coastal vulnerability area;
- coastal environment area; and
- coastal use area.

The development site is mapped as being located within the 'coastal environment area' and 'coastal use area' and therefore Divisions 3 of this SEPP are applicable to the proposed development



Plate 13: Coastal Environment Area



Plate 14: Coastal Use Area

The following comments are made with respect to the aforementioned provisions:

- (a) **Foreshore Access** – The proposed development does not impact on the access to the foreshore and accordingly the application does not restrict opportunities to improve pedestrian access to the foreshore area.
- (b) **Relationship to Surrounding Area** –The surrounding area comprises residential and commercial land uses. The proposed shop top housing development is considered to be consistent with the design and scale of development found in the locality.
- (c) **Impact on Amenity of Foreshore** – The development of the land as proposed will not adversely impact on the amenity of the foreshore area.
- (d) **Visual Amenity and Scenic Qualities** – Refer comments above.
- (e) **Conservation of Biodiversity and Ecosystems** – No adverse ecological impacts are envisaged as a result of the proposed development.
- (f) **Cumulative Impact** – Council’s strategic planning for the locality has envisaged that the area will be developed for residential development. Accordingly, no adverse cumulative effects are envisaged.
- (g) **Protect Aboriginal Cultural Heritage** – The site comprises an existing residential zoned property which has historically been utilised for commercial use. As such, it is considered unlikely that Aboriginal cultural heritage will be disturbed via the current development.

An AHIMS search was undertaken in November 2023 which did not identify any Aboriginal places or sites being identified on the site. A listed Aboriginal site was identified within the 50 metre buffer of the property, which appears to be located within the reserve area to the north-east of the site (Lot 172 DP755624). Due to the existing physical separation provided between the site and the identified Aboriginal site, including the existing McDonald Place road reserve, it is not considered the proposed development will result in adverse impacts on the mapped Aboriginal site.

In respect to Division 5, the proposal is not likely to cause an increased risk of coastal hazards on the subject or adjoining sites.

Chapter 4 – Remediation of Land

The objective of Chapter 4 of SEPP (Resilience and Hazards) 2021 is to promote the remediation of contaminated land for the purpose of reducing risk of harm to human health or any other aspect of the environment.

Clause 4.6 of the SEPP relates to contamination and remediation that should be considered in determining a Development Application. A consent authority must firstly consider whether a site is contaminated. If the land is contaminated, the consent authority must be satisfied that the land is suitable in its contaminated state, or it will be suitable after remediation, for the proposed development.

A Preliminary Site Investigation has been prepared by *HMC Environmental Consulting Pty Ltd* and is provided at **Attachment 11**. The Preliminary Site Investigation concluded:

Based on the information presented, in relation to potential site contamination, the investigation area located at Lot 7 DP 14089, 17 McDonald Place, Evans Head, as shown in Appendix 1 & 2 of this report, is considered suitable for the proposed shop top mixed use development subject to:

4. *All bonded asbestos containing material including fragments located on the ground surface around the perimeter of the building is to be removed by a Safework NSW - licensed contractor and transported to an approved facility for disposal.*

Based on the information presented, in relation to potential site contamination associated with the current and former land use, no further investigation or remediation is required for the site of the proposed shop-top mixed use development to be located Lot 7 DP 14089, 17 McDonald Place, Evans Head, as shown in Appendix 1 & 2 of this report.

4.4.7 SEPP (Transport and Infrastructure) 2021

Chapter 2 – Infrastructure

Division 5 – Electricity Transmission or Distribution

Section 2.48 – Determination of development applications – other development

This Section states:

(1) This section applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—

- (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
- (b) development carried out—*
 - (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
 - (ii) immediately adjacent to an electricity substation, or*
 - (iii) within 5m of an exposed overhead electricity power line,*
- (c) installation of a swimming pool any part of which is—*
 - (i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or*
 - (ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,*

(d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.

Comment: As illustrated below, the site is currently serviced by an overhead power connection, with two existing streetlights located along the McDonald Place and Elm Street frontages. It is likely the proposed development will require alterations to the existing electricity connections, and changes to the existing streetlights. In such circumstances, it is assumed that the application will be referred to Essential Energy

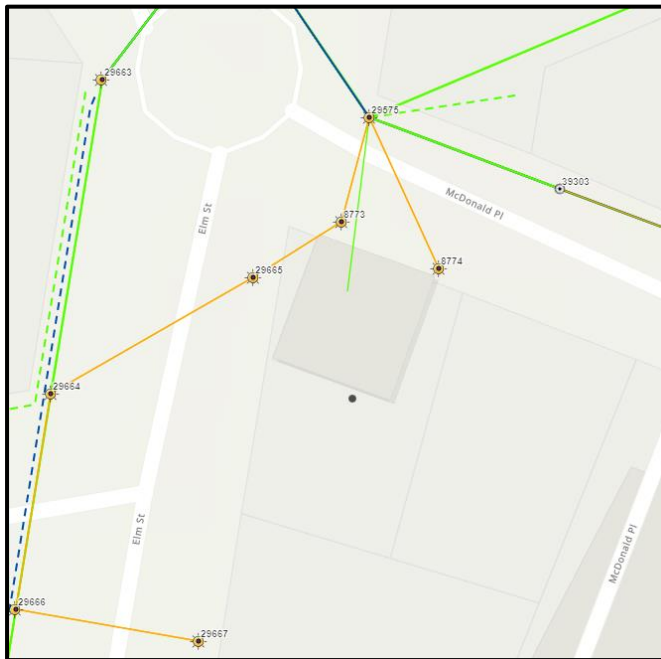


Plate 15: Essential Energy Network

All works will be completed in accordance with applicable Australian Standards and Essential Energy requirements.

Division 17 – Roads & Traffic

Section 2.122 – Traffic-generation development

Comment: The current application does not meet the triggers requiring referral of the application to the NSW RMS.

4.4.8 SEPP (Industry and Employment) 2021

Chapter 3 – Advertising and Signage

Comment: Chapter 3 of the Industry & Employment SEPP applies to all signage, which can be displayed with or without development consent, under an Environmental Planning Instrument and is visible from any public place or public reserve. The Chapter's aims and objectives seek to ensure signage is compatible with the desired amenity and visual character of an area.

The current proposal seeks consent for two (2) signage panels located on the western elevation of the ground floor commercial premises. The following table provides an assessment of the proposed signage against Schedule 5 of the Industry & Employment SEPP.

Table 18: Schedule 5 of Industry & Employment SEPP

Assessment Criteria	Comment
<p><u>Character of the Area</u></p> <ul style="list-style-type: none"> Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? Is the proposal consistent with a particular theme for outdoor advertising in the area or locality? 	<p>The proposed signage is compatible with the existing and future desired character of the area in the following ways:</p> <ul style="list-style-type: none"> The scale and location of the proposed signage has been designed to provide an integrated and professional signage outcome for the site. The signage will be directly compatible with the architectural form of the building. The signage is proportionate to the building façade on which it is proposed to be placed.
<p><u>Special Areas</u></p> <ul style="list-style-type: none"> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas? 	<ul style="list-style-type: none"> The site is not located in a 'special precinct'. The proposed signage is located on the western elevation and is orientated towards to the Elm Street road frontage.
<p><u>Views and Vistas</u></p> <ul style="list-style-type: none"> Does the proposal obscure or compromise important views? Does the proposal dominate the skyline and reduce the quality of vistas? Does the proposal respect the viewing rights of other advertisers? 	<ul style="list-style-type: none"> The proposed signage is located on the western façade of the ground floor of the proposed development and therefore do not compromise or obscure any important views. The proposal does not affect the viewing rights of other advertisers.
<p><u>Streetscape. Setting and Landscape</u></p> <ul style="list-style-type: none"> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? Does the proposal contribute to the visual interest of the streetscape, setting or landscape? Does the proposal reduce clutter by rationalising and simplifying existing advertising? Does the proposal screen unsightliness? Does the proposal protrude above buildings, structures or tree canopies in the area or locality? 	<ul style="list-style-type: none"> The signage is appropriately scaled relative to the size of the proposed building. The signage relates to the proposed commercial premise only and is not considered to generate unnecessary clutter.
<p><u>Site and Building</u></p> <ul style="list-style-type: none"> Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? Does the proposal respect important features of the site or building, or both? Does the proposal show innovation and imagination in its relationship to the site or building, or both? 	<ul style="list-style-type: none"> The dimensions of the proposed signage panels are appropriate given the size and overall scale of the building. The proposed signage has been appropriately positioned and proportioned to identify the principal entry points. The proposal currently involves signage panels only. The panels will be utilised for the future café business to provide business identification signage.

<p><u>Associated Devices and Logos with Advertisements and Advertising Structures</u></p> <ul style="list-style-type: none"> • Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed? 	<ul style="list-style-type: none"> • Any lighting and required safety devices will be concealed within the structure of the signs themselves.
<p><u>Illumination</u></p> <ul style="list-style-type: none"> • Would illumination result in unacceptable glare? • Would illumination affect safety for pedestrians, vehicles or aircraft? • Would illumination detract from the amenity of any residence or other form of accommodation? • Can the intensity of the illumination be adjusted, if necessary? • Is the illumination subject to a curfew? 	<ul style="list-style-type: none"> • The signage is not proposed to include illumination.
<p><u>Safety</u></p> <ul style="list-style-type: none"> • Would the proposal reduce the safety for any public road? • Would the proposal reduce the safety for pedestrians or bicyclists? • Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas? 	<ul style="list-style-type: none"> • The proposal will not reduce the safety of users of adjacent roads, including cyclists and pedestrians, beyond what is existing. Illumination will be provided in accordance with the relevant Australian Standards.

4.5 Noise Impact Assessment

A Noise Impact Assessment (NIA) has been prepared by *Ingen Consulting Pty Ltd* and is provided at **Attachment 5**. As detailed within the NIA, the preferred method for determining Rating Background Levels is through a 7-day unattended background noise survey. Due to there being no safe and secure location to leave the equipment for that duration, in consultation with Council staff, it was decided to carry out attended noise testing to determine background levels. Attended background testing was carried out during the day on Monday the 11th of September 2023, and during the evening and at night on Thursday the 14th of September.

The NIA determined:

The noise impact of the proposed development results in sound pressure levels at adjacent receivers that are compliant with the relevant Project Noise Trigger Level, provided conditions outlined in this report are followed. This includes that the Al-fresco should be limited to McDonald Place – no al-fresco on Elm Street footpath

The night time use of the adjacent RSL club and the use of the Return and Earn facility in the RSL car park are unlikely to generate offensive noise at the apartments included in this proposed development.

Based on our assessment, we recommend this proposal is approved from an acoustic perspective.

4.6 Traffic Impact Assessment

A Traffic Impact Assessment (TIA) has been prepared by *Ingen Consulting Pty Ltd* and is provided at **Attachment 6**. The TIA determined:

We provide the following conclusions and recommendations:

- *Due to its existing conditions, the road network surrounding the subject site can handle a significant volume of traffic as explained in chapter 2.*
- *The net traffic increase as a result of the development is demonstrated in chapter 3.1.*
- *The required number of car park will can be achieved as explained in section 3.2. The Proposed off-street PWD car parking spaces must have share zone complying with AS 2890.6.*
- *Off-street SRV is proposed as explained in section 3.4.*
- *The proposed bicycle spaces must comply with AS2890.3.*
- *The vehicle access/exit location and width comply with AS2890.1 as explained in section 3.6.*
- *Enough sight distance is available for the proposed exit point in McDonald Place, refer to section 3.7.*
- *Pedestrian safety can be achieved with appropriate signage as explained in 3.8.*
- *Adequate internal circulation is provided in accordance with AS 2890.1 as explained in section 3.9.*
- *Formalisation of line marking in Elm Street is part of this proposed development and can be used to offset the shortfall number of off-street parking. Either 45° or 30° angle parking can be used, preferable 45° angle parking. Refer to section 3.10.*

Based on this assessment we recommend that the proposed development be approved from a traffic engineering perspective.

4.7 National Construction Code

Comment: **Attachment 18** contains the Section J assessment for the commercial components of the building.

4.8 Biodiversity Conservation Act 2016

As shown in **Plate 16** below, the subject site is not mapped on the Biodiversity Values Map.



Plate 16: Biodiversity Values Map

In accordance with the Biodiversity Conservation Act 2016, the subject site is provided a clearing threshold of 0.25 hectares. As detailed within the Arborist Report prepared by *Modern Tree Consultants* provided at **Attachment 13**, the proposed development requires clearing of six (6) trees, with a total area of 344m², being well below the clearing threshold to trigger further assessment.

An Arborist Report has been undertaken with respect to the six (6) existing trees at the site, four (4) of which are native, and two (2) are exotic species. The arborist report determined the assessed trees hold low retention value, being mature trees with poor to fair vigour and condition. The growth habit and biological functions of trees 1, 2, 3 and 6 are compromised with varying degrees of dieback, low percentage live crown ratios. As detailed within the arborist report, all trees have been recommended for removal.

As detailed above, the removal of the six (6) trees do not trigger the requirements of the Biodiversity Offset Scheme in terms of the clearing threshold, or being located on the Biodiversity Values Map. The existing trees are located within an urban area, and are highly degraded as detailed within the Arborist Report prepared by *Modern Tree Consultants*. In this regard, the removal of the existing trees is not considered to result in any adverse impacts on threatened species or their habitat. It is therefore not considered the proposal requires any further consideration of the Biodiversity Conservation Act 2016, and a Biodiversity Development Assessment Report is not triggered.

4.9 Section 4.15 Evaluation

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of this application.

Table 19: Section 4.15 Matters for Consideration

S4.15 Matters for consideration	Response
(a) the provisions of: (i) any environmental planning instrument;	All relevant provisions of the Richmond Valley Local Environmental Plan 2012 have been considered within this report. The applicable State Environmental Planning Policies have also been considered.
(ii) Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved);	No draft EPI is considered to adversely impact the application.
(iii) any development control plan;	The relevant provisions of the Richmond Valley DCP are addressed within Section 4.3 of this report.
(iiia) and planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4;	The subject land is not known to be subject to a planning agreement.
(iv) the regulations (to the extent that they prescribe matters for the purpose of this paragraph)	
1 Demolition of Structures	The proposal involves the demolition of the existing commercial building at the site.
2 Land subject to a Subdivision Order	N/A
3 Dark Sky Planning Guideline	N/A
4 & 5 Application for a manor house or multi dwelling housing (terraces).	N/A
6 Residential building in Penrith City Centre	N/A
7	N/A
7A Repealed	N/A
8	N/A
(v) (Repealed)	
(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality;	

S4.15 Matters for consideration	Response
Context and setting	<p>The subject land is zoned R1 General Residential however is considered a unique site surrounded by a mixture of commercial, recreational and residential land uses. The proposal relates to the construction of a new shop top housing development, which provides an architectural designed structure on a significantly prominent site within Evans Head. The development is consistent with the requirements of the apartment design guide, and whilst higher in density than immediately surrounding residential properties, is considered to be consistent with the general development pattern in the locality.</p> <p>The application is supported by a number of technical reports which demonstrate the proposed development is able to be undertaken in accordance with the relevant legislation, policies and standards.</p>
Access, transport and traffic	<p>The proposal is consistent with the scale of development foreshadowed in Council's planning policies and is not expected to adversely impact on the function of the local road network. A Traffic Impact Assessment has been prepared by <i>Ingen Consulting Pty Ltd</i> and is provided at Attachment 6. The TIA determined the proposal is suitable for the location in terms of traffic engineering.</p>
Utilities	<p>All necessary services will be connected to the proposed shop top housing development as discussed in Section 3 of this report.</p>
Heritage	<p>The site is not identified on Schedule 5 of the RVLEP2012 as containing an Item of Environmental Heritage.</p>
Flora and fauna	<p>The proposal involves removal of existing landscape vegetation at the site. An Arborist Report has been prepared by <i>Modern Tree Consultants</i>, with further consideration provided at Section 4.8 of this report.</p>
Natural hazards	<p>The subject site is mapped as containing Class 3 Acid Sulfate Soils. A Preliminary Acid Sulfate Soil Investigation has been prepared by <i>HMC Environmental Consulting Pty Ltd</i> and is provided at Attachment 10. Further</p>

S4.15 Matters for consideration	Response
	consideration is provided at Section 4.2.3.
Site design and internal design	As demonstrated within this report, the proposed development has been designed having regard to the surrounding development, architectural character of the existing Evans Head locality, requirements of the RVLEP, DCP and Apartment Design Guide. In this regard, the proposed is considered suitable for the area, and provides an architecturally designed building within a prominent site of Evans Head.
(c) The suitability of the site for the development:	
Does the proposal fit within the locality?	The proposal for the demolition of an existing commercial building and construction of shop top housing development is consistent with Councils planning framework. Furthermore, the design is compatible with existing and likely future developments within the surrounding locality.
Site attributes conducive to the development?	The subject site is a prominent site within the Evans Head locality. The site is not mapped as containing flood prone or bushfire prone land, and provides vehicle and pedestrian connection to the wider Evans Head locality. The subject site is mapped as containing Class 3 acid sulfate soils, with a Preliminary Acid Sulfate Soil Investigation provided at Attachment 10 . The proposed development has been designed to respond to the surrounding existing land uses, and architectural character of the Evans Head locality. The application is supported by a number of technical reports which demonstrate the proposal is able to be undertaken within minimal impact on the surrounding locality.
(d) Any submissions made in accordance with this Act or the regulations;	The proposal is compliant with the relevant legislation, as addressed within this report. Council will consider any submissions to the application as part of the assessment process.
(e) The public interest.	This project has been designed to be compatible with the existing and desired future amenity of the locality and will support the use of the land for residential and commercial purposes. In addition, the development is

S4.15 Matters for consideration	Response
	largely consistent with the development controls for the locality. The application is supported by a range of technical reports which demonstrate the proposals compliance with the relevant legislation, policies and standards. As such, the proposal is considered to be in the public interest.

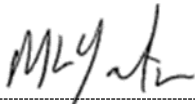
5. Conclusion

This Town Planning report when read in conjunction with the accompanying documents successfully addresses the issues relevant to Council's assessment of this application.

In consideration of the issues and information provided, approval of the Development Application is warranted in the manner prepared, subject to the application of reasonable and relevant conditions.

The grounds for this approval are summarised below:

- The application accords with the relevant provisions of the Richmond Valley Local Environmental Plan 2012. A Clause 4.6 variation is provided in relation to the maximum building height which is considered reasonable and justified in the circumstances of the case;
- The proposal adequately addresses the relevant provisions of the Richmond Valley Development Control Plan; and
- The proposal adequately addresses the relevant provisions of State Environmental Planning Policy (Housing) 2021 and associated Apartment Design Guide.
- The proposal has been designed to accord with the building form and scale of surrounding development in the area.



MEGAN YATES

Town Planner. BRUP.



DAMIAN CHAPELLE

Town Planner. BTP, CPP