

# **STATEMENT OF ENVIRONMENTAL EFFECTS**

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**PROPOSED SHOP TOP HOUSING INCLUDING  
TWO FLAT DWELLINGS AND TWO RETAIL  
PREMISES, PROPOSED MOTEL BUILDING  
INCLUDING SEVEN UNITS, DEMOLITION OF  
EXISTING STRUCTURES AND STRATA TITLE  
SUBDIVISION (11 LOTS)**

**AT 37 OGILVIE STREET, DENMAN NSW 2328**

**(LOT 102 DP1178581)**



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## EXECUTIVE SUMMARY

Perception Planning Pty Ltd has been engaged by Vanessa Green (the client) to prepare a Statement of Environmental Effects (SEE) for construction of shop top housing including two flat dwellings, two retail premises and proposed motel building including seven units and lot strata title subdivision (11 lots) at 37 Ogilvie Street, Denman NSW 2328 legally identified as Lot 102 of DP1178581 ('the site'). The characteristics of the development include:

1. Shop Top Housing forming:

- **Two Shops – located on the ground floor** with frontage to Ogilvie Street both comprising separate shop floor space, storeroom, kitchen and bathroom.

- Shop 1 floor area - 33m<sup>2</sup>

- Shop 2 floor area - 34.2m<sup>2</sup>

The use of each shop will be commercial enterprises servicing the needs of the local Denman community and tourist population.

- **Two Flat Dwellings** – first floor flats including open plan kitchen, living room and bedroom, separate bathroom. Floor area 39.62m<sup>2</sup>

2. Seven Unit Motel:

- **Unit 1 to Unit 3** – adjoining units with frontage to Paxton Street, ground floor units including open plan kitchen, living room and bedroom, separate bathroom. Floor area of units are 32.2m<sup>2</sup>
- **Unit 4 to Unit 6** – adjoining first level units facing Paxton Street, including open plan kitchen, living room and bedroom, separate bathroom. Floor area of units are 32.2m<sup>2</sup>
- **Unit 7** – ground floor unit with frontage to Paxton Street including open plan kitchen, living room and bedroom, separate accessible bathroom. Floor area of unit is 33.7m<sup>2</sup>.

3. Strata title subdivision:

- **11 lot strata subdivision** - Proposal of a strata title subdivision with associated common property. Draft strata subdivision plan outlined in the architectural plan set provided in **APPENDIX 6**.

4. Shared laundry and plant room and separate storage adjoining Shop 2 servicing the motel residency.

5. Carparking including nine carparks, one additional disabled carpark and one shared space.

6. Demolition of existing structures on site and proposed landscaping.

No significant vegetation is required to be removed as a result of the proposed development.

The Architectural Plans are provided at **(APPENDIX 6)**.

The key factors as to why the proposed development should be considered acceptable includes;

- The site is appropriately zoned RU5 Village under Muswellbrook Local Environmental Plan (LEP) 2009, which facilitates the shop top housing and tourist and motel accommodation proposed for this development;
- The development will have a positive social impact through the on-going implementation of the Plan of Management associated with the site;
- The proposed development will have a positive economic and social impact on the surrounding community by creating short term construction jobs and contributes to local diversity of shop, housing and tourist accommodation;
- No adverse impact on the existing character or amenity of the area will result;
- The development can suitably manage or mitigate environmental impacts; and
- Development of the land achieves the highest and best use of the site which directly benefits the community through providing additional saleable units to meet the housing needs of the growing community population.

Perception Planning Pty Ltd attended a pre-lodgement meeting with Council on 15 December 2021. Those discussions have guided the substantial changes to the design since that meeting and reflected within this application.

The proposal has been analysed in terms of all relevant planning frameworks to identify and address the key planning requirements and site constraints. These issues have been addressed throughout the SEE to ensure optimal consideration has been afforded to the development of the site.

This proposal presents the best opportunity for existing site to live up to its potential, a development to enhance the aesthetic of Denman township and provide new commercial enterprise and tourist accommodation.



## TERMS AND ABBREVIATIONS

AHIMS	Aboriginal Heritage Information Management System
DA	Development Application
DCP	Development Control Plan
EP&A Act	Environmental Planning & Assessment Act 1979
EPI	Environmental Planning Instrument
LEP	Local Environmental Plan
LGA	Local Government Area
SEPP	State Environmental Planning Policy
SEE	Statement of Environmental Effects
SoHI	Statement of Heritage Impact

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## PLANS AND SUPPORTING DOCUMENTATION

This SEE is supported by the following plans and documentation:

Appendix	Document	Prepared by
1	EP&A Regulation Compliance Table	Perception Planning
2	DCP Compliance Table	Perception Planning
3	AHIMs Search Results	Perception Planning
4	Before You Dig Search Results	BYD Australia
6	Architectural Plans	CAD Design and Draft Pty Ltd
7	BASIX Certificate	Evergreen Energy Consultants
8	Landscape Plan	Green Space Planning Co
9	Stormwater Management Plan	DRB Consulting Engineers
10	Waste Management Plan	Perception Planning
11	Access Report	Purple apple access
12	Traffic Report	Amber Traffic and Transportation Direction
13	Structural Building Report	DRB Consulting Engineers
14	Building Cost Estimate	MNA Construction Pty Ltd
15	Statement of Heritage Impact	Architelle Architecture and Interiors
16	Certificate of Title	Dye and Durham Terrain

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# 1 BACKGROUND

## 1.1 PURPOSE

The purpose of this Statement of Environmental Effects (SEE) is to assist Council in their assessment and determination and to assist the community in understanding the proposed development.

This SEE has been prepared in coordination with Vanessa Green (**‘the client’**) and other sub-consultants to demonstrate the relevant matters associated within the proposed development. The SEE 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, regulation, and other requirements. The SEE examines the applicable site attributes and the specifics of the development proposal that are appropriate to the development application stage. The SEE seeks to provide all the relevant data to give a cogent level of certainty to the consent authority that the proposal has a positive impact on the immediate area and the wider surrounds.

This SEE has been prepared in accordance with best practice principles, applicable aspects of the Development Assessment Framework and the Department of Planning and Infrastructure’s (now the Department of Planning, Infrastructure and Environment) guide to the *Environmental Planning and Assessment Act* (EP&A Act) 1979 (s4.15).

The objectives of this SEE are as follows:

- To provide a description of the site, existing development, and the surrounding locality;
- To provide a description of the proposal and the key issues;
- To provide a discussion of the relevant Environmental Planning Instruments (EPI)s; and
- To provide an assessment of the potential environmental impacts, having regard to the matters for consideration pursuant to the EP&A Act (s4.15) and other State, Regional and Local environmental planning policies, and guidelines.

## 1.2 SITE DETAILS

<b>Property Address</b>	37 Ogilvie Street, Denman, NSW, 2328
<b>Lot and DP</b>	Lot 102 of DP1178581
<b>Current Use</b>	Residential dwelling, boarded and dilapidated shop front and shed
<b>Zoning</b>	RU5 – Village
<b>Size</b>	745.8m <sup>2</sup>
<b>Site Constraints</b>	Height of Building – 8.5 m Floor Space Ratio – 0.5:1 Minimum lot size – 750 m <sup>2</sup> . Heritage - Denman Residential Heritage Conservation Area Significance: Local
<b>Owner</b>	Owner's consent has been provided on the Application Form for the DA.
<b>DP and 88B Instrument</b>	Pursuant to the Certificate of Title and easement to drain sewerage 3m wide is located at the south of the lot. Noting nothing on the DP or 88B instrument prohibits the proposed development.

## 1.3 SITE DESCRIPTION

The site is located at 37 Ogilvie Street, Denman NSW 2328 (**'the site'**) and has a total area of 745.8m<sup>2</sup> (**FIGURE 1**). The site particulars are summarised in the table above, with site constraints obtained from the NSW Spatial Viewer. The site is zoned RU5 – Village pursuant to the Muswellbrook LEP and associated maps.

Access to the site is direct from Ogilvie Street to the north and Paxton Street to the east. The allotment is rectangular in shape and measures approximately 745.8m<sup>2</sup> in size. The site is currently occupied by a weatherboard residential dwelling, vacant weatherboard shop and iron shed at the rear of the site. Structural assessment of the existing buildings on site determined that the dereliction of the structures is extensive to internal and external structural elements. This assessment concluded that demolition is the most appropriate course of action (**APPENDIX 13**). Surrounding development is primarily low-density forms of residential development, however infill development is also identified surrounding the site. The closest intersection is Ogilvie Street and Paxton Street, with the subject site situated on the corner of these two streets. Ogilvie and Paxton Street are both identified as a Local Roads.

The site is located in the central area of Denman and is well connected to various business, residential and recreational precincts including the Denman Golf Course and Denman Park to the west of the site. Ogilvie Street presents a local centre that consists of a range of establishments, including both large and smaller specialty shops and facilities. It caters to various needs, offering amenities such as post office, supermarket, pharmacy and health practitioners, convenience stores, restaurants, and recreational opportunities.

Vegetation within the sites boundaries is limited to managed lawns and no significant vegetation.

A Before You Dig search conducted on 15 May 2023 identifies that the site has access to reticulated water and sewer. Telecommunications including NBN and electricity are available to the site. Refer to **(APPENDIX 4)** for search results.



**Figure 1 – Locality Map (Source: Near Maps 2023)**





## 1.4 CURRENT USE AND EXISTING DEVELOPMENT DETERMINATIONS

The site has existing residential and commercial development; however the Muswellbrook Development Application Tracker website does not identify any recent approvals for the site. As such it is anticipated that approvals for the existing structures on site appear to precede Council record.

No known compliance matters exist over the site which would pose issues for the proposed development.

## 2 DESCRIPTION OF THE DEVELOPMENT

### 2.1 PROPOSED DEVELOPMENT

The objective of the proposed development is to obtain development consent for construction of shop top housing including two flat dwellings, two retail premises and proposed motel building including seven units and lot strata title subdivision (11 lots) at 37 Ogilvie Street, Denman NSW 2328. This development is enabled through Muswellbrook Local Environmental Plan (MLEP) 2009 and Muswellbrook Development Control Plan 2013 (MDCP). The characteristics of the development include:

1. Shop Top Housing forming:

- **Two Shops – located on the ground floor** with frontage to Ogilvie Street both comprising separate shop floor space, storeroom, kitchen and bathroom.
  - Shop 1 floor area - 33m<sup>2</sup>
  - Shop 2 floor area - 34.2m<sup>2</sup>
- **Two Flat Dwellings – first floor flats** including open plan kitchen, living room and bedroom, separate bathroom. Floor area 39.62m<sup>2</sup>

2. Seven Unit Motel:

- **Unit 1 to Unit 3 – adjoining units** with frontage to Paxton Street, ground floor units including open plan kitchen, living room and bedroom, separate bathroom. Floor area of units are 32.2m<sup>2</sup>
- **Unit 4 to Unit 6 – adjoining first level units** facing Paxton Street, including open plan kitchen, living room and bedroom, separate bathroom. Floor area of units are 32.2m<sup>2</sup>
- **Unit 7 – ground floor unit** with frontage to Paxton Street including open plan kitchen, living room and bedroom, separate accessible bathroom. Floor area

of unit is 33.7m<sup>2</sup>.

3. Strata title subdivision:

- **11 lot strata subdivision** - Proposal of a strata title subdivision with associated common property. Draft strata subdivision plan outlined in the architectural plan set provided in **APPENDIX 6**.
4. Shared laundry, plant room and separate storage adjoining Shop 2 servicing the motel residency.
5. Carparking including nine carparks, one additional disabled carpark and one shared space.
6. Demolition of existing structures on site and proposed landscaping.

No significant vegetation is required to be removed as a result of the proposed development.

**Figures 2 – 4** demonstrate the proposed floor plan of the proposed development. Detailed Architectural Plans are provided at **(APPENDIX 6)**.

The proposed development will provide a well-coordinated and sustainable development with no foreseeable impact on the character of the surrounding area. This DA is consistent with the planning framework and has the potential to deliver triple-bottom line sustainability outcomes as envisaged by Muswellbrook Council.

Following a meticulous and comprehensive evaluation of the proposed project, it is confidently highlighted that there are no foreseen detrimental environmental effects that could potentially arise from this proposal. This thorough analysis assessment instills a high degree of confidence in the positive environmental impact and sustainability of the envisioned project. This encouraging outcome underscores the project's alignment with the commitment to safeguard and enhance the surrounding ecosystem, while also contributing substantially to the overall well-being of the community.

Figure 2 – Proposed ground floor plans (Source: CAD Design and Draft Pty Ltd, 2023)

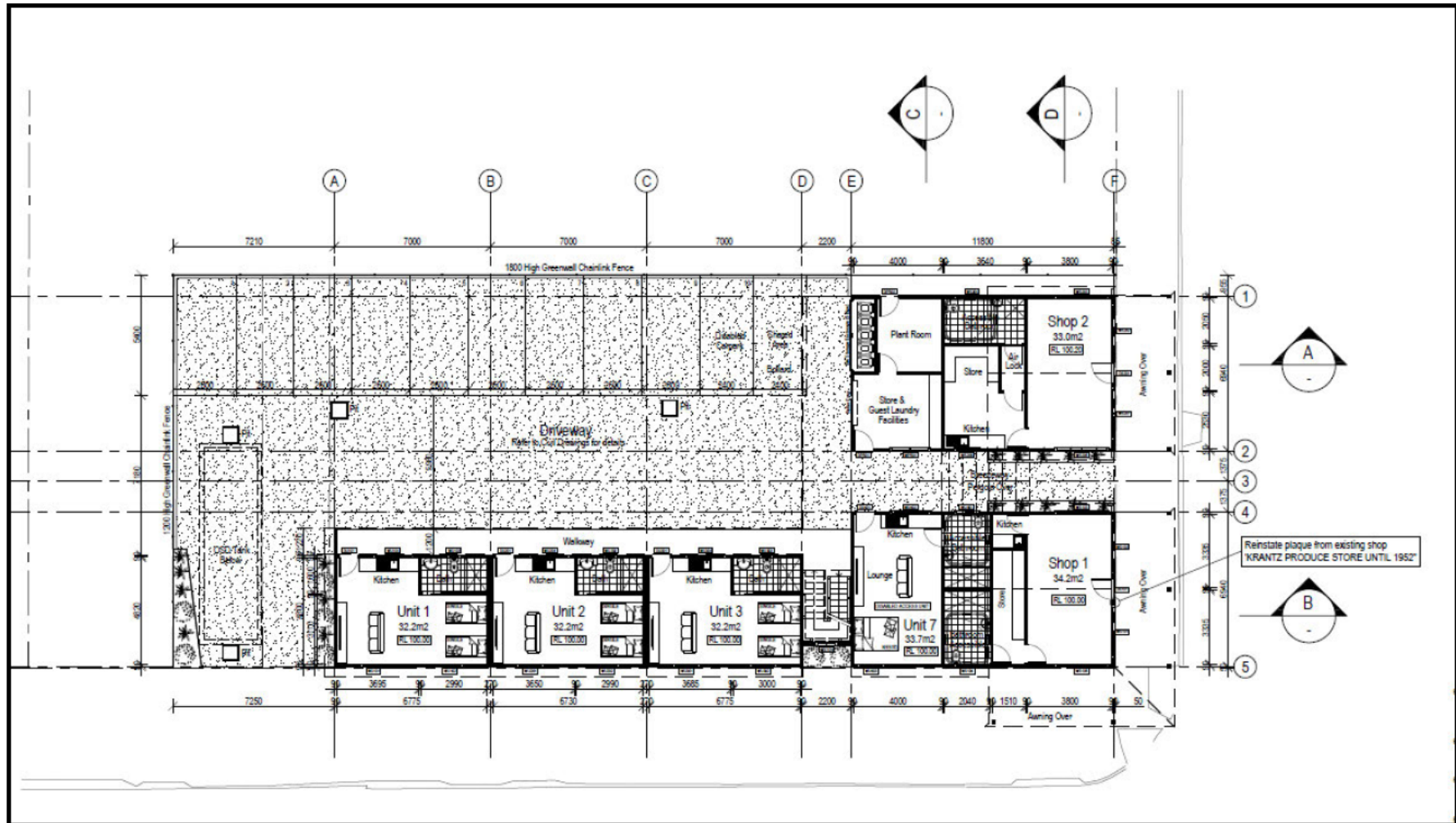


Figure 3 – Proposed first floor plan (Source: CAD Design and Draft Pty Ltd, 2023)

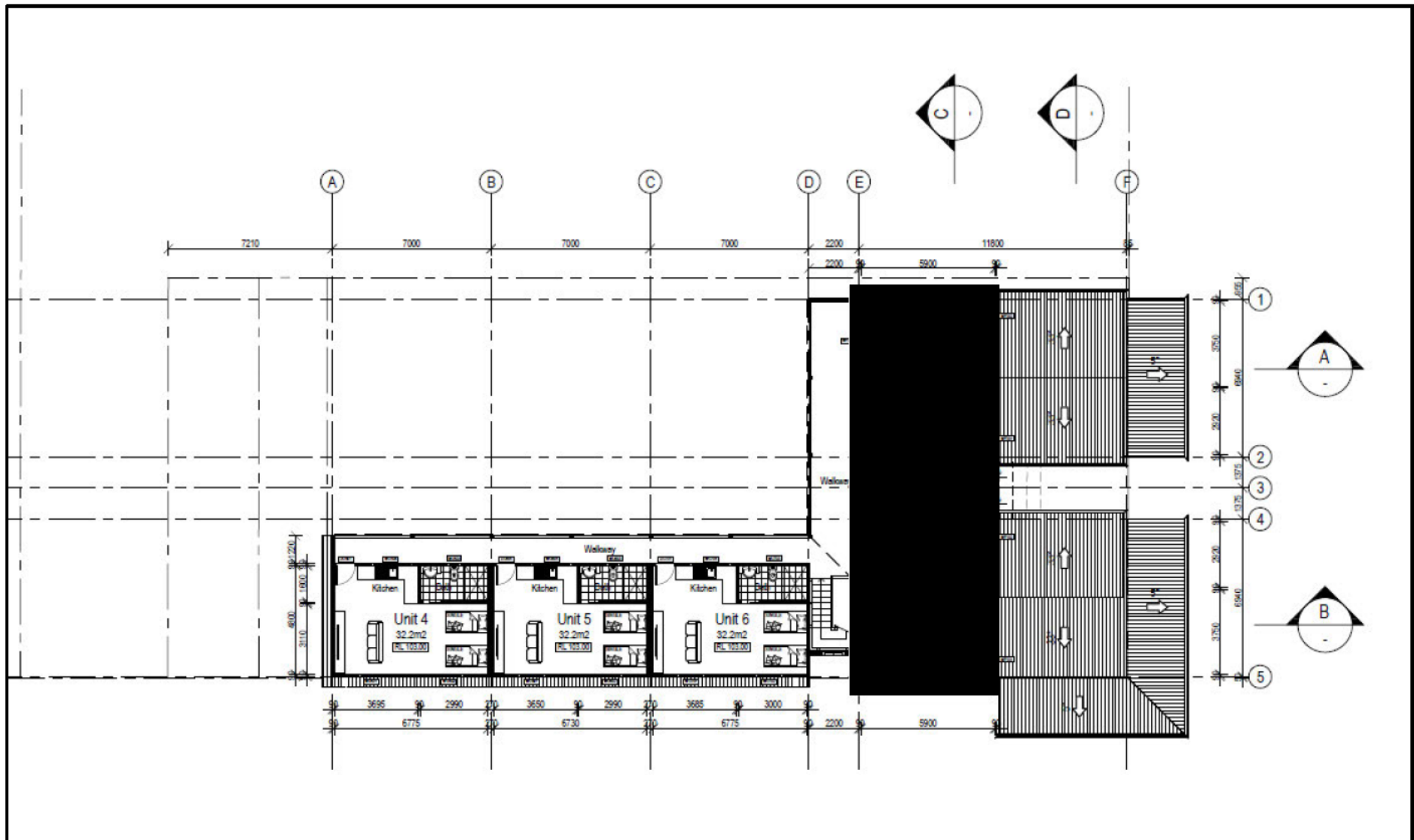
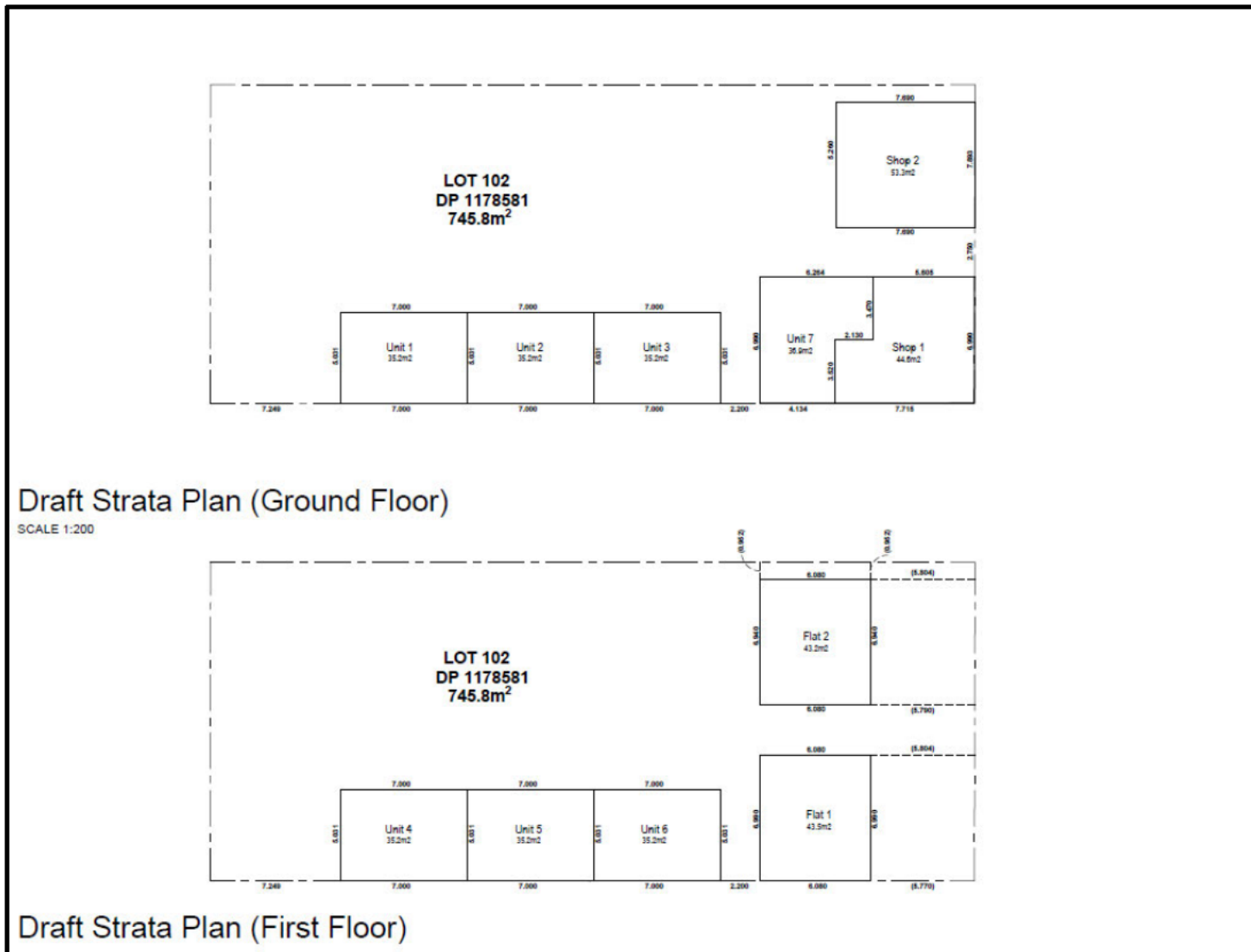




Figure 4 - Proposed 11 lot strata subdivision plan (Source: CAD Design and Draft Pty Ltd, 2023)



## 3 PLANNING CONTROLS

### 3.1 ACTS

All NSW Acts have been considered in the preparation of this SoEE. The following Acts are considered relevant to the proposed development and discussed in further detail below.

- *Environmental Planning and Assessment Act*
- *Water Management Act 2000*
- *Hunter Water Act 1991*
- *Rural Fires Act 1997*
- *Biodiversity Conservation Act 2016*
- *Strata Schemes Development Act 2015*

#### 3.1.2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The Environmental Planning and Assessment Act 1979 (EP&A Act) is the principal planning and development legislation in NSW and is applicable to the proposed development. Section 4.15 of the EP&A Act specifies the matters which a consent authority must consider when determining a DA. The relevant matters for consideration under Section 4.15 are addressed in further detail in separate sections of this SEE below.

##### **Section 4.46 What is integrated development?**

Integrated development is development (not being State significant development or complying development) that, in order for it to be carried out, requires development consent and one or more of the approvals listed within **Table 1** below. The proposed development is not classified as integrated development.

##### **Section 7.11 Development Contributions**

Development contributions will be required to be calculated or charged in accordance with the Muswellbrook Local Infrastructure Contributions Plan (CP).

#### 3.1.3 WATER MANAGEMENT ACT 2000 (WM ACT)

The subject site is not located within a Drinking Water Catchment. No physical works will take place within 40m of any body of water, nor will the development have a lasting impact on any watercourses or waterbodies on site.

#### 3.1.4 HUNTER WATER ACT 1991 (HW ACT)

The subject site is not located within a Drinking Water Catchment. To this effect, a referral to HW is not required under Section 51 of the HW Act. Stamped plans and Formal Notice of

Hunter Water stamped plans and Notice of Formal Requirements in accordance with Section 49 of the HW Act are provided as **(ATTACHMENT 5)** to this application.

### 3.1.5 RURAL FIRES ACT 1997

The property is not identified as bushfire prone land. To this effect the site does not require any upgrades to provide an adequate level of protection to life and property on site.

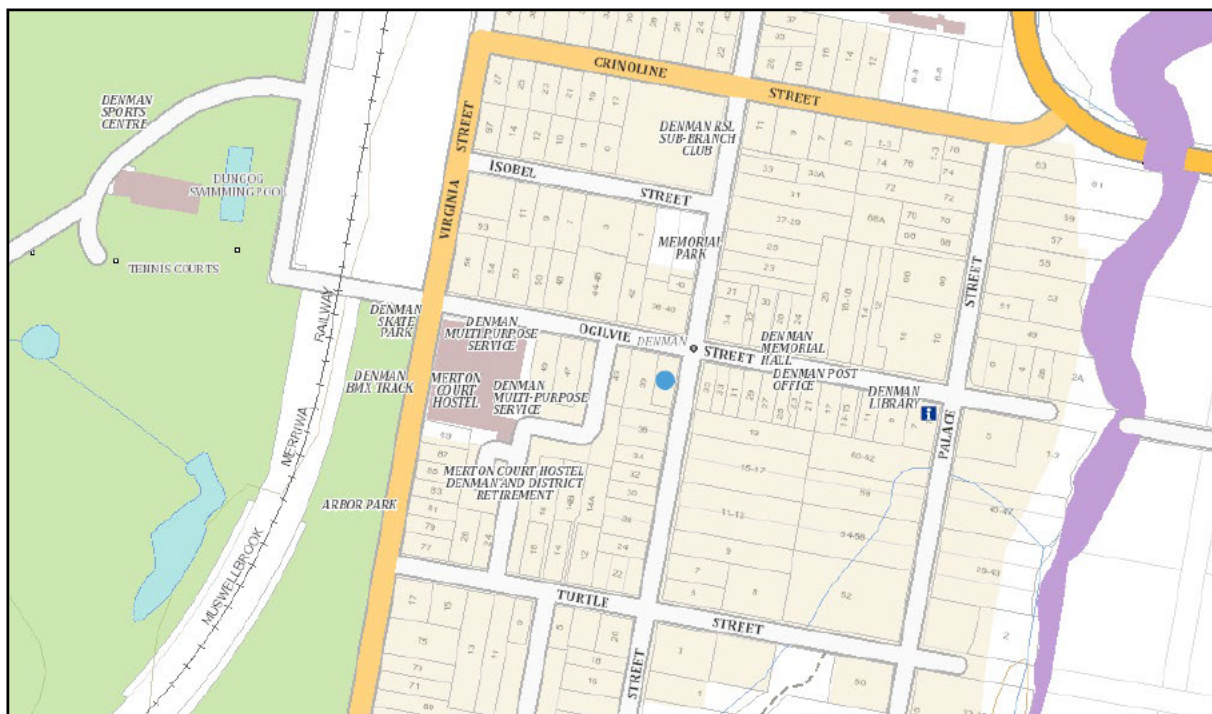
### 3.1.6 BIODIVERSITY CONSERVATION ACT 2016

The purpose of this Act is to maintain a healthy, productive and resilient environment for the greatest well-being of the community, now and into the future, consistent with the principles of ecologically sustainable development.

Applicants are to supply evidence relating to the triggers for the Biodiversity Offsets Scheme (BOS) Threshold and the test of significance when submitting a development application to the consent authority.

The subject site does not contain area identified on the Biodiversity Values Map as land with high biodiversity value and sensitive to impacts from development and clearing as seen in **Figure 5**. The proposal requires no removal of vegetation within an area mapped as biodiversity value. Accordingly, no further assessment of the proposal with regard to the Biodiversity Conservation Act is required.

**Figure 5 – Biodiversity Values Map (Source: Biodiversity Values Map and Threshold Tool, 2023)**



### 3.1.6 ROADS ACT 1993

Ogilvie Street and Paxton Street are identified as local roads under the authority of Muswellbrook Shire Council. Any new driveway crossover associated with the development will be subject to approval under *Section 138 of the Roads Act 1993*. The driveway access to the subject site will be constructed to the Australian Standards and Councils requirements.

### 3.1.7 STRATA SCHEMES DEVELOPMENT ACT 2015

The objectives of the Strata Schemes Development Act 2015 is to provide for:

- (a) the subdivision of land, including buildings, into cubic spaces to create freehold strata schemes and leasehold strata schemes, and
- (b) the way in which lots and common property in strata schemes may be dealt with, and
- (c) the variation, termination and renewal of strata schemes.

Pursuant to Clause 9(1)(a) Lot 102 DP 1178581 may be subdivided into lots and common property, by the registration of a plan as a strata plan as the lot is considered land to which the Act applies being land including the whole of a building and consisting of one current plan lot. The strata plan contained in **APPENDIX 6** meets the general requirements listed within Clause 10. Accordingly, the development proposal is enabled through the Strata Schemes Development Act 2015.



**Table 2 - Integrated development**

Integrated development	Proposed Development	
<b>Fisheries Management Act 1994</b>	<ul style="list-style-type: none"> <li>▪ s 144</li> <li>▪ s 201</li> <li>▪ s 205</li> <li>▪ s 219</li> </ul>	N/A
<b>Heritage Act 1977</b>	<ul style="list-style-type: none"> <li>▪ s 58</li> </ul>	<p>N/A – Development is not integrated development in respect of an Aboriginal heritage impact permit required under Part 6 of the National Parks and Wildlife Act 1974 unless –</p> <ul style="list-style-type: none"> <li>a) an Aboriginal object referred to in that Part is known, immediately before the development application is made, to exist on the land to which the development application applies, or</li> <li>b) the land to which the development application applies is an Aboriginal place within the meaning of that Act immediately before the development application is made</li> </ul> <p>An AHIMs Search has been carried out for the site and is provided at <b>(APPENDIX 3)</b> The AHIMs Search identifies that no Aboriginal sites or places have been declared on or near the site (within 50m). Should any Aboriginal objects be uncovered during works, all works will cease in that location and contact shall be made with the appropriate person.</p>
<b>Coal Mine Subsidence Compensation Act 2017</b>	<ul style="list-style-type: none"> <li>▪ s 22</li> </ul>	N/A – The site is not identified as being within a mine subsidence area.
<b>Mining Act 1992</b>	<ul style="list-style-type: none"> <li>▪ s 63, 64</li> </ul>	N/A

<b>National Parks &amp; Wildlife Act 1974 (as amended)</b>	<ul style="list-style-type: none"> <li>▪ s 90</li> </ul>	N/A
<b>Protection of the Environment Operations Act 1997</b>	<ul style="list-style-type: none"> <li>▪ ss 43(a), 47, 55</li> <li>▪ ss 43(b), 48, 55</li> <li>▪ ss 43(d), 55, 122</li> </ul>	N/A
<b>Roads Act 1993</b>	<ul style="list-style-type: none"> <li>▪ s 138</li> </ul>	N/A
<b>Rural Fires Act 1997</b>	<ul style="list-style-type: none"> <li>▪ s 100B</li> </ul>	N/A – The subject site is not identified as bushfire prone land.
<b>Water Management Act 2000</b>	<ul style="list-style-type: none"> <li>▪ ss 89, 90, 91</li> </ul>	N/A – The development will not occur within 40m of the mapped watercourse, referral to the Natural Resource Access Regulator as integrated development is not required as part of this application.

## 3.2 STATE ENVIRONMENTAL PLANNING POLICIES (SEPPS)

The following SEPPs are considered relevant to the proposed development:

All State Environmental Planning Policies (SEPPs) have been considered. The following SEPPs are considered relevant to the proposed development and discussed in further detail below.

- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Industry and Employment) 2021*

### 3.2.1 SEPP (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

The aim of this SEPP is to encourage sustainable residential development. A BASIX Certificate has been prepared for the development and is contained by this SEE as **(APPENDIX 7)**. The certificate demonstrates that the proposal can achieve the required water and energy saving targets compared to the standard model house.

### 3.2.2 SEPP (BIODIVERSITY AND CONSERVATION) 2021

This aim of this SEPP is to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

#### Chapter 4 – Koala Habitat Protection 2021

This Chapter aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline. This SEPP applies to land identified within Part 3.2, Section 3.5 and LGA's specified within Schedule 2.

The SEPP applies to the Muswellbrook Local Government Area (LGA). In accordance with Section 3.8, the council's determination of the development application must be consistent with the approved koala plan of management that applies to the land.

The proposed development does not require the removal of any native vegetation, as such it is not anticipated that the proposed development will adversely affect the free-living population of koalas. The site is currently zoned for village purposes. It is not expected or known that the site or immediate area has the potential to contribute to Koala population decline, therefore, the land is considered suitable for the proposed development.

### 3.2.3 SEPP (TRANSPORT AND INFRASTRUCTURE) 2021

#### Chapter 2 – Infrastructure

The purpose of this Chapter is to facilitate the effective delivery of infrastructure across the state and identifying matters to be considered in the assessment of developments adjacent to particular types of development.

#### **Division 5, Subdivision 2 Development likely to affect an electricity transmission or distribution network.**

##### **Section 2.48 – Determination of development applications – other development**

The site description, the site is connected to overhead reticulated electricity. Works within 5m of overhead electrical infrastructure triggers referral the electricity supply authority is triggered pursuant to Section 2.48(1)(a). It is anticipated that referral to the electricity authority will be required.

#### **Division 12A, Subdivision 2 Development adjacent to pipeline corridors**

##### **Section 2.76 Determination of Development Applications**

The proposed development is not in the vicinity of a 'licensed' pipeline corridor as defined under Section 2.76 (2). Accordingly, the proposed development does not trigger referral to any pipeline operator pursuant to Section 2.76.

#### **Division 17, Subdivision 2 Development in or adjacent to road corridors and road reservations**

The proposed development does not include any works in or adjacent to a classified road. Any additional crossovers required will be applied for via a Section 138 application to Muswellbrook Council. Ogilvie Road and Paxton Road are recognised as local roads dedicated to Muswellbrook Shire Council.

##### **Section 2.121 – Traffic Generating Development**

In accordance with Section 2.121, development listed in Schedule 3 is identified as traffic-generating development. The proposed development is not identified under Schedule 3 and therefore does not warrant referral to TfNSW.

A Traffic Impact Statement has been prepared to support this application (**APPENDIX 12**). The report considers the parking provision on site and minor increase in traffic as a result of the proposed development. A total of 10 parking spaces, including one accessible space, are proposed on-site which would be accessed via a new double-width crossover to Paxton Street. The Traffic Impact Statement identified the traffic and parking aspects of the proposed development are satisfactory, and the development will have a minimal impact on the surrounding traffic and transport environment.

Accordingly, further assessment of the SEPP is not required.

### 3.2.4 SEPP (RESILIENCE AND HAZARDS) 2021

The State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP) consolidates, transfers, and repeals the provisions of three (3) SEPPs into a single environmental planning instrument, including: the SEPP (Coastal Management) 2018 (Coastal Management SEPP), SEPP 33 – Hazardous and Offensive Development (SEPP 33), and SEPP 55 – Remediation of Land (SEPP 55).

#### Chapter 2 – Coastal Management

The aim of this Chapter is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the *Coastal Management Act 2016*, including the management objectives for each coastal management area, by—

- a) *managing development in the coastal zone and protecting the environmental assets of the coast, and*
- b) *establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- c) *mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.*

The site does not contain areas mapped as any of the four coastal management areas above. As such, this Chapter does not apply to this development.

#### Chapter 4 Remediation of Land

The Resilience and Hazards SEPP aims to promote the protection and improvement of key environmental assets for their intrinsic value and the social and economic benefits they provide. This chapter applies to the whole state. Under Section 4.6 a consent authority must not grant consent to the carrying out of any development on land unless it has considered whether the land is contaminated.

The site is currently zoned RU5 and has existing structures that are dilapidated, including a residential dwelling, old shop front and shed with no evidence of previous contaminating uses. To this extent, the subject site is land considered suitable for the proposed development and future residential occupation.

During the demolition process, if asbestos is found removal will be undertaken by a licenced asbestos contractor and in compliance with the NSW Government Workcover How to Safely Remove Asbestos Code of Practice 2019. The subject site is suitable for the proposed development and the objectives of Chapter 4 have been satisfied.



### 3.2.5 SEPP No.65 – DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT

Whilst the development proposed is defined as a ‘shop top housing’, it does not fall within the scope to which SEPP 65 applies. The SEPP only applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if (emphasis added):

(a) the development consists of any of the following:

- i. **the erection of a new building,**
- ii. the substantial redevelopment or the substantial refurbishment of an existing building,
- iii. the conversion of an existing building, and

(b) the building concerned is **at least 3 or more storeys** (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and

(c) the building concerned contains **at least 4 or more dwellings.**

The proposed development encompasses two flat dwellings and spans a maximum of two stories, thus does not trigger the inclusive “and” as detailed above. To this extent, the development has not been designed in accordance with the Apartment Design Guide, rather takes into consideration the objectives and controls of the DCP with regard to setbacks, overshadowing and built form, provided within **APPENDIX 2.**

### 3.2.6 INDUSTRY AND EMPLOYMENT 2021

#### Chapter 3 Advertising and Signage

This Chapter aims to ensure that signage is compatible with the desired amenity and visual character of an area and provides effective communication in suitable location which is of high-quality design and finish.

Signage is not proposed as part of this application. Accordingly, further assessment against the Industry and Employment SEPP is not required.

## 3.3 LOCAL ENVIRONMENTAL PLAN (LEP)

The site is located within the LGA of Muswellbrook, accordingly the MLEP is the appropriate EPI to assess the development proposal. The following assessment will demonstrate that the development proposal is compliant with the relevant clauses of the MLEP and permits approval by the Consent Authority.

#### • **Clause 2.3 – Zone Objectives and Land Use Table**

The subject site is zoned RU5 Village. The proposed development includes construction of shop top housing including two shops, two flat dwellings, and motel building including seven units. The Land Use Table of the LEP identifies the following objectives for the RU5 zone:



- To provide for a range of land uses, services and facilities that are associated with a rural village.
- To allow more flexibility in the development of the town of Denman and village of Sandy Hollow.
- To allow for future development of residential, commercial or low-impact land use within the town of Denman and village of Sandy Hollow.
- To ensure that non-residential uses do not result in adverse amenity impacts on residential premises.
- To minimise the impact of non-residential uses and ensure these are in character and compatible with surrounding development.

**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.

**hotel or motel accommodation** means a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short-term accommodation on a commercial basis and that—

(a) comprises rooms or self-contained suites, and

(b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles,

but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

Note—

Hotel or motel accommodation is a type of tourist and visitor accommodation—see the definition of that term in this Dictionary.

Pursuant to Clause 2.3 of the Land Use Table **shop top housing** and **tourist and visitor accommodation** is permissible with consent and is consistent with the aims and objectives of the RU5 – Village zone. The proposed development will provide two flat dwellings which will provide new housing opportunities, two shops to provide new commercial opportunity and seven tourist and visitor accommodation units to encourage diverse use of the village zone. The density of the site will be increased from the existing use and structures and will remain consistent with the village commercial nature seen in the area. The proposed development is sympathetic to the existing village and commercial amenity and character and has been designed in a way to ensure it fits within its locality and surrounding area.

#### • **Clause 2.6 – Subdivision – Consent Requirements**

The application includes subsequent subdivision as strata title resulting in 11 lot strata subdivision including shop top housing and the tourist and accommodation including associated common property for central access and infrastructure.

Subdivision is permitted with development consent under this clause and is not exempt development.

- **Clause 2.7 – Demolition requires development consent**

Under this clause the demolition of a building or work may be carried out only with development consent. The application includes demolition of the existing structures on the land. Demolition is included within the application in accordance with the requirements of this clause.

- **Clause 4.1 Minimum lot size**

The objective of this clause applicable to the proposed development is to ensure that lot sizes are able to accommodate development that is suitable for its purpose and that it is consistent with the relevant development controls.

The proposed development incorporates strata subdivision. This clause does NOT apply as per 4.1(4) to registration of a strata plan or strata plan of subdivision under the Strata Schemes Development Act 2015 thus no further assessment is required.

- **Clause 4.3 – Height of Buildings**

The objective of Clause 4.3 is to ensure that the height of buildings is appropriate for the context and character of the area. The Muswellbrook Shire Council LEP 2009 identifies the maximum height of building to be 8.5m.

As shown within the Architectural plans contained as **(APPENDIX 6)**, the maximum height of the proposed structures are as follows:

- Shop 1 and Dwelling 1 – 6.1m
- Shop 2 and Dwelling 2 – 6.1m
- Motel Units – 6.1m

The maximum height of each proposed dwelling is consistent with the LEP.

- **Clause 4.4 – Floor Space Ratio**

The objective of Clause 4.4 is to ensure equity and management of development potential for current and future uses of the site. The Muswellbrook Shire Council LEP 2009 identifies the floor space ratio of the site to be 0.5:1. The site area has a total of 745.8m<sup>2</sup> with a proposed coverage of 373.2m<sup>2</sup>. The proposed development will have a floor space ratio of 0.5:1 as is therefore consistent with the LEP.

- **Clause 4.5 – Calculation of Floor Space Ratio and Site Area**

This clause defines the inclusions and exclusions when calculating floor space ratio. The site area will consist of the Lot 102 of DP 1178581 being 745.8m<sup>2</sup>. There are no exclusions identified including easements, covenants or community land on the site that reduce the potential developable site area. The proposed development does include strata subdivision.

The calculation of FSR includes only significant development on the site and does not include the existing buildings that are proposed for demolition.

- **Clause 5.6 – Architectural Roof Features**

The proposed structure will be below the maximum building height for the zone. There are three slopes associated with the proposed structure and are as follows:

- Shop Front Verandah – 5-degree slope to north and east,
- Shop top housing – 33-degree pitched roof,
- Motel Units – 3-degree pitch to south and west.

The proposed development does not exceed the prescribed building height. The overall roof features have been meticulously designed to mitigate any potential adverse visual and amenity effects on adjacent premises that could arise from architectural roof features. The shop front verandah maintains a subtle 5-degree slope to the north and east, showcasing a design that takes heritage considerations into account. This design seamlessly aligns with the authentic verandah that was originally attached to the Ogilvie Street shopfronts. Furthermore, the shop top features a 33-degree pitched roof that mirrors the original roof's shape, structure, design, and pitch, ensuring a harmonious visual continuity.

#### **Clause 5.10 – Heritage conservation**

The site is identified within Schedule 5 of the MLEP 2009 as heritage conservation area known as the Denman Heritage Conservation Area. The site is not identified as a heritage listed item. A Statement of Heritage Impact (SoHI) has been prepared to support this application (**APPENDIX 15**). As detailed within the SoHI, the proposed development has been designed with reference to the Denman Style Guide. The proposed retail premises, mirrors the original corner shop structure, will significantly enhance the overall visual appeal of Ogilvie Street's streetscape. The inclusion of shops on the lower level and residential accommodations at the rear is carefully designed to ensure that it does not compromise the historical character of the conservation area in terms of its scale and character. The new design is thoughtfully designed to harmonise with the surrounding locality and neighbouring buildings, thus preserving the area's heritage value. These modifications align well with the contemporary functional requirements for a viable commercial development of the property. In accordance with Muswellbrook Council's specific directive, the two units situated above the shops on Ogilvie Street have been meticulously set back. This setback has been achieved through a combination of resolute strategies. These strategies include thoughtfully crafted and strategic design decisions, considerate integration of heritage elements, careful tiering to create a significant distance from the street, strategic partial concealment achieved by the parapet structure, and concealment facilitated by the restoration of the original verandah. Considering the aforementioned evaluation, the heritage aspects of this proposal warrant approval.



The proposal results in the demolition of the dilapidated buildings currently on the site which is required to facilitate the construction of the new buildings to permit the site to be revitalised and commercially viable. The dwelling and outbuilding proposed to be demolished are unremarkable, so make a limited contribution to the identified significance of the place. The shop building is so dilapidated that it is not feasible to retain and make good. The proposed demolition, and subsequent replacement with new buildings that have appropriately designed form, architectural character and materiality, will result in no adverse impact on the identified significance of the place. DRB Engineers were engaged to complete a structural building report contained in **APPENDIX 13** confirming the level of dereliction of the subject site is extensive with the extent of structural and finishing repairs required near impossible to scope. Therefore, with the amount of damage evident and the high risk of potential health hazards, DRB Engineers recommend demolition of the old shop structure as best course of action.

The 2 units above the shops facing Ogilvie Street have been tiered well back from the street, as requested by Council. The impact of the second storey, housing the 2 unit accommodation is minimised by:

- careful design
- heritage considerations
- tiered well back
- partial hidden by the parapet structure;
- well hidden by the reinstatement of the original verandah

Furthermore, a search of the Aboriginal Heritage Information Services (AHIMS) database (26 June 2023) did not identify the subject site as containing any Aboriginal sites or places as shown in (**APPENDIX 3**).

Should any Aboriginal objects be uncovered during works, all works will cease in that location and contact shall be made with the appropriate person.

- **Clause 5.11 – Bushfire Hazard Reduction**

The site is not identified to be bushfire prone, accordingly it is not anticipated that the proposed development would result in an increased risk to life as a result of a bushfire event.

- **Clause 5.21 – Flood Planning**

The site is not identified as being flood prone land, accordingly it is not anticipated that the proposed development would result in an increased risk to life as a result of a flood event.

- **Clause 7.1 - Terrestrial Biodiversity**

The site is not located on the Terrestrial Biodiversity Map under the MLEP 2009. The site is in proximity to a biodiverse value corridor as seen in Figure 6.

- **Clause 7.4 – Subdivision in Zone R1 General Residential and Zone RU5 Village**

This clause ensures that subdivision on R1 and RU5 will be serviced by essential services. The site is connected to all essential services with proposed alterations to connections to be created as required. Information regarding essential services can be found in **APPENDIX 4**.

- **Clause 7.6 - Earthworks**

Moderate earthworks associated with the levelling of the site for the installation of services and drainage infrastructure, and establishment of the building foundation is proposed. The design of the development corresponds to the topography of the site, minimising the requirement for excessive cut and fill. Excess soil will be spread across the site.

No adjoining allotments will be impacted by the development. All water run-off is to be directed to the existing stormwater system or controlled with sediment control fencing and is not to cause nuisances to adjoining sites. Any earthworks would be moderate in nature and are not anticipated to result in any negative impacts on the subject or adjoining land, or any public place.

Any material that is proposed to be imported or exported from the subject site will consist of Virgin Excavated Natural Materials (VENM), Excavated Natural Materials (ENM) or other certified material. Accordingly, the development complies with the requirements of this clause.

### **3.4 DEVELOPMENT CONTROL PLAN (DCP)**

Consideration of compliance and/or consistency with the relevant provisions of the Port Stephens Development Control Plan 2013 is provided in the Table of Compliance provided at **APPENDIX 2**. The Table of Compliance identifies that the proposed development demonstrates compliance with the relevant provisions of the DCP or overarching objectives where variations are proposed.

## **4 LIKELY IMPACTS OF THE DEVELOPMENT**

The likely impacts of the proposed development and constraints affecting the subject site have been explored throughout this SEE. The following sections detail the major potential impacts and constraints in greater detail, in accordance with Section 4.15(1) of the EP&A Act 1979.

### **4.1 BUILT ENVIRONMENT**

#### **4.1.1 CONTEXT, SETTING AND VISUAL IMPACT**

The proposed development has demonstrated consistency of the surrounding locality through the environmental planning regulations and site features informing the overall development design. It has also shown to be consistent with the surrounding locality as there are multiple developments and revitalisation projects occurring with the Village precinct of Denman.



The proposed development will not negatively impact on the visual amenity of the locality through the appropriate sitting and style of the development. The proposed development will positively contribute to the local area by improving the visual amenity of the site, by constructing shop top housing and visitor accommodation on the site. The development has been designed in a way and style that complements the area and does not increase building bulk. The application includes relevant construction methods and services such as stormwater management systems (**ATTACHMENT 9**) that will minimise the potential for adverse impacts on adjoining properties. The environmental constraints of the site have been justified throughout this report and associated sub-consultant documents, the proposed development design responds and mitigates these constraints for a successful mixed use outcome.

The proposal also results in the demolition of the dilapidated buildings currently on the site which is required to facilitate the construction of the new buildings to permit the site to be revitalised and commercially viable. The dwelling and outbuilding proposed to be demolished are unremarkable, so make a limited contribution to the identified significance of the place. The shop building is so dilapidated that it is not feasible to retain and make good. The proposed demolition, and subsequent replacement with new buildings that have appropriately designed form, architectural character and materiality, will result in no adverse impact on the identified significance of the place. DRB Engineers were engaged to complete a structural building report contained in (**APPENDIX 13**) confirming the level of dereliction of the subject site is extensive with the extent of structural and finishing repairs required near impossible to scope. Therefore, with the amount of damage evident and the high risk of potential health hazards, DRB Engineers recommend demolition of the old shop structure as best course of action.

There are no anticipated adverse impacts on the built environment as a result of the proposed development.

## **ACCESS, TRANSPORT AND TRAFFIC**

Access to the site will be via new vehicular access from Paxton Road on the eastern side of the site. Further access requirements or crossover will be achieved through an application for driveway access (Section 138) submitted to Council once the DA approval is received.

The proposed development consists of shop top housing including two shops, two flat dwellings, and motel building including seven units. The proposed parking arrangement meets the requirements outlined in the Development Control Plan (DCP) for visitors staying at the motel and the staff and residents of the shop top housing. There is available parking capacity in close proximity to the site, both on-street and off-street. This includes 7 parking spaces along the site's edges, which are suitable for customers and visitors. The site is anticipated to generate a maximum of 13 vehicle trips during peak hours which is a volume that can be easily accommodated by the surrounding road network. The site's access has been appropriately designed to facilitate two-way vehicle movements. Including the design of the car park layout adheres to the guidelines specified in AS/NZS 2890.1:2004 and the DCP requirements. Additionally, the waste collection and loading arrangements have been considered appropriate.

In conclusion, the traffic and parking aspects of the proposed development are deemed satisfactory. The development's impact on the surrounding traffic and transportation environment is anticipated to be minimal. The development is not anticipated to have any significant adverse impacts on access, transport or traffic.

Traffic Impact Study is contained in **APPENDIX 12**.

#### **4.1.3 PUBLIC DOMAIN**

The proposed development is not anticipated to have an impact on any public domain. The development contributions derived from this development in providing infrastructure and public domain improvement in accordance with the MSC Development Contributions Framework.

In essence, the proposed development not only ensures its own seamless integration however also actively contributes to the betterment of the public domain. This multifaceted approach underscores the development's commitment to promoting a cohesive urban environment that is both functional and aesthetically pleasing, ultimately fostering a higher quality of life for residents and visitors alike.

#### **4.1.4 SERVICES**

The site has available connection to reticulated water, telecommunication, electricity, and sewer. In addition, the application demonstrates that stormwater drainage resulting from future roof and hard stand areas can be catered for in accordance with Council's requirements (**APPENDIX 4**). Stormwater drainage resulting from roof area will be directed to the sites stormwater drainage in accordance with Councils requirements.

#### **4.1.5 NOISE AND VIBRATION**

Construction noise will be as per normal construction times and processes and will cease once construction is completed.

No noise impacts associated with the operating hours of the premises have been identified due to the locality of this proposed development and surrounding similar commercial premises in the Denman CBD.

Further, noise generated within the premises is within a controlled environment and can be limited and/or managed by staff / employees on-site. The establishment will implement a management plan focussed on minimising noise to ensure the amenity of adjoining premises will not be impacted. To this effect, it is considered surrounding properties will not be unduly impacted by noise during operating hours.

#### **4.1.6 SAFETY, SECURITY AND CRIME PREVENTION**

No safety, security or crime prevention measures are required. The shop top housing including two shops, two dwellings, and motel building including seven units will provide additional passive surveillance capacity from the site for Ogilvie Road and Paxton Road.

## 4.2 NATURAL ENVIRONMENT

### 4.2.1 ECOLOGICAL

No trees or significant vegetation will be required to be removed in order to facilitate the proposed development. As the site is not located within a recognised area of biodiverse value, it is not anticipated the proposed development will have a detrimental impact on the ecology on the site or surrounding area.

In addition, the installation and maintenance of erosion and sedimentation controls will occur during construction.

### 4.2.2 LANDSCAPING

The proposed landscaping layout is considered sufficient for the proposed development and will enhance the design and built form. A Landscape plan has been prepared to support this application. (**APPENDIX 8**).

The landscape plan incorporates existing site features to craft an appealing and functional environment. Guided by key principles, it retains Ogilvie Street's, street tree while introducing additional trees along Paxton Street for visual enhancement. Landscaping is seamlessly integrated, especially along boundaries, enhancing site ambience and connection with the surroundings. Plant species are chosen considering local climate conditions and maintenance needs including diverse plant varieties to ensure seasonal variation and mitigate species-related risks. This comprehensive approach harmonises existing elements with curated enhancements, promising an enduring, visually pleasing landscape that enriches the development's character and its interaction with the surroundings.

### 4.2.3 STORMWATER

A Stormwater Management Plan has been prepared by DRB Consulting Engineers and is contained as (**ATTACHMENT 9**). The proposed stormwater philosophy is as follows:

The existing site generally falls to the Paxton road reserve, the development proposes to maintain the general flow characteristics for the site and discharge stormwater to council's stormwater drainage network in Paxton street.

- All roof water will be captured and directed to the below ground OSD tank.
- The driveway area will be captured in a series of pits and pipes and captured in the OSD tank.
- The OSD tank will limit the post developed peak flows to pre developed-peak flows rates. The drains modelling results can be seen on CIV-025 in the civil plan set.
- Sag pits in the driveway will be fitted with spel stormsacks to capture gross pollutants before stormwater leaves the site.

### 4.2.4 ACID SULFATE SOILS

The site is not identified within a mine subsidence area and is not identified to have any acid sulfate soils.



#### 4.2.5 BUSH FIRE

The site is not identified to be bushfire prone, accordingly it is not anticipated that the proposed development would result in an increased risk to life as a result of a bushfire event.

#### 4.2.6 HERITAGE

A Statement of Heritage Impact (SoHI) has been prepared to support this application (**APPENDIX 15**). As detailed within the SoHI, the proposed development has been designed with reference to the Denman Style Guide. The proposed retail premises, mirrors the original corner shop structure, will significantly enhance the overall visual appeal of Ogilvie Street's streetscape. The inclusion of shops on the lower level and residential accommodations at the rear is carefully designed to ensure that it does not compromise the historical character of the conservation area in terms of its scale and character. The new design is thoughtfully designed to harmonise with the surrounding locality and neighbouring buildings, thus preserving the area's heritage value. These modifications align well with the contemporary functional requirements for a viable commercial development of the property. Considering the aforementioned evaluation, the heritage aspects of this proposal warrant approval.

### 4.3 SOCIAL AND ECONOMIC

#### Social

Social impact is best defined by (Armour 1992) that describes changes that occur in:

- People's way of life (how they live, work, play and interact with one another on a day to day basis),
- Their culture (shared beliefs, customs and values), and
- Their community (its cohesion, stability, character, services and facilities).

The proposed development provides two (2) additional residential units within the RU5 Village Zone which will provide additional housing to service the needs of the community. There is an additional seven (7) visitor and tourist accommodation units and two shopfronts proposed to enhance the commercial use of RU5 village zone. The development will be serviced by suitable facilities and services without burdening the existing supply available within the area.

The proposed development:

- Will increase the numbers of residents within the village locality, consistent with the general aims of the RU5 Zone.
- Will not disadvantage or benefit any particular social group, rather will provide additional residential and tourist and visitor units to achieve the objectives and requirements of the Hunter Regional Plan 2036 and associated population and dwelling projection.

- Will enhance the cultural life of the community through increasing the number of commercial shopfronts and short-stay accommodation within the Denman area, which will in turn contribute to cultural and community activities when available.
- Will provide the opportunity to increase land use diversity within the wider Muswellbrook area and provides for greater residential and tourist and visitor accommodation choice.

There are no anticipated adverse economic impacts as a result of the proposed development, rather it is considered the proposal will contribute positively to the social elements of the locality through an increase in residents and commercial and tourist opportunity. The proposed development is not out of character with the existing urban context, will not involve an increased risk to public safety and will not threaten the existing sense of community, identity, or cohesiveness, rather will contribute to the increase of these aspects in the locality.

### **Economic**

The proposed development will result in a large capital investment value (CIV) within the local economy, with construction providing employment opportunities in the locality and support to the local building and development industries. In addition, the development will having direct monetary input to the local economy, the increased number of visitor and residential accommodation options and commercial properties in the locality will provide ongoing economic input within the Town Centre and surrounds. The increase in housing within the area will directly influence and enhance business and employment opportunities within the area. There are no anticipated adverse economic impacts as a result of the proposed development.

## **5 SUITABILITY OF THE SITE**

The proposed development is a suitable use of the site. The application design includes all elements required under the relevant planning instruments and policies and there are no anticipated negative impacts on the locality as a result of the development. This development is permissible under the LEP and has addressed any relevant concerns through this SoEE.

The proposed development whilst not anticipated to have any adverse impacts on surrounding properties or amenity of the locality, is to be considered within the public's interest.

## **6 ANY SUBMISSIONS AND CONSULTATION**

As part of the DA consideration process, it is envisaged Council may place the proposal on public exhibition and send neighbor notification letters to adjoining or adjacent properties.



## 7 PUBLIC INTEREST

The subject site is located within an existing commercial village area and is clear of any significant vegetation. The site has access to all relevant essential services and the proposed development makes good use of the available land. The application design includes all elements required under the relevant planning instruments and policies and there are no anticipated negative impacts on the locality as a result of the development. This development facilitates a commercially viable use of the property, and the merits of approval are very strong for the local Denman community. To this extent, the site is suitable for development.

The proposal represents additional residential, tourist and commercial opportunities in the locality to service the needs of the community, whilst not anticipated to have any significant adverse impacts on surrounding properties or the amenity of the locality. The environmental site constraints of the site are minimised and managed through the design. The proposed development reinforces the village nature of the land and is in keeping with the character of surrounding developments. The proposed development is in the public interest.

## 8 CONCLUSION

This SEE has shown that the development is within the public interest, from a social, economic, and environmental perspective. The proposed shop top housing including two shops, two dwellings, and motel building including seven units is the most suitable option for the development of the site. Any relevant matters have been addressed through this SEE.

The key reasons why the proposed development is appropriate are as follows;

- The site is appropriately zoned RU5 Village which facilitates the shop top housing and tourist and visitor accommodation proposed for this development;
- No adverse impact on the existing character or amenity of the area will result;
- The proposed development will have a positive economic and social impact on the surrounding community by creating short term construction jobs and contributes to local diversity of shop, housing and tourist accommodation;
- The development can suitably manage or mitigate environmental impacts;
- Development of the land achieves the highest and best use of the site which directly benefits the community through providing additional saleable units to meet the housing needs of the growing community population.

It is considered that the proposal will have no significant impacts on the surrounding properties to that it is likely to adversely affect their enjoyment or amenity. We look forward to Council's determination of this matter.

If we can provide any further information or clarity, please do not hesitate to contact us.



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