



## THE CITY OF NEWCASTLE

# Development Applications Committee

Councillors,

In accordance with section 367 of the Local Government Act, 1993 notice is hereby given that a Development Applications Committee Meeting will be held on:

**DATE:** Tuesday 6 December 2016

**TIME:** to follow the Public Voice Committee meeting

**VENUE:** Council Chambers  
2nd Floor  
City Hall  
290 King Street  
Newcastle NSW 2300

Frank Cordingley  
Acting Interim Chief Executive Officer

**City Administration Centre  
282 King Street  
NEWCASTLE NSW 2300**

25 November 2016

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**DEVELOPMENT APPLICATIONS COMMITTEE**  
**06 December 2016**

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***NOTE: ITEMS MAY NOT NECESSARILY BE DEALT WITH IN NUMERICAL ORDER***



## **CONFIRMATION OF PREVIOUS MINUTES**

### **MINUTES - DEVELOPMENT APPLICATIONS COMMITTEE 15 NOVEMBER 2016**

#### **RECOMMENDATION**

The draft minutes as circulated be taken as read and confirmed.

#### **ATTACHMENTS**

**Attachment A:** 161115 Development Applications Committee

*Note: The attached minutes are a record of the decisions made by Council at the meeting and are draft until adopted by Council. They may be viewed at [www.newcastle.nsw.gov.au](http://www.newcastle.nsw.gov.au)*

## CITY OF NEWCASTLE

### Minutes of the Development Applications Committee Meeting held in the Council Chambers, 2nd Floor City Hall on Tuesday 15 November 2016 at 6.55pm

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#### PRESENT

The Lord Mayor (Councillor N Nelmes), Councillors D Clausen, T Doyle, J Dunn, B Luke, M Osborne, S Posniak, A Robinson, A Rufo and S Waterhouse.

#### IN ATTENDANCE

P Chrystal (Interim Chief Executive Officer), G Cousins (Director Corporate Services), F Cordingley (Director Infrastructure), A Baxter (Acting Director Planning and Regulatory), M Blackburn-Smith (Manager Development and Building), F Giordano (Manager Legal and Governance), K Sullivan (Council Services/Webcasting) and A Knowles (Council Services/Minutes).

#### APOLOGIES

##### MOTION

Moved by Cr Luke, seconded by Cr Osborne.

The apology submitted on behalf of Councillor Compton be received and leave of absence granted.

**Carried**

**Note:** Councillor Tierney was not present for the meeting.

#### DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

##### Councillor Luke

Councillor Luke declared a significant non-pecuniary interest for Item 13 - DA2014/0296 - 18 Bond Street Newcastle as the objector is an employee of a financial institute that he has a large number of dealings with and he receives briefings from the objector. Cr Luke advises he will abstain from the chamber during the matter.

##### Councillor Osborne

Councillor Osborne declared a non-significant non-pecuniary interest for Item 13 - DA2014/0296 - 18 Bond Street Newcastle as he knows the applicants but will abstain himself from the chamber on the matter.

##### Councillor Rufo

Councillor Rufo declared a less than significant non-pecuniary interest for Item 12 - DA2016/00159 - 46 Kilgour Avenue Merewether as the possible new owner of the residence is known to him.

#### CONFIRMATION OF PREVIOUS MINUTES

Nil

## DEVELOPMENT APPLICATIONS

**ITEM-12**                      **DA 2016/00159 - 46 KILGOUR AVENUE MEREWETHER - TWO STOREY DWELLING, ASSOCIATED SWIMMING POOL AND SITE WORKS**

### **MOTION**

Moved by Cr Doyle, seconded by Cr Osborne

1. Council resolves not to vary the Section 88B Instrument due to the proposed developments impact on the Barrymore building at 44 Kilgour Ave.
2. Council considers that the severe view loss to Units 13 and 14 of 2A Ocean Street to be unacceptable under Section 3.02.09 (View Sharing) of Newcastle Development Control Plan [Section 79C (1) (a) (iii)].
3. The proposed development is not in the public interest.

Councillor Rufo gave notice of a foreshadowed motion to include parts A, B and C. Providing the overall height of the building (including chimneys/flues) is not to exceed RL 29.19m. Consideration be given to reducing the footprint in relation to the frontage where the current exceeds the envelope by approximately one metre; and the officers recommendation.

### **PROCEDURAL MOTION**

Moved by Cr Clausen, seconded by Cr Dunn

Council take a five minute recess to obtain copies of Cr Doyle's, motion and Cr Rufo's foreshadowed motion.

**Carried**

Council reconvened at 7.11pm.

Councillor Rufo's gives notices to amend his foreshadowed motion to note include parts 2A, 2B and 2C.

- 2A    The officers recommendation.
- 2B    Providing the overall height of the building (including chimneys/flues) is not to exceed RL 29.19m.
- 2C    Consideration be given to reducing the footprint in relation to the frontage where the current exceeds the envelope by approximately one metre; and the Officers Recommendation.

Lord Mayor Cr Nelmes requests Councillor Rufo's amended foreshadow motion be recorded.

Councillor Doyle was requested to restate her motion for clarification.

### **MOTION**

Moved by Cr Doyle, seconded by Cr Osborne

1. Council resolves not to vary the Section 88B Instrument due to the proposed developments impact on the Barrymore building at 44 Kilgour Ave.
2. Council considers that the severe view loss to Units 13 and 14 of 2A Ocean Street to be unacceptable under Section 3.02.09 (View Sharing) of Newcastle Development Control Plan [Section 79C (1) (a) (iii)].
3. The proposed development is not in the public interest and the application in its current form is therefore refused.

The motion moved by Councillor Doyle and seconded by Councillor Osborne as outlined above was put to the meeting.

**For the Motion:** Lord Mayor Cr Nelmes, Councillors Clausen, Doyle, Osborne and Posniak.

**Against the Motion:** Councillors Dunn, Luke, Robinson, Rufo and Waterhouse.

**Carried**

**The Lord Mayor exercised her casting vote and declared the motion carried**

### **ITEM-13                      DA 2014/0296 - 18 BOND STREET NEWCASTLE - ERECTION OF THREE STOREY DWELLING**

Councillors Osborne and Luke retired from the chamber at 7.32pm for discussion on the item.

### **MOTION**

Moved by Cr Posniak, seconded by Cr Clausen

- a) THAT The application for Erection of three storey dwelling at 18 Bond Street, Newcastle be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions appended at **Attachment B**; and
- b) THAT those persons who made submissions be advised of Council's determination.

**For the motion:** Lord Mayor Cr Nelmes, Councillors Clausen, Dunn, Robinson, Rufo and Waterhouse.



**Against the motion:** Councillor Doyle.

**Carried**

Councillors Osborne and Luke returned to the chamber at the conclusion of this item.

**ITEM-14**                    **DA2015/10390 - 77 JUBILEE ROAD ELERMORE VALE -  
DEMOLITION OF DWELLING AND OUTBUILDINGS  
ERECTION OF FIVE TWO STOREY DWELLINGS  
ASSOCIATED RETAINING WALLS AND FENCING**

**MOTION**

Moved by Cr Clausen, seconded by Cr Posniak

- a) THAT the application for the demolition of the existing dwelling and outbuildings, erection of five, two storey dwellings, strata title subdivision and associated site works be approved, subject to compliance with the conditions set out in the Draft Schedule of Conditions (refer to **Attachment B**); and
- b) THAT those persons who made submissions be advised of the Council determination.

**For the motion:** Lord Mayor Cr Nelmes, Councillor Clausen, Doyle, Dunn, Luke, Robinson, Rufo and Waterhouse.

**Against the motion:** Nil.

**Carried**

**ITEM-15**                    **DA2016/00351 - 5-11 WICKHAM STREET WICKHAM -  
DEMOLITION OF BUILDINGS, ERECTION OF EIGHT  
STOREY MIXED USE DEVELOPMENT INCLUDING 40  
RESIDENTIAL APARTMENTS, TWO GROUND FLOOR  
COMMERCIAL UNITS, TWO FLOORS OF PARKING, 42  
BAYS AND ASSOCIATED SITE WORKS**

**MOTION**

Moved by Cr Osborne, seconded by Cr Rufo.

- i) THAT Council note and support the clause 4.6 variation to clause 4.3 (Height of buildings) of the Newcastle Local Environmental Plan 2012; and
- ii) THAT the application for the demolition of buildings, erection of eight-storey mixed use development including 40 residential apartments, two ground floor commercial units, two levels of parking and associated site works be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions (refer to **Attachment B**); and
- iii) THAT those persons who made submissions be advised of Council determination.

**For the motion:**

Lord Mayor Cr Nelmes, Councillors Clausen, Doyle, Dunn, Luke, Posniak, Robinson, Rufo and Waterhouse.

**Against the motion:**

Nil

**Carried**

ITEM-16

**DA2015/0734.01 - 6 WADE STREET AND 116-120 NORTHCOTT DRIVE ADAMSTOWN HEIGHTS - PROPOSED BOUNDARY ADJUSTMENT AS MODIFICATION TO APPROVED DEVELOPMENT INVOLVING DEMOLITION OF DWELLINGS AND OUTBUILDINGS, ERECTION OF 12 ATTACHED TWO-STOREY DWELLINGS,**

**MOTION**

Moved by Cr Doyle, seconded by Cr Osborne

Council resolves that the Section 96 application will, if granted, result in a development that is substantially different from the development approved by the Land and Environment Court, particularly with respect to the changes in boundaries and available private landscaping for Units 8 to 12 and will have a negative impact on neighbouring properties and therefore rejects the application.

Councillor Luke gave notice of a foreshadowed motion being the officer's recommendation.

**For the motion:**

Councillors Doyle and Osborne.

**Against the motion:**

Lord Mayor Cr Nelmes, Councillors Clausen, Dunn, Luke, Posniak, Robinson, Rufo and Waterhouse.

**Defeated**

**MOTION**

Moved by Cr Luke, seconded by Cr Rufo

Officers report as provided.

- A. THAT the S96 application seeking consent to a boundary adjustment modifying the layout of the approved development and associated subdivision be approved on the basis of the submitted plans, subject to the nominated conditions of consent (refer to **Attachment B**); and
- B. THAT those persons who made submissions be advised of Council's determination.

**For the motion:**

Lord Mayor Cr Nelmes, Councillors Clausen, Dunn, Luke, Posniak, Robinson, Rufo and Waterhouse.

**Against the motion:**

Councillors Doyle and Osborne.

**Carried**

**The meeting concluded at 7.59pm**



## DEVELOPMENT APPLICATIONS

**ITEM-17**                    **DA 2016/00820 - 14 AND 16 UNION STREET TIGHES HILL -  
ERECTION OF TWO ATTACHED TWO STOREY  
DWELLINGS ASSOCIATED SITE WORKS AND ONE LOT  
INTO TWO LOT SUBDIVISION**

**APPLICANT:**            **M JAMES**

**OWNER:**                **F L ROBERTS, L S MOORE, D A HENDRICKS, E J  
SCHUMANN**

**REPORT BY:**           **PLANNING AND REGULATORY**  
**CONTACT:**            **DIRECTOR PLANNING AND REGULATORY / MANAGER  
DEVELOPMENT AND BUILDING SERVICES**

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### PART I

#### PURPOSE

The purpose of the report is to present a development application to the Development Assessment Committee for determination. The application was 'called in' on the 8 September 2016 by Councillor Osbourne and Councillor Doyle.

The proposed development seeks consent for the construction of residential accommodation (two attached two storey dwellings), associated site works and one into two lot subdivision.

A copy of the submitted plans for the proposed development is included in **Attachment A**.



**Subject Land: 14 & 16 Unions Street Tighes Hill**

The application was notified in accordance with Council's Public Notification Policy for a period of 14 days to adjoining property owners. One submission was received in response. The submission raised 21 issues of concern including permissibility, density, building height, overshadowing, bulk and scale, privacy, view loss, social impact, cut and fill, building envelope, building appearance, streetscape, landscaping, rear setbacks, fencing, parking, traffic, stormwater, sewerage, subdivision and trees.

The proposal has been amended in response to concerns raised by the community and Council officers, as described below:

- Independent stormwater provision between resultant lots; and
- Improved on-site access to comply with Australian Standards.

Details of the submission is summarised in Section 3.0 of Part II of this report and the concerns raised are addressed as part of the Environmental Planning Assessment at Section 4.0.

### **Issues**

- Height, bulk and scale.
- Amenity impacts to the adjoining property at 12 Union Street.
- Suitability of the site for the development.

### **Conclusion**

The proposal is consistent with the zoning objectives and is compliant with the relevant planning provisions in terms of FSR, height, building envelope, setbacks and landscaping. The proposed development is compatible with the scale and pattern of development in the area and will not have unreasonable impacts on the residential amenity of neighbouring properties, in regard to privacy and overshadowing. For these reasons, approval of the development is considered to be in the public interest.

The proposed development has been assessed having regard to the relevant heads of consideration under Section 79C(1) of the *Environmental Planning and Assessment Act 1979* (as amended) NSW and is considered acceptable subject to compliance with appropriate conditions of consent.

### **RECOMMENDATION**

- A) THAT the application for the construction of two attached two storey dwellings, associated site works and one into two lot subdivision be approved and consent granted by way of deferred commencement subject to compliance with the conditions set out in the Draft Schedule of Conditions (refer to **Attachment B**); and

- B) THAT those persons who made submissions be advised of the Council determination.

### **Political Donation / Gift Declaration**

Under Section 147 of the Environmental Planning and Assessment Act 1979, the applicant, and any person related to this Development Application must report any political donation and/or gift to a Councillor and/or any gift to a Council employee within a two year period before the date of this application.

The applicant has answered **NO** to the following question on the application form: *Have you, or are you aware of any person having a financial interest in the application, made a 'reportable political donation' or 'gift' to a Councillor or Council employee within a two year period before the date of this application?*

## **PART II**

### **1.0 THE SUBJECT SITE**

The subject property (Lot C) comprises part of Lot 38 DP 32507, known as 14 Union Street, Tighes Hill and part of Lot 37 DP 32507, known as 16 Union Street, Tighes Hill. The lot is regular in shape and has an overall site area of 739.65m<sup>2</sup>.

The current vacant site (Lot C) is located at the end of a battle-axe handle behind the two existing single storey attached dwellings at 16 Union Street (Lot A) and 14 Union Street (Lot B). The access handle is located between the dwelling at 16 Union Street and the northern side boundary with the commercial office building at 20 Union Street, which is occupied by the Institute of the Sisters of Mercy Australia.

The access handle (currently under construction) and vacant Lot C were approved and created by Council as part of development application consent DA 2015/10284 dated 15 April 2016, which was modified on 29 April 2016 and 19 August 2016. The application was approved for alterations and additions to dwellings and a two lot into three lot subdivision.

To date, an application for subdivision certificate has not been submitted to Council for the creation of the subject site (Lot C).

The site slopes approximately 4.5m from front to back and there are no trees on-site. The general form of development in the immediate area consists of a mixture of single storey and two storey detached dwellings.

### **2.0 THE PROPOSAL**

The proposal is seeking consent for the construction of residential accommodation (two attached two storey dwellings), associated site works and one into two lot subdivision.

The plans have been amended after lodgement, in response to concerns raised by Council officers and the community, as follows:

- a).The roof form has been amended to ensure each dwelling drains independently of each other.
- b) The roof pitch has been amended to maintain the building height and ensure the building remains within the building envelope.
- c) The vehicle circulation space has been amended to provide additional width.
- d).The entry portico to Unit 1 of Lot 4 has been reduced to allow for the above drainage and site access changes.
- e).The laundry and toilet at the ground floor of Unit 1 of Lot 4 has been reduced to increase the depth of the adjacent turning bay.
- f).The landscaped area has been modified and increased due to the removal of the rear steps.

A copy of the current plans is appended at **Attachment A**.

The various steps in the processing of the application to date are outlined in the Processing Chronology (refer to **Attachment C**).

### **3.0 PUBLIC NOTIFICATION**

The development application was notified in accordance with Council's Public Notification Policy for a period of 14 days to adjoining property owners, during which one submission was received.

The concerns raised by the objector in respect of the proposed development are summarised as follows:

#### Statutory and Policy Issues

- **Permissibility** - The development should be defined as multi-dwelling rather than dual occupancy.
- **Density** - There are too many dwellings proposed resulting in an overdevelopment of the site.
- **Building Height** - The application fails to demonstrate that the proposed development complies with the 8.5m building height maximum.

#### Amenity Issues

- **Overshadowing** - overshadowing of 12 Union Street located to the south of the site and sterilising the future development potential of this neighbouring property.
- **Bulk and scale** - incompatible with neighbouring development, visually intrusive and dominates adjoining properties.
- **Privacy** - overlooking of neighbouring properties, exacerbated by the design which fails to adequately respond to existing site topography.



- **View loss** - obstruction of views and loss of outlook to neighbouring properties.
- **Social impact** - development will obscure surveillance of Islington Park with potential for increased crime and anti-social behaviour.

#### Design and Aesthetic Issues

- **Cut and fill** - design fails to adequately respond to existing site topography with an unacceptable impact on 12 Union Street which is downslope. Development should be stepped.
- **Building envelope** - development exceeds building envelope.
- **Building appearance** - southern elevation facing no.12 Union Street is large, dominating, blank and devoid of articulation.
- **Streetscape - scale** and design of the development is incompatible with the existing streetscape.
- **Landscaping** - lack of landscaping provided within the development.
- **Setback to rear western boundary** - incompatible with natural line of neighbouring properties and will set a precedent that will be to the detriment of the adjacent Islington Park.
- **Fencing** - lack of detail on boundary fencing.

#### Traffic and Infrastructure Issues

- **Parking** - multi-dwelling development requires on-site visitor parking.
- **Traffic** - Union Street is narrow and is not designed to support an increase in traffic movements and increased parking. Sufficient parking must be provided on-site as the road is not wide enough to have vehicles parked on the western side of the street adjacent to the property.
- **Stormwater** - the proposed stormwater management system is inadequate for the development.
- **Sewerage** - building over existing Hunter Water sewer.

#### Miscellaneous

- **Subdivision** - development is inconsistent with DCP subdivision controls. Battle-axe handles do not support more than two lots unless proposals are strata or community title subdivision.
- **Trees** - trees in Islington Park will reduce solar access to the development.

The objectors' concerns are addressed under the relevant matters for consideration in the following section of this report.

### **4.0 ENVIRONMENTAL PLANNING ASSESSMENT**

The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 79C(1) of the *Environmental Planning and Assessment Act 1979*, as detailed hereunder.

## **4.1 Statutory Considerations [Section 79C(1)(a)(i) and (ii)]**

### **4.1.1 State Environmental Planning Policy No 55 - Remediation of Land**

In accordance with Clause 7 of the SEPP, land contamination has been considered within the assessment of the application. The land is currently being used for residential purposes and is not listed on Council's contaminated lands register. The site is not considered to be potentially contaminated and therefore is suitable for the proposed development.

### **4.1.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

A BASIX assessment was completed and a BASIX Certificate was obtained and lodged with the application that demonstrates the development has achieved the required water and energy reduction targets. A condition will be imposed on the consent reflecting this Certificate.

### **4.1.3 Newcastle Local Environmental Plan 2012 Sec. 79(c)(1)(a)(i) & (a)(ii)**

#### Clause 2.1 Land Use Zones

The subject property is included within the R2 Low Density Residential zone under the provisions of the Newcastle Local Environmental Plan 2012. The proposed residential accommodation (dual occupancy) is permissible with Council consent and is consistent with the zone objectives.

#### Clause 4.1 Minimum Subdivision lot size

The minimum lot size for the site is 400m<sup>2</sup>. The development proposes one into two lot subdivision of 285.69m<sup>2</sup> and 277.53m<sup>2</sup> (excluding 176.38m<sup>2</sup> access handle). The development complies with 4.1A (Exceptions to minimum lot sizes for certain residential development) as a dwelling is provided on each resultant lot which is greater than 200m<sup>2</sup>.

#### Clause 4.3 Height of Buildings

The subject site is identified on the Newcastle LEP 2012 'Maximum Building Height Map' as having a prescribed maximum building height of 8.5m. The new dwellings have a side wall height of between 3m and 7m, pitching to an overall maximum height of 8.5m, which complies with the maximum height limit for the site.

#### Clause 4.4 Floor Space Ratio

The subject site is identified on the Newcastle LEP 2012 'Floor Space Ratio Map' as having a prescribed floor space ratio of 0.6:1. The site measures 563.22m<sup>2</sup> (excluding 176.38m<sup>2</sup> access handle).

Unit 1 proposes 177.3m<sup>2</sup> of gross floor area (GFA) and Unit 2 proposes 163.5m<sup>2</sup> of GFA. This results in a total combined floor space of 340.8m<sup>2</sup> for the site, or 0.60:1

FSR, which complies with the DCP. The proposed development is considered acceptable in this location and in the context of the R2 low density zone.

#### Clause 5.9 Preservation of Trees and Vegetation

There are no trees on-site. However, there are two trees along the southern side boundary of 20 Union Street adjacent to proposed Unit 1 with the potential to be adversely affected. The submitted arborist report concludes that the trees would not be adversely affected by the proposed development and suggests adequate mitigation measures to ensure their protection during construction. A condition has been placed on the consent in this regard.

#### Clause 5.10 Heritage Conservation

The site does not include any heritage items and is not located in a heritage conservation area. The site is located adjacent to Islington Park which is a local heritage item. The proposed development is compatible with the existing scale, character and massing of development in the area and has an appropriate design outcome having regard to the allowable planning controls applying to the area. As such it is considered the proposal will not alter the heritage significance of the area or impact on the adjacent heritage item.

#### Clause 6.1 Acid Sulfate Soils

The site is identified as class 5 on the Acid Sulfate Soils map. Excavation greater than one metre is not proposed and thereby an Acid Sulfate Soils Management Plan is not required.

### **4.2 Merit Considerations**

#### **4.2.2 Newcastle Development Control Plan [Section 79C(1)(a)(iii)]**

An assessment of the application has been made under the DCP, with the key requirements discussed in the table below.

| Section of DCP            | Comment   |
|---------------------------|---|
| 3.01<br>Subdivision       | The application proposes one lot into two lot Torrens Title subdivision of 285.69m <sup>2</sup> and 277.53m <sup>2</sup> (excluding 176.38m <sup>2</sup> access handle). The lots are regular in shape. The new dwellings are located within each new lot with reciprocal rights of carriageway to facilitate access for the existing dwelling on Lot 1 (16 Union Street) and proposed Units 1 and 2, and easements to facilitate drainage for the existing and proposed dwellings on Lots 1 to 4. This is considered acceptable. |
| 4.03<br>Mine Subsidence   | The site is located within a Proclaimed Mine Subsidence District. The Mine Subsidence Board has assessed the proposal and has issued their General Terms of Approval subject to conditions of consent.  |
| 4.04<br>Safety & Security | The development is considered to be consistent with the principles of Crime Prevention Through Environmental Design   |

|   |  |
|---|--|
|   | (CPTED) as appropriate measures are in place in regards to allowing for casual surveillance, access control, territorial reinforcement and space management. A condition has been placed on the consent for suitable fencing to be provided on site.   |
| 4.05<br>Social Impact                     | The development is consistent with the zone objectives and will have a positive social impact through the provision of additional housing in a residential area.   |
| 5.01<br>Soil management                   | A maximum of approximately one metre of excavation and fill is proposed. This is considered acceptable.  |
| 5.02<br>Land Contamination                | The proposal is acceptable in terms of land contamination as detailed under the discussion on SEPP 55.   |
| 7.01.04<br>Streetscape and front setbacks | The new two storey dwellings are located at the rear of the site approximately 45m from the front boundary and are largely hidden from view behind the existing single storey semi-detached dwellings (which occupy the full width of the street frontage except for the approximately 4m wide driveway entry). Site topography also further reduces apparent bulk and scale of the development from the public street as the site falls approximately 4.5m from front to back. This is considered acceptable.           |
| 7.01.05<br>Side and rear setbacks         | The building envelope is within the prescribed building envelope allowed within the R2 low density zone. The proposed development complies with the setback provisions of the DCP for the R2 zone, with the dwellings having a setback of between 0.9m from the common side boundary of 12 Union Street, 1.48m from the common boundary with 20 Union Street, and 4.0m from the common boundary with Islington Park. This is considered acceptable.  |
| 7.01.06<br>Open space                     | Each new dwelling is provided with a 16m <sup>2</sup> (4 x 4m) principle area of private open space and a minimum 40m <sup>2</sup> of private open space. Each courtyard is directly accessible from living rooms and is provided with adequate solar access.  |
| 7.01.07<br>Building design and appearance | The proposed development is of a contemporary design comprising a low-pitched hipped roof that slopes away from the property boundaries. The external materials and finishes include a mix of rendered brickwork, horizontal board cladding with a colourbond roof.<br>The new development is considered compatible with the existing scale, character and massing of development in the area and is considered an appropriate design outcome having regard to the allowable planning controls applying within the area. |
| 7.01.08<br>Solar access                   | The DCP requires that new buildings maintain at least three hours of sunlight to the north facing living room windows of adjacent dwellings between 9am and 3pm on 21 June.<br>The DCP also requires that the principle area of ground level private open space of adjacent dwellings receive at least 2 hours of sunlight between 9am and 3pm on 21 June.   |

|  |  |
|--|--|
|  | <p>Shadow diagrams have been provided showing the proposed shadow cast throughout the day at hourly intervals between 9.00am and 1.00pm on 21 June and also at 3.00pm on 21 June.</p> <p>The living room windows and principal area of ground level open space of adjoining dwellings will not be affected by the new development. This includes the single storey rear addition development proposed at 12 Union Street which has yet to be submitted to Council. This is considered acceptable.</p>  |
| <p>7.01.09<br/>Views and privacy</p>                     | <p>The development does not unreasonably impact on any views or the general outlook from surrounding properties, nor will it impact view corridors from the public domain. The impact on the general outlook from the adjoining properties is acceptable.</p> <p>The first-floor level of the new dwellings includes bedrooms and bathrooms, with the exception of a study room at the southern side of Unit 2. A condition of consent will require the south facing window of the upstairs study to be amended to be a highlight feature window to reduce the potential for overlooking to 12 Union Street. The south and north facing balconies at the rear of Units 2 and 3 propose full height fixed privacy screens to reduce the potential for overlooking to 12 and 20 Union Street and each other. The impact on privacy and overlooking is considered acceptable in this regard.</p>  |
| <p>7.02<br/>Landscape, open space and visual amenity</p> | <p>The site measures 563.22m<sup>2</sup> (excluding 176.38m<sup>2</sup> access handle) and is located in a Limited Growth Precinct. A comprehensive landscape plan has been provided prepared by a landscape designer. The DCP requires 70m<sup>2</sup> per dwelling of landscaping and 15% of deep soil area for the whole site. This equates to a minimum collective total of 140m<sup>2</sup> landscaping and 84.48m<sup>2</sup> of deep soil for the site. As subdivision is proposed, the DCP also requires 10% landscaping on each resultant lot.</p> <p>The plans have been amended to show approximately 140.2m<sup>2</sup> of landscaped area and approximately 129.2m<sup>2</sup> (22.94%) of deep soil area for the site, which complies with the control.</p> <p>Furthermore, Lot 3 provides 73.8m<sup>2</sup> of landscaping (26.59% of new lot excluding 94.87m<sup>2</sup> access handle) and resultant Lot 4 provides 66.4m<sup>2</sup> of landscaping (23.24% of new lot excluding 81.52m<sup>2</sup> access handle).</p> <p>Overall, the development provides a reasonably even distribution of landscaping for the resulting lots, with landscaped areas being of useable size and proportions.</p> |
| <p>7.03<br/>Traffic, parking and access</p>              | <p>The proposal has been assessed by Council's Development Engineer as being acceptable, subject to conditions of consent. The development has been amended to increase vehicle circulation space.</p> <p>The application proposes a double garage for each new dwelling. This is considered adequate. Vehicles for the new dwellings and the existing dwelling at 16 Union Street can enter and exit the site in a forward direction in accordance with AS2890.1. A reciprocal right of carriageway is required to allow</p>  |

|                              |   |
|------------------------------|---|
|                              | <p>vehicles to access proposed parking on Lots 3 (Unit 2) and 4 (Unit 1) and existing parking on Lot 1 (16 Union Street). This is addressed by a condition of consent.</p> <p>The proposal does not result in the removal of any street parking spaces or changes to the kerb / footpath. The demand for parking is not expected to change as a consequence of the proposed development.</p>  |
| 7.05<br>Energy Efficiency    | The proposal complies with the requirements of BASIX.   |
| 7.06 Stormwater              | The proposal has been assessed by Council's Development Engineers as being acceptable, subject to conditions of consent. A revised stormwater plan has been provided to confirm the off-set of the dispersion trench from boundaries and buildings. Rainwater tanks are provided for each new dwelling with overflow from this and guttering from existing dwellings at 14 and 16 Union Street directed to a dispersion trench at the rear of the site. An easement to drain water is required along the side boundaries of the site in favour of the existing dwelling Lots 1 and 2 and burdening the proposed Lots 3 and 4 in order to facilitate this system. This is addressed by a condition of consent. |
| 8.00<br>Public Participation | As previously discussed one submission was received during the notification period. The issues raised in the submission have been adequately addressed during the assessment of the application.  |

#### **4.2.3 Impacts on the Natural and Built Environment [Section 79C(1)(b)]**

##### **a) Character, Streetscape, External Appearance, Urban Design, Height, Bulk & Scale**

The siting, scale, height and appearance of the proposed development is suitable for the site and the streetscape. The proposed development is appropriate in terms of its scale and built form. Overall, the amended proposal is considered to be aesthetically appropriate, of a contemporary design and environmentally sustainable.

##### **b) Amenity (Privacy, Overshadowing, Views & Construction Impacts)**

Sunlight, privacy and view loss have all been assessed in the above report whereby it was concluded that the impacts are acceptable. Appropriate conditions have been recommended to address potential impacts during construction.

#### **4.2.4 Social and Economic Impacts in the Locality [Section 79C(1)(b)]**

The application will have positive social and economic impacts as it is provide additional residential accommodation in a suitable location. The proposal will not adversely impact on the amenity of the neighbourhood and will have a positive economic impact during the construction period due to additional employment.

#### **4.2.5 Suitability of the Site for the Development [Section 79C(1)(c)]**

The site is within a Mine Subsidence District. Approval for the development from the Mine Subsidence Board has been granted prior to lodgement with Council. Conditions of consent will be imposed in the determination to ensure the detailed design is approved by the Board prior to the issue of the construction certificate. The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development.

The site is located in a residential area with access to local services and facilities and is suitable for the proposed development.

#### **4.2.6 Submissions made in accordance with the Act or Regulations [Section 79C(1)(d)]**

This report has addressed the various concerns raised in the submissions received in response to the Public Notification under the Act and Regulations.

#### **4.2.7 Public Interest [Section 79C(1)(e)]**

- **Sustainability**

The proposed development is satisfactory having regard to the principles of ecologically sustainable development. The proposed development will not result in the disturbance of any endangered flora or fauna habitat or otherwise adversely impact on the natural environment.

- **General**

The proposed development does not raise any significant general public interest issues beyond matters already addressed in this report.

### **ATTACHMENTS**

**Attachment A:** Plans and elevations of proposed amended development / as amended - 14 & 16 Union Street, Tighes Hill

**Attachment B:** Draft Schedule of Conditions - 14 & 16 Union Street, Tighes Hill

**Attachment C:** Processing Chronology - 14 & 16 Union Street, Tighes Hill





**ITEM-18**                      **DA 2015/0540 - 18 NERIGAI CLOSE ELERMORE VALE -  
ERECTION OF TWENTY FIVE ATTACHED TWO STOREY  
DWELLINGS, ASSOCIATED WORKS AND TWENTY SIX  
LOT STRATA SUBDIVISION**

**APPLICANT:**                      **MONTEATH & POWYS PTY. LTD.**

**OWNER:**                              **NERIGAI DEVELOPMENTS PTY. LTD.**

**REPORT BY:**                      **PLANNING AND REGULATORY**

**CONTACT:**                              **DIRECTOR PLANNING AND REGULATORY / MANAGER  
DEVELOPMENT AND BUILDING**

## **PART I**

### **PURPOSE**

The purpose of the report is to present a development application to the Development Applications Committee for determination, due to the large number of public submissions received.

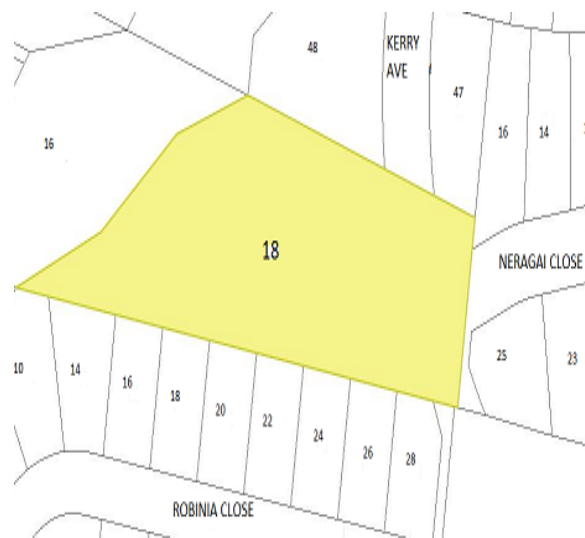
The proposed development seeks consent for the construction of twenty-five (25) two-storey townhouses, strata subdivision, tree removal, associated site works and a new roadway that will connect Kerry Avenue to Nerigai Close.

The proposed development is 'integrated' development and requires approval from the Department of Primary Industries (NSW Office of Water), Mine Subsidence Board and NSW Rural Fire Service.

A copy of the submitted plans for the proposed development is attached at **Attachment A**.

The original application was publicly notified for a period of 30 days in accordance with Council's Public Notification Policy. A total of eighty-two (82) public submissions were received objecting to the proposal.

The proposal was amended after the exhibition period to address a number of concerns raised by Council officers. The amended application was publicly re-notified for a period of 14 days and a total of thirty-four (34) submissions were received in response, which included three (3) Public Voice requests.



**Subject Land: 18 Nerigai Close Elermore Vale**

The application was presented to Council for Public Voice on the 18<sup>th</sup> October 2016.

Details of the submissions received are summarised at Section 3.0 of Part II of this report and the concerns raised are addressed as part of the Environmental Planning Assessment at Section 4.0.

Department of Primary Industries (NSW Office of Water), Mine Subsidence Board and NSW Rural Fire Service.

A copy of the submitted plans for the proposed development is attached at **Attachment A**.

The original application was publicly notified for a period of 30 days in accordance with Council's Public Notification Policy. A total of eighty-two (82) public submissions were received objecting to the proposal.

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The application was presented to Council for Public Voice on the 18<sup>th</sup> October 2016.

Details of the submissions received are summarised at Section 3.0 of Part II of this report and the concerns raised are addressed as part of the Environmental Planning Assessment at Section 4.0.

## **Issues**

Compliance with the relevant provisions of the Newcastle Local Environmental Plan 2012 and Newcastle Development Control Plan 2012.

- Density and character of the development.
- Privacy and visual amenity.
- Impact on the existing road network and local traffic.
- Environmental impacts of the development including loss of vegetation, flora and fauna.

## **Conclusion**

The proposed development has been assessed having regard to the relevant heads of consideration under Section 79C(1) of the *Environmental Planning and Assessment Act 1979* (as amended) NSW and is considered to be acceptable subject to compliance with appropriate conditions and the General Terms of

Approval issued by the NSW Rural Fire Service and NSW Department of Primary Industries (Water).

Accordingly, it is recommended that the application be approved on the basis of the amended plans, subject to the nominated conditions of consent.

## **RECOMMENDATION**

- i) THAT the application for the erection of 25 two-storey dwellings, strata subdivision, tree removal and associated site works at 18 Nerigai Close, Elermore Vale be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions (refer to **Attachment B**); and
- ii) THAT those persons who made submissions be advised of the Council determination.

## **Political Donation / Gift Declaration**

Under Section 147 of the Environmental Planning and Assessment Act 1979, the applicant, and any person related to this Development Application must report any political donation and/or gift to a Councillor and/or any gift to a Council employee within a two year period before the date of this application.

The applicant has answered **NO** to the following question on the application form: *Have you, or are you aware of any person having a financial interest in the application, made a 'reportable political donation' or 'gift' to a Councillor or Council employee within a two year period before the date of this application?*

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## **PART II**

### **1.0 THE SUBJECT SITE**

The subject site is known as 18 Nerigai Close (Lot 7 DP 842408) and has frontage to both Nerigai Close and Kerry Avenue. It is located at the end of the Nerigai Close cul-de-sac and has an area of 8,370.9m<sup>2</sup>. The site is located approximately one kilometre west of the Elermore Vale Shopping Centre.

The site is currently vacant and consists of partially cleared native forest and woodland with mature trees and some undergrowth. A classified waterway runs through the western corner of the lot. At the end of Nerigai Close, bordering the subject site is a footpath that extends south towards Robinia Close, alongside a large vegetated reserve.

The site naturally slopes downwards towards the north eastern and western corner of the site and is bordered by a drainage reserve to the east. The land to the west is also a drainage reserve, which runs from the south of the site (Robinia Close) to the north of the site (Willow Close). The waterway running through the site drains into

this system along the northern boundary. The waterways appear to have been modified as a result of previous developments in the area.

## 2.0 THE PROPOSAL

The applicant seeks consent for the construction of 25 two-storey townhouses, strata subdivision, tree removal and associated site works.

The proposal has been amended in response to concerns by both the community and Council officers to include a 5.5m wide roadway, with a 1.2m wide footpath that will connect Kerry Avenue to Nerigai Close.

The proposed development is 'integrated' development and requires approval from Department of Primary Industries (Water), Mine Subsidence Board and NSW Rural Fire Service.

A copy of the submitted plans is appended at **Attachment A**. The various steps in the processing of the application to date are outlined in the Processing Chronology appended at **Attachment B**.

## 3.0 PUBLIC NOTIFICATION

The application was originally publicly notified for a period of 30 days in accordance with Council's Public Notification Policy. A total of 82 public submissions were received objecting to the proposal.

The proposal has been subsequently amended in response to concerns raised by both the community and Council officers. The amended application was publicly re-notified for a period of 14 days and a total of 34 submissions were received in response, which included three Public Voice requests.

The concerns raised in respect of the amended development are summarised as follows:

- **Density** - There are too many dwellings proposed resulting in an overdevelopment of the site.
- **Land zoning** - Inappropriate form of multi-dwelling development in the R2 Low Density Zone.
- **Overshadowing** - Overshadowing of properties located to the south of the site in Robinia Close.
- **Privacy** - Overlooking of properties in Robinia Close.
- **View loss** - Obstruction of views and loss of outlook to neighbouring properties.
- **Noise** - Higher density housing will lead to noise pollution.

- **Social impact** - Potential for increased crime and anti-social behaviour in the area.
- **Open space** - Developers should provide a safe play area for residents and surrounding neighbours.
- **Building appearance** - Box like design with skillion metal roofing is not compatible with the existing built form character of surrounding homes.
- **Building separation** - There is a lack of separation between the dwellings.
- **Open space** - Lack of communal and open space provided within the development.
- **Setback to southern boundary** - Minimal setback to the shared rear boundary of existing homes in Robinia Close.
- **Traffic** - Nerigai Close and Kerry Avenue are narrow streets and are not designed to support an increase in traffic movements and parking. The road is not wide enough to have vehicles parked on the road and have traffic entering at the same time.
- **Traffic safety** - Internal traffic movements and the need for traffic calming measures.
- **Parking** - Increase pressure for on street parking. There is not enough parking for future residents with only single garages provided for each dwelling.
- **Pedestrian safety** - Concerns regarding pedestrian safety.
- **Garbage and servicing** - There will be difficulty for heavy vehicles entering the site.
- **Stormwater and sewerage** - Increased pressure on existing stormwater infrastructure due to reduced bushland and increased hard surface area for site.
- **Flooding** - Clearing and excavation will create a flood plain. Increased risk of flooding to downstream properties.
- **Garbage refuse area** - Associated smells and odours of garbage enclosure.
- **Emergency evacuation** - Adequacy of only having one entrance and exit to cope with emergency evacuation in case of fire.
- **Loss of bushland and vegetation** - Concern regarding the destruction of the natural bush corridor and riparian zone.
- **Flora and Fauna** - Impact on wildlife and natural habitat including bandicoots, possums, lizards and native birds.

- **Waterway** - The waterway flowing through the site will be reduced in size. This along with the increased hard surface runoff (paths, sealed roads and roof area) will increase the risk of flooding to downstream properties.
- **Microclimate** - Increase in heat, glare and chemical emissions.
- **Wind tunnel** - The development will create a wind tunnel.
- **Subsidence** - Potential impacts for surrounding properties.
- **Construction impacts** - Concern regard the impacts on the neighbours from the construction process.
- **Fire safety** - Concern regarding spread of flames to adjoining blocks given the minimal setbacks.
- **Property Values** - The proposal will result in devaluation of surrounding properties.
- **Public interest** - There is no public benefit afforded to the community i.e. parks, reserves etc.
- **Consultation** - There was a lack of community consultation undertaken by developer.

A detailed consideration of the above issues was made during the assessment of both the original and amended designs. Overall, it is considered that the issues and concerns raised in the submissions do not warrant the refusal of the application in its present amended form, or necessitate any further substantial amendments.

The proposed development does not raise any other significant general public interest issues beyond matters already addressed in this report.

#### **4.0 ENVIRONMENTAL PLANNING ASSESSMENT**

The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 79C(1) of the Environmental Planning and Assessment Act 1979, as detailed hereunder.

## **4.1 Statutory Considerations [Section 79C(1)(a)(i) and (ii)]**

### **4.1.1 State Environmental Planning Policies**

#### State Environmental Planning Policy 55 – Remediation of Land (SEPP55)

Clause 7(1)(b) and (c) of SEPP55 require that where land is contaminated, Council must be satisfied that the land is suitable in its contaminated state or will be suitable after remediation for the purpose for which the development is proposed.

The subject site is not listed on Council's contaminated lands register and Council's records do not identify any past contaminating activities on the site. Accordingly, the subject site is considered suitable for its intended land use.

#### State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX assessment was completed and a BASIX Certificate was obtained and lodged with the application that demonstrates the development has achieved the required water and energy reduction targets. A condition will be imposed on the consent reflecting this Certificate.

#### State Environmental Planning Policy No. 44 - Koala Habitat Protection

The Policy 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.

An Ecological Assessment Report has been submitted which identified only one tree out of 100 native trees within the site as being a Koala feed tree. Given these findings, the assessment has satisfied matters for consideration under SEPP 44.

### **4.1.2 Newcastle LEP 2012**

#### *2.3 Zone objectives and land use table*

The subject property is zoned R2 Low Density Residential under the provisions of the Newcastle Local Environmental Plan, 2012. The proposal is defined as 'residential accommodation' (multi-dwelling housing) and is permissible in the zone subject to development consent.

The proposal is consistent with the objectives of the zone by providing a diverse range of dwellings that respects the character of the surrounding development.

#### *2.6 Subdivision*

The proposal seeks consent for the strata subdivision of the development as part of this application.

#### *4.3 Height of buildings*

The Height of Building Map provides for a maximum height limit of 8.5 metres. The proposed development has a maximum height of 5.4m, which complies with the height limit.

#### *4.4 Floor space ratio*

The Floor Space Ratio Map provides for a maximum FSR of 0.6:1. The proposal has a FSR of 0.42:1, which is under the maximum FSR.

#### *5.9 Preservation of trees or vegetation*

An Ecological Assessment Report and Arborist Report have been submitted as part of the application. It is considered that there is sufficient compensatory planting to offset the loss of trees and the extent of landscaping will help soften and screen the visual presentation of the development, in particular the northern boundary.

A flora and fauna assessment was provided to Council and a separate threatened plants survey was undertaken (dated December 2015) which did not identify any *Tetratheca juncea* "Black eyed Susan" on the site. The assessment did not identify any significant impacts on other important flora and fauna.

The proposal is consistent with this clause with the extent of tree retention and removal having been thoroughly assessed and deemed appropriate for the development.

#### *6.1 Acid sulfate soils*

The site and all surrounding properties are identified as containing Class 5 acid sulfate soils. The proposed development will not lower the watertable below one metre and is not within 500m of adjacent acid sulphate class 1 – 4 and accordingly an acid sulfate management plan is not required.

#### *6.2 Earthworks*

The proposal involves regrading of the site to accommodate the proposed development. All cutting and filling will be undertaken in line with relevant standards.

The proposed earthworks will not detrimentally impact on environmental functions, neighbouring uses or features of the surrounding land and conditions will be placed the consent to address sedimentation and erosion control.

Overall, the proposal achieves a satisfactory level of compliance with both the numerical standards and objective criteria as contained within Newcastle Local Environmental Plan 2012



## 4.2 Merit Considerations

### 4.2.1 Relevant Strategic Policies

The broader strategic policies, including the Newcastle Urban Strategy and the Lower Hunter Regional Strategy (LHRS) identify Elemore Vale as being a predominantly residential area with opportunities for mixed-use development. The application is consistent with the objectives of the LHRS, which include ensuring that there is adequate land available and appropriately located to accommodate the projected housing and employment needs of the Region's population over the next 25 years.

### 4.2.2 Newcastle Development Control Plan [Section 79C(1)(a)(iii)]

| Section of DCP   | Comment  |
|--|--|
| Section 3.04<br>Attached dwellings and multiple-dwelling housing | <p>The proposed development is consistent with the aims of this section, including:</p> <p><i>to encourage redevelopment that allows for more compact and sustainable urban form</i></p> <p><i>to support the efficient use of residential land and expand the variety of housing options</i></p> <p>The development is consistent with the aims of this element through achieving redevelopment that allows for a more compact and sustainable urban form. It also allows for additional housing opportunities within proximity to services and facilities, commercial centres and employment transport nodes whilst maintaining an acceptable level of residential amenity.</p> <p>There are no specific controls under this section. The section otherwise identifies relevant sections of the DCP that need to be addressed and are discussed below.</p> |
| Section 4.03<br>Mine Subsidence                                  | <p>The site is located within a Proclaimed Mine Subsidence District. The Mine Subsidence Board has assessed the proposal and has issued their General Terms of Approval subject to conditions of consent.</p>  |
| Section 4.04<br>Safety & Security                                | <p>The development is considered to be consistent with the principles of Crime Prevention Through Environmental Design (CPTED) as appropriate measures are in place in regards to allowing for casual surveillance, access control, territorial reinforcement and space management.</p>  |
| Section 4.05<br>Social Impact                                    | <p>The development is consistent with the zone objectives and will have a positive social impact through the provision of additional housing in a residential area.</p>  |
| Section 5.01<br>Soil Management                                  | <p>The proposal is acceptable subject to the inclusion of conditions of consent regarding soil and sediment control.</p>   |
| Section 5.02<br>Land Contamination                               | <p>The proposal is acceptable in terms of land contamination as detailed under the discussion on</p>   |

|  |  |
|--|--|
|  | SEPP 55.   |
| Section 5.03<br>Tree Management          | <p>The application was supported by an Arborist Report, which assessed the existing vegetation on the site. A total of 134 trees were examined, with 58 to be retained and 76 to be removed. The assessment found that the majority of vegetation within the site is a result of domestic planting over a number of years. Intact original vegetation was deemed to be absent from the site; however a number of native species were noted.</p> <p>There are concerns regarding the number of trees to be removed. However it is accepted that the trees are not significant and could not practically be retained in order to develop the site in a co-ordinated manner. The applicant submitted landscape plans, which identified areas available for compensatory planting. The proposed development is considered acceptable in relation to the guidelines for tree management.</p>  |
| Section 7.01<br>Building Design Criteria | <p><i>Height</i><br/>The DCP refers to the height controls under the Newcastle LEP 2012. The proposed development has a maximum height of 5.4m, which complies with the 8.5m height limit.</p> <p><i>FSR</i><br/>The DCP refers to the FSR controls under the Newcastle LEP 2012. The proposal has an FSR of 0.42:1, which is well under the maximum FSR of 0.6:1.</p> <p><i>Streetscape and front setbacks</i><br/>The buildings are of a modern design and appearance utilising low pitch roofs and contemporary materials. The development has a satisfactory design and appearance and will not be easily seen from the public domain due to its setting.</p> <p><i>Side and rear setbacks</i><br/>The proposed side and rear setbacks are acceptable from a separation and building envelope perspective and meet the objectives of the DCP.</p> <p><i>Open space</i><br/>The DCP requires that each dwelling have a minimum of 35m<sup>2</sup> private open space located behind the building line. All dwellings have at least 35m<sup>2</sup> of private open space, with a principal area of 4m x 4m located off living areas and located behind the building line, which complies with the requirements of the DCP.</p> <p><i>Building design and appearance</i></p> |

|   |  |
|---|--|
|   | <p>The proposal incorporates two-storey dwellings, which is consistent with the scale, character and massing of the development in the area. The appearance of the development is considered to be compatible with the existing streetscape.</p> <p><i>Solar access</i><br/>The dwellings are generally orientated with courtyards and living areas to the north. Overshadowing of adjoining properties would be minimal given the setback from site boundaries and orientation of the block.</p> <p><i>View and privacy</i><br/>The main living areas for the units are located on the ground floor. The first floor contains bedrooms and bathrooms, which are not expected to have any privacy implications given the limited use of these rooms.</p> <p>No significant views will be lost from adjoining properties. However it is noted that views towards the site will change from looking at a vegetated site with no dwellings to a developed site with multi dwelling housing.</p> |
| <p>Section 7.02<br/>Landscaping, Open Space and Visual Amenity</p>                              | <p>The landscape plan is acceptable for a Category 3 development as required under the DCP. The proposal provides in excess of the required minimum 25% of the site area as landscaping and therefore complies with this element. The majority of the proposed landscaped area is deep soil zone.</p>  |
| <p>Section 7.03 &amp; Section 7.04<br/>Traffic, Parking &amp; Access and Movement Networks</p>  | <p>The number of parking spaces to be provided on site meets the minimum requirements.</p> <p>Detailed comments on the access arrangements are provided later in this report.</p>  |
| <p>Section 7.05<br/>Energy Efficiency</p>   | <p>The proposal complies with the requirements of BASIX.</p>   |
| <p>Section 7.06 &amp; 7.07 &amp; 4.01<br/>Stormwater, Water Efficiency and Flood Management</p> | <p>The proposal is acceptable in regards to stormwater and drainage treatment and the relevant conditions have been placed on the consent. Detailed comments on the drainage and flooding issues are provided later in this report.</p>  |
| <p>Section 7.08<br/>Waste Management</p>  | <p>Conditions have been placed on the consent in regards to waste management.</p>  |

### 4.2.3 Impacts on the Natural and Built Environment [Section 79C(1)(b)]

Character, Streetscape, External Appearance, Urban Design, Height, Bulk & Scale

Overall it is considered that the design is adequate having regard to its character, streetscape, appearance, height, bulk and scale. The development is of a type and scale that is allowed under the planning controls and the design of the development meets all of the numerical controls in terms of open space, landscaping, height and FSR. The design of the proposed townhouses, whilst not architecturally similar to the houses that currently characterise the general area, are considered to be aesthetically appropriate, of a contemporary design and environmentally sustainable.

Traffic, Access & Parking

Objection has been raised to the proposed development on the grounds of traffic generation, access and parking. The proposal has been assessed by Council's Senior Development Officer (Traffic) and is considered to be acceptable, subject to conditions appended at **Attachment B**.

In reaching this recommendation Council's Senior Development Officer (Traffic) provided the following comments:

#### Public Road Network Connection

*"On-going consultation with internal / external stakeholders and Council's Asset Management has led to a revised layout through the connection of Kerry Avenue and Nerigai Close to form a loop with a 5.5m wide carriageway (including a 1.2m wide footpath which formally connects the two streets). The watercourse has been nominated to be re-worked and be re-formed as an artificial watercourse with rock lining and rehabilitation between the road and the property. An overland flowpath will be provided for bigger flood events.*

*Prior to submission of the final concept design, Council's Road, Drainage, Natural Asset and Planning Engineers discussed the possibility of providing the necessary closure to Kerry Avenue and Nerigai Close. This meeting was driven by the need to provide for essential services such as garbage collection, accessible footpath connections and the close for the two roads. The meeting discussed options for providing either hammer heads (separate turning area) for the roads or joining the roads to form a loop. The discussions looked at the potential pedestrian links; future infrastructure needs (such as a footpath along Kerry Avenue); impact on drainage and nature of the area; impact on neighbouring properties; community expectations; maintenance requirements; responsibilities for ownership and impact on Council.*

*Prior to 2000, Kerry Avenue was intended to provide a future link between Watkins Road and Cardiff Road. Since then, a revision of strategic planning was undertaken and it was found that continuing Kerry Avenue to end at Cardiff Rd would not be practically viable. Similarly, Nerigai Close was to link up with Kerry Avenue forming a circuit between Kerry Avenue, Melinda Avenue and Nerigai Close.*

*The terrain of the adjoining land on the southern facing properties is very steep, therefore the practicality of the road construction, significance of the water course and land areas were considered as part of the planning process. A decision was made by Council not to extend Kerry Avenue any further.*

*Ongoing discussions with the applicant and internal stakeholders have led to the applicants agreeing to provide a road connection between Kerry Avenue and Nerigai Close. This outcome is noted as a positive way forward and provides the much needed road connection. It is noted that the concept will need to be further refined to provide an improved access entry into the property. This can be resolved at Construction Certificate stage.*

*A new footpath will be provided which will link with the existing footpath and connect with Robinia Close, Nerigai Close and Kerry Avenue. The footpath access will also provide a link for recreational activities such as cycling and running as the link gives a good loop of the surrounding area and makes Jubilee Rd accessible via Robinia Close.*

*Drainage will need to be provided for the existing and proposed new road. There is existing drainage which is Council owned and will need to be modified to Council specifications. The pavement design will need to be done for at least 50 year life and will need to cater for the RFS fire truck loads as per the RFS Guidelines and to Council specifications. Signage and street lighting will need to be provided to minimum P4 lighting category. New signs will require the consent from NCC Traffic Committee."*

#### *Dedication of Land for Road Purposes*

*"The road networks (as discussed above) will need to be formalised. This application may require portions of land to be dedicated to Council for road purposes (public roads) as part of the road network design process. As part of the road design process, land dedication and subdivision processes may need to be followed in order to dedicate the land as public roadway and for any right of way."*

#### *Garbage Services*

*"Discussion with Council's Garbage Services revealed they are currently experiencing difficulties in servicing Kerry Avenue between Melinda Avenue. Currently, any garbage pickup truck enters Kerry Avenue, picks up garbage from one side (east), reverses to Melinda Avenue and turns around and reverses back to pick up garbage from the other side (west). This is considered a difficult collection exercise and generally adds to Council risks. When entering Nerigai Close, the garbage service trucks find it difficult to turn at the end of Nerigai Close.*

*The proposed road connection will resolve the garbage run route for Council and will also provide the development the opportunity for a better private garbage collection services.*

*The design of the road connection will need to be resolved as part of the S138 Roads Act Application process and this will need to be done at Construction*

*Certificate Stage to ensure that the development can achieve the necessary access to the site. Conditions are recommended to ensure that the applicants provide the necessary information to Council for assessment of the new road design and associated works."*

#### Internal Access - Road Design (RFS requirements)

Rural Fire Services comments for the proposed internal road network are as follows:

*"The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply for the proposed shared pedestrian and vehicular access road shall comply with the following requirements of section 4.1.3 (1) of Planning for Bush Fire Protection 2006 as follows:*

*A minimum carriageway width of 6.5 metres (Note: this requirement has been clarified with RFS on 20/10/2016 and the "Carriageway" means the road devoted to use of vehicles. Footway areas are separate to Carriageway.*

*A minimum vertical clearance of 4 metres to any overhanging obstruction, including tree branches.*

*A turning circle with a minimum 12 metre outer radius.*

*Curves have a minimum inner radius of 6 metres and are minimal in number to allow for rapid access and egress.*

*The minimum distance between the inner and outer curves is 6 metres.*

*The cross fall does not to exceed 10 degrees.*

*Maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.*

*Be signposted to prohibit parking along the carriageway.*

*The provision of water, electricity and gas shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'."*

Based on the above, the requirements for RFS exceed the minimum Australian Standards AS2890 requirement for road widths. Services will be required to be installed and adequate setback will be required to safeguard the new residents when they come out from their property onto the access roadway. The design of the road can be done as a slow environment to cater for pedestrian movement (permeable paving and other sustainable material options are recommended). A risk analysis will need to be carried out to ensure that the design is safe and is able to cater for the residents. Other essential services such as the mailbox will need to be relocated to be kept away from the roadway.

It is noted that the internal access road will need to be re-designed to allow for a wider carriageway of 6.5m and additional allowances for pedestrian activity (including access to the mailbox) and services. The applicant is aware that this may result in the building footprints being affected. Signs and street lighting are also to be provided.

### Vehicular Access

*"The revised road layout has provided vehicular access to the development via Kerry Avenue. The proposed intersection at the property entry will need to be designed as a driveway entry with opening being 6.5m wide to allow RFS to service the site. The road link (carriageway) between Kerry Avenue and Nerigai Close is proposed to be minimum 5.5m wide which should create a slow environment for vehicular movement."*

### Traffic Generation

*"The data, explanation and conclusion provided in the traffic report indicate that the vehicular traffic generated from development is sustainable. The submitted traffic report is considered acceptable in relation to vehicular traffic generation. In addition, the proposed road link from Kerry Avenue to the Nerigai Close will mean that vehicles to the site will not need to loop around Melinda Avenue and the existing residential areas of Nerigai Close."*

### Off-Street Parking Provisions

*"The development provides 25 Car Parking & Bicycle spaces (one per unit), 10 Visitor car parking, three visitor bicycle spaces and 2 motor cycle spaces. The number of off-street car parking provided for visitor parking (indented off the kerb) exceeds Council's requirements. The proposed visitor bicycle and motorbike parking is in accordance with the DCP. It is noted that RFS does not allow for parking along the kerb for this development and signs will need to be erected along both sides of the street to restrict parking. The width of the internal access road is to be minimum 6.5m and manoeuvring circles comply with Australian Standards."*

### Traffic Noise Impact

*"The traffic report has not considered the impact of traffic noise impact from the development. It is noted that majority of the surrounding properties are well away from the development and will highly likely not be affected. The existing dwelling at 47 Kerry Avenue will have adequate buffer from the existing roadway."*

*It is also noted that the proposal is located in close proximity to the roadway and appropriate noise protection measures will be required for the new residential units."*

### Green Travel Plan

*"The traffic report has not addressed the green travel plan for the development. It is noted that although the Green Travel Plan may not play an immediate part in the development. However, the future use of such a plan will assist in addressing*

*alternative transportation and encourage residents to take alternative forms of transport."*

### Emergency Access and Services

*"The private roadway and connection to the public road is able to be designed so that emergency access (ambulance, police and RFS) can access the property. Services such as garbage pick-up, gas, electricity, and communication networks are to be resolved. It is noted that Council prefers garbage collections from within the property by private contractors."*

### Stormwater and Flooding

The proposal has been assessed by Council's Senior Development Officer (Engineering) and is considered to be acceptable, subject to conditions appended at **Attachment B**.

In reaching this recommendation Council's Senior Development Officer (Engineering) provided the following comments:

### Flood Management

*"Following the initial comments from Council, a Flood Certificate was obtained. The flood certificate provided data for the watercourse located along the north western boundary. However Council did not have any data for the upper southern catchment areas. Based on Council recommendations, the applicants engaged Northrop Consulting Engineers to undertake a Flood Impact Assessment for the development.*

*The data from the flood report by Northrop confirmed Council's position that the watercourse along the northern boundary was flood affected. An overland flowpath was required to be designed to cater for 1% AEP and PMF event flooding.*

*A concept proposal has been provided to cater for overland flow with a designated overland flowpath provided along the northern boundary along 48 Kerry Avenue. The submitted flood report demonstrated that the flood impact on the adjoining property at 48 Kerry Avenue will be reduced. This generally assists in reducing the flood risk to the property which seemed be most affected by flooding in the catchment. There is a slight increase on the northern western corridor, however the impact is very minor and will not affect the Jubilee Road properties.*

*The proposed rock lined watercourse along the northern boundary will be designed to reduce the velocity of the flood waters to prevent potential scouring at the lower end and to protect the natural waterway. The proposed new units have been designed to be set well above the 1% AEP flood level.*

*The submitted flood report and associated design of the drainage in conjunction with the Kerry Avenue / Nerigai Close road connection along the east/west waterway, including the culvert crossing at the east is considered acceptable. The proposed building floor levels will need to be designed to be protected against flooding and all*



*proposed structures including retaining walls will need to be designed by a structural engineer to withstand the hydraulic loads."*

### Stormwater Management

*"A stormwater management strategy has been provided with the application and progressive responses to Council concerns have been addressed by the consultant engineers. The stormwater management strategy and proposed stormwater design has been carried out to current Council DCP, Technical Specifications and industry standards.*

*The stormwater management for the site is broken into three components being Individual Units/Dwellings, Detention from Development run-off and Roads Surface Stormwater treatment. The development drainage system has been designed to cater for the 1% AEP events with overland flow paths provided to cater for higher flows. The proposed street drainage system has been designed to convey 10% AEP peak design flows.*

*The stormwater quantity modelling has been done using the DRAINS software to stimulate the runoff from the catchment for both the pre and post development. The design intent was to ensure that the pre-developed conditions do not exceed the post-development run-off under proposed development conditions.*

*Concept Drainage Provisions are as follows:*

*Each of the new dwellings will be installed with an individual 4000L rainwater tank to comply with the DCP.*

*Majority of the roof areas will be connected to the rainwater tank for reuse within the Unit for toilet flushing, washing and at least an external tap.*

*Run-off from the property will be collected via inter allotment pits and discharged to the street drainage system as follows:*

- The northern road will have an underground 30m<sup>3</sup> detention tank which collects run-off from the road and buildings. A SPEL Storm-Sack or similar product will be used to treat stormwater prior to discharge to the waterway at the rear of Unit 23.*
- The southern road will have an underground 50m<sup>3</sup> detention tank which collects run-off from the road and buildings. Low flows will be diverted to the proposed Bio-filtration tank which will treat the stormwater. High flows will be diverted to the watercourse at the rear of Unit 21.*

*Drainage and seepage water from the properties along Robinia Close will be collected via drainage along the southern boundary. It is recommended that the drainage be discharged to the Bio-filtration swale as the quantity of stormwater is low.*

*Overland flowpath between Units 22 and 23.*

*Retaining walls along the northern units."*

The following drainage infrastructure is proposed along the existing watercourse:

Proposed culvert crossing (3 x 450 diameter) on the southern boundary.

The proposed stormwater pipe extension (900 diameter pipe) on the northern boundary adjacent to the existing Kerry Ave properties and rock lined waterway.

Drainage connections from the existing road drainage will need a property connection with possible headwall and scour protection.

Two headwall structures that will accommodate for the private property discharge and scour protection.

Weir from the Biofiltration swale.

#### Stormwater Quality

*"A Stormwater Quality Assessment has been undertaken by the applicant in order to determine the impact on the ecology of the downstream watercourse. The performance of the stormwater strategy was assessed against the MUSIC software targets set in the Council's Technical Manual and the MUSIC Link. The submitted documents and the Stormwater Strategy meet Council requirements and stormwater treatment targets and therefore create a 'Water Sensitive Design' for the development. Safety features and signs will need to be provided for the proposed Bio-filtration swale to protect from possible injury and vandalism."*

#### Maintenance & Monitoring and Safety

*"The proposed stormwater structures will require regular monitoring and maintenance to ensure the system is functional. A detailed monitoring and maintenance plan will need to be provided. This can be resolved at Construction Certificate stage."*

#### Drainage Connection and Drainage Easements

*"Discharge from the development stormwater network is proposed to be connected to existing watercourse. Two new connections are proposed. There are additional works on the overland flowpath along the northern boundary which forms part of the flood control.*

*The new drainage discharge headwalls will need to be designed to minimum Council specifications. Easements will need to be created to ensure that the new drainage pipes and overland flowpath are protected. Council will need to have the right to discharge to the overland flowpath and should be given the rights to inspect the drainage system and instruct on the maintenance of the drainage system.*

*The principles of WSUD and the requirements of the DCP have been generally applied to the development. The submitted stormwater strategy reports, Flood Study and the concept proposal and supporting seems to be the best possible option available for the development of the site and could be sustained in the long term."*

## Environment

Objection has been raised to the proposed development with regards to the loss of bushland and the impact on flora and fauna. The proposal has been assessed by Council's Senior Environment Protection Officer and is considered acceptable, subject to conditions appended at **Attachment B**.

In reaching this recommendation Council's Senior Environment Protection Officer provided the following comments:

*"The proposed development site contains a number of semi-mature to mature trees dominated by Smooth-barked Apple (*Angophora costata*) in the eastern portion of the site and Sydney Blue Gum (*Eucalyptus saligna*) and Prickly-leaved paperbark (*Melaleuca stypheliodes*) in the west. The mid-storey vegetation is dominated by the introduced Small-leaf privet (*Ligustrum sinense*) and the understorey vegetation contains mainly invasive or non-native species. The presence of invasive species in the under-storey suggests a level of historical disturbance while the mature native over-storey indicates the development site is a remnant of the Coastal Foothills Spotted Gum - Ironbark Forest community in the eastern part of the site and transitions to the Alluvial Tall Moist Forest community in the west.*

*The proposed development will result in the removal of the majority of vegetation on-site. The vegetation removal has the potential to impact upon local flora and fauna and the Flora and Fauna Assessment prepared by General Flora and Fauna dated March 2014 has undertaken a study for the site of the proposed development. Surveying was conducted in accordance with the Lower Hunter Central Coast Regional Environment Management Strategy 'Flora and Fauna Survey Guidelines'. The survey effort undertaken revealed the presence of two vulnerable insectivorous bats, Little Bentwing-bat (*Miniopterus australis*) and Eastern Bentwing-bat (*Miniopterus schreibersii oceanensis*), listed under the Threatened Species Conservation Act 1995 at the proposed development site.*

*The Flora and Fauna Assessment prepared by General Flora and Fauna dated March 2014 has undertaken an impact assessment (Seven-Part Test) of the proposed development on endangered and vulnerable species listed under the Threatened Species Conservation Act 1995 that are known to inhabit the surrounding area. Species that have been previously identified on adjoining or nearby sites, such as the squirrel glider (*Petaurus norfolcensis*) and Black-eyed Susan (*Tetratheca juncea*), were given particular focus as part of the impact assessment. While the proposed development site may potentially provide foraging resources for species such as the squirrel glider and insectivorous bats the absence of roosting or denning habitat such as hollow bearing trees reduces the overall habitat value. However, the proposed development site does provide habitat connectivity between the vegetated areas to the south-east of the proposed development and the Council reserve to the west. The Flora and Fauna Assessment*

*prepared by General Flora and Fauna dated March 2014 recommends to maintain the connectivity of the surrounding habitat that a wildlife corridor be retained across the proposed development site. A wildlife corridor has been retained across the northern part of the proposed development site as shown in the Site Plan prepared by Tonic dated 11 July 2016. Due to the retention of the wildlife corridor the Flora and Fauna Assessment has concluded the proposed development will result in no significant impact upon flora and fauna.*

*The proposed development includes the clearing of the semi-mature to mature trees on-site. These trees provide habitat for endemic avifauna and mammals. To ensure the safety and protection of these species a suitable qualified ecologist will be required to be present on-site to supervise the tree felling. The requirement for an ecologist to on-site to inspect the trees for fauna prior to felling will be addressed by consent conditions."*

#### Amenity (Overshadowing, Views & Privacy)

It is considered that the proposed development will not unreasonably impact the the existing amenity and character of the area. The proposal will contribute to the revitalisation of the area and is in keeping with the strategic planning intentions adopted within the Newcastle DCP.

The proposed construction and operation of the development is also not likely to unduly impact upon the surrounding built environment in terms of noise, odours, urban ecology, traffic / car parking, pedestrian movement, safety and security.

#### **Overshadowing**

The proposal does not have an adverse overshadowing impact on the adjoining properties.

#### **Privacy**

The proposal does not have an adverse privacy impact on the adjoining properties.

#### **Views**

The proposal does not have an adverse privacy impact on the adjoining properties in terms of views. No significant views will be lost from adjoining properties apart from the fact the built form outcome on this site will change in respect to density on the site.

#### **4.2.4 Social and Economic Impacts in the Locality [Section 79C(1)(b)]**

The concern raised by objectors regarding a possible reduction in property values in the vicinity of the site as a result of the proposed development is not considered to be justified. The proposal will not adversely diminish the amenity of the adjoining premises or the neighbourhood generally and, accordingly, is not likely to detract

from current market values. Indeed, the proposed development may well lead to an increase in the value of nearby properties as it could suggest redevelopment potential.

As stated, the development proposes residential dwellings within a residential area. It is considered unlikely that a residential development of this nature would result in increased anti-social behaviour.

The development provides for increased housing choice within the area which is considered a positive social outcome.

#### **4.2.5 Suitability of the Site for the Development [Section 79C(1)(c)]**

##### Department of Primary Industries (Water)

The road connection is within 40m of the waterway. DPI Water has provided their General Terms of Approval and the applicant must also apply to DPI Water and obtain a Controlled Activity Approval before the commencement of any work, or activity on waterfront land. Waterfront land for the purposes of this DA is land or material within 40m of the top of the bank of the tributaries of Ironbark Creek.

An appropriate vegetated riparian corridor is also required and conditions are recommended to ensure that the waterfront land is reinstated, and for the riparian corridor to be appropriately maintained and re-established in accordance with DPI Water criteria and guidelines.

##### NSW Rural Fire Service

The site contains two bushfire threats, consisting of open forest to the south-east and rainforest vegetation to the north-west of the site. In order to maintain a safe distance between the development and the bushfire threat, an Asset Protection Zone (APZ) of 20m to the south-eastern boundary, and a 10m APZ to the north-western boundary is required. As a consequence, removal of vegetation is required to facilitate this. New planting is also proposed along the boundaries, however this is not considered to increase bushfire threat. NSW Rural Fire Service has provided their General Terms of Approval.

##### Mine Subsidence Board

The site is within a Mine Subsidence District and conditional approval for the proposed development has been granted by the Mine Subsidence Board.

Overall, the proposal is considered an acceptable form of development for the site as discussed within this report and is recommended for approval subject to conditions of consent to minimise the above risks.

#### **4.2.6 Submissions made in accordance with the Act or Regulations [Section 79C(1)(d)]**

This report has addressed the various concerns raised in the submissions received in response to the public notification and referral procedures under the Act and Regulation.

#### **4.2.7 Public Interest [Section 79C(1)(e)]**

##### **Sustainability**

The proposed development is considered to be satisfactory having regard to the principles of ecologically sustainable development.

The applicant submits that the proposed development will not result in the disturbance of any endangered flora or fauna habitat or otherwise adversely impact on the natural environment.

##### **General**

The proposed development does not raise any significant general public interest issues beyond matters already addressed in this report.

Overall, the proposed development will have an acceptable impact on the surrounding natural and built environment. Approval of the application is considered to be in the public interest.

#### **ATTACHMENTS**

**Attachment A:** Amended Plans - 18 Nerigai Close, Elernore Vale - DA2015/0540

**Attachment B:** Draft Schedule of Conditions - 18 Nerigai Close, Elernore Vale - DA2015/0540

**Attachment C:** Processing Chronology - 18 Nerigai Close, Elernore Vale - DA2015/0540

**ITEM-19**                    **DA 2016/00893 - 122-124 PARRY STREET NEWCASTLE WEST - DEMOLITION OF BUILDINGS, ERECTION OF 8 STOREY MIXED USE DEVELOPMENT WITH 31 RESIDENTIAL UNITS, ONE GROUND FLOOR COMMERCIAL UNIT, 45 PARKING BAYS TO GROUND FLOOR AND BASEMENT, & ASSOCIATED SITE WORKS**

**APPLICANT:**            **KDC PTY LTD**

**OWNER:**                **ENGINEERS AUSTRALIA**  
**REPORT BY:**            **PLANNING AND REGULATORY**  
**CONTACT:**              **DIRECTOR PLANNING AND REGULATORY / MANAGER DEVELOPMENT AND BUILDING SERVICES**

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## **PART I**

### **PURPOSE**

The purpose of the report is to present a development application to the Development Assessment Committee for determination. The value of the development is over \$10M and a Public Voice application was submitted in relation to this proposal, but was later withdrawn.

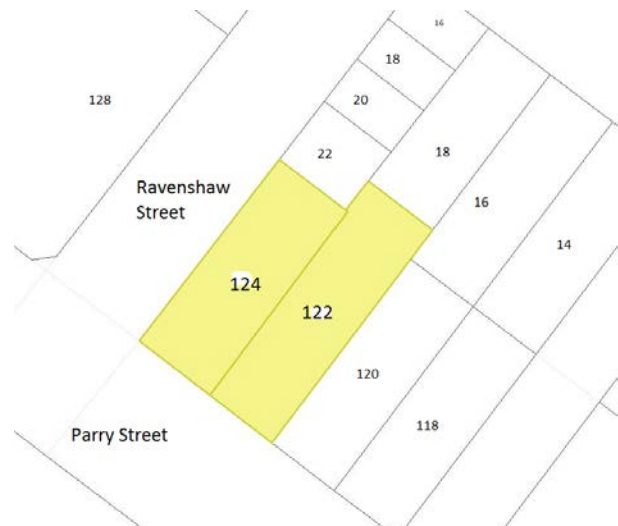
The development application seeks consent to demolish two existing single-storey commercial buildings at 122 and 124 Parry Street, Newcastle West and to erect an eight storey mixed commercial/residential building. A commercial unit is located at ground floor level, with 30 residential apartments on the upper levels and 45 car parking spaces over two levels.

A copy of the submitted plans for the proposed development is appended to this report (refer to **Attachment A**).

The application has been notified to neighbouring properties in accordance with Council's Public Notification Policy and four public submissions have been received in response.

### **Issues**

- Compatibility with the existing urban character of the area, particularly in relation to dwelling density, height and building bulk.



**Subject Land:** 122-124 Parry Street  
Newcastle West

- Traffic and parking impacts.
- Privacy and overshadowing impacts.

## Conclusion

The proposed development has been assessed having regard to the relevant heads of consideration under Section 79C(1) of the *Environmental Planning and Assessment Act 1979* (as amended) NSW and is considered to be acceptable subject to compliance with appropriate conditions.

## RECOMMENDATION

- i) THAT Council note and support the clause 4.6 variation to clause 4.3 (Height of buildings) of the Newcastle Local Environmental Plan 2012; and
- ii) THAT the application for the demolition of two existing single-storey commercial buildings and erection of an eight storey mixed commercial / residential building at 122 and 124 Parry Street, Newcastle West be approved and consent granted, subject to compliance with the conditions set out in the Schedule of Conditions (refer to **Attachment B**); and
- ii) THAT those persons who made submissions be advised of the Council determination

## Political Donation / Gift Declaration

Under Section 147 of the Environmental Planning and Assessment Act 1979, the applicant, and any person related to this Development Application must report any political donation and/or gift to a Councillor and/or any gift to a Council employee within a two year period before the date of this application.

The applicant has answered **NO** to the following question on the application form:  
*Have you, or are you aware of any person having a financial interest in the application, made a 'reportable political donation' or 'gift' to a Councillor or Council employee within a two year period before the date of this application?*

## PART II

### 1.0 THE SUBJECT SITE

The subject property comprises Lot 124, Sec J, DP 978906 and Lot 1250, DP 1067914. It is a rectangular shaped parcel of land located on the northern side of Parry Street, Newcastle West, about midway between Union and Ravenshaw Streets. It has a frontage of 29.5m to Parry Street and 40.3m to Ravenshaw Street with a total site area of 1,254.6m<sup>2</sup>. The site is relatively flat, with a slight fall to the rear, and is occupied by two single-storey commercial buildings.



Existing development on adjoining sites comprises low scale, single-storey commercial/industrial type buildings that extend to the common side and rear boundaries. The general form of development in the immediate vicinity is made up of a variety of low scale warehousing and industrial buildings with associated carparking and servicing areas. Land on the southern side of Parry Street, directly opposite the site, is occupied by the No.1 Sportsground behind a row of fig trees that extend generally along the length of Parry Street, west of the Union Street intersection.

A shop top housing development at 118 Parry Street, Newcastle West has been recently completed and approval issued for a similar style of shop top housing for 15 residential units at 116 Parry Street, Newcastle West.

## **2.0 THE PROPOSAL**

The application proposes an eight storey commercial and residential shop top housing development consisting of:

- 30 Residential Units;
- 120m<sup>2</sup> Food and Drink Premises - Café; and
- 45 parking spaces.

The proposal is for a total of nine levels (i.e. 8 storeys above ground and a basement parking level). The ground floor consists of a commercial unit at the corner of Parry and Ravenshaw Streets and ground level parking via Ravenshaw Street. In addition, the ground floor includes access to the basement parking via the Parry Street frontage.

Proposed levels 1-7 are to contain a mixture of residential accommodation including 2, 3 and 4 bedroom dwellings. Proposed level 1 also includes a communal landscape area.

A copy of the current amended plans is appended at **Attachment A**.

The various steps in the processing of the application to date are outlined in the Processing Chronology (refer to **Attachment C**).

## **3.0 PUBLIC NOTIFICATION**

The application has been notified to neighbouring properties in accordance with Council's Public Notification Policy. Four objections were received in response to the notification.

The concerns raised by the objectors in respect of the proposed development are summarised as follows:

- **Traffic and Congestion** – The surrounding streets, especially Ravenshaw Street, are already experiencing problems with the

construction of a large number of units at Marketown and service vehicles entering Ravenshaw Street for Woolworth.

- **Noise Impact** – On adjacent properties.
- **Residential Amenity** - Privacy and Overlooking impacts – The windows overlook surrounding properties.
- **Power Lines** - The existing power lines should be removed given the proposal will be in close proximity to these wires.
  
- **Property values and construction impacts** – The proposal would have a detrimental impact on surrounding property prices and concerns about potential structural damage during the construction process.
- **Preservation of corner building on Parry and Ravenshaw Street** - The existing building located on the corner of Parry and Ravenshaw Street should be preserved.

The objectors' concerns are addressed under the relevant matters for consideration in the following section of this report.

#### **4.0 ENVIRONMENTAL PLANNING ASSESSMENT**

The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 79C(1) of the Environmental Planning and Assessment Act 1979, as detailed hereunder.

##### **4.1 Statutory Considerations [Section 79C(1)(a)(i) and (ii)]**

###### **4.1.1 State Environmental Planning Policy 65 – Design Quality of Residential Flat Development**

The application has been supported by the required documentation under Schedule 1 of the *Environmental Planning and Assessment Regulation 2000*, including a statement from the architect against the ten design quality principles, plans and montages of the buildings in the context of surrounds and landscaping design. The applicant has also submitted a colours and materials schedule.

The provisions of SEPP 65 require that the Consent Authority take into consideration the design quality of the residential flat development when evaluated in accordance with ten design quality principles. These principals being:

| <b>Context</b>                        | <b>Landscape</b>                            |
|---------------------------------------|---|
| Scale                                 | Amenity                                     |
| Built form                            | Safety and security                         |
| Density                               | Social dimensions and housing affordability |
| Resource, energy and water efficiency | Aesthetics                                  |

The proposed development was considered by Council's Urban Design Consultative Group (UDCG) on two occasions. The UDCG was generally supportive of the overall design but raised some concerns and made the following recommendation:

*'The proposal is generally supported by the UDCG at this stage. While multiple issues are addressed in this report, the primary areas of concern that need rectification are associated with setbacks to Ravenshaw Street'.*

The applicant has submitted the following response to address comments from UDCG:

- 'The variation will not impact the amenity within the public domain, in particular solar access and privacy.
- Surrounding development will not be impacted by the proposed variation.
- There are already significant exceedances to street wall height along Ravenshaw Street. The two significant developments in Ravenshaw Street are The Westcourt Apartments and the Spire Apartment has established a street wall height of 20m on both side of Ravenshaw Street. The proposed development will sit comfortably under this established height'.

The proposal is considered satisfactory with regard to the built form, including street presentation and building envelope. It is also considered that the overall design and materials are consistent with those within surrounding area and provides a good outcome in terms of streetscape. On this basis the variation to the setback is supported.

In summary, the amended design is considered to be acceptable in relation to the ten design quality principles of SEPP 65.

#### Apartment Design Guidelines

In addition to consideration of the ten design quality principles, Clause 30 of the SEPP also requires Council to have regard to the recent publication 'Apartment Design Guide' (ADG) produced by the NSW Planning and Environment. The proposed development is generally consistent with the ADG and any variation to the guidelines will be discussed below.

The UDCG provided the following comments regarding the ADG and areas of non-compliance:

- 'Along Parry Street, the proposed design's setbacks conform relatively closely to those of the existing and approved shop-top developments to the southeast. In particular the design picks up the awning and street-wall heights along Parry Street for part of its lengths, before expressing the corner with a more prominent form. The UDCG are supportive of this approach to the Parry Street setbacks and to the corner element. The UDCG believe that these non-compliances will achieve a better, more coherent urban wall in Parry Street, than would be achieved by following the DCP.
- The proposed 18m high street wall to Ravenshaw Street does not comply with the 16m maximum allowed under the DCP, but is lower than nearby

recent developments (19.1m and 20m street walls). As (i) none of these urban forms are immediately adjacent on Ravenshaw street to provide an urban precedent, (ii) the site is a prominent corner with a higher street wall precedent on the Parry Street side and (iii) there are no 16m heights in the nearby street walls, there exists no strong urban design reason to enforce the 16m height line to Ravenshaw Street. For this reason, the UDCG supports the proposed Ravenshaw Street form.

- The zero setbacks, to the street-sides of the site replicate both the existing and proposed structures in the city block. From the 6<sup>th</sup> floor up, levels step back from the adjacent Ravenshaw street boundary, with no habitable areas facing the boundary within 20 metres. Furthermore the communal courtyard has generally been designed to keep people aware from the boundaries to neighbouring properties. On balance, taking into account these design issues, the proposed setbacks are supported'.

The Group also raised concerns regarding the configuration of the apartment of level 6 and the potential for overlooking:

*'The private terrace on level 6, to Apartment 6.2, has a narrow strip of landscaping along its north-eastern edge, presumably to restrict overlooking of neighbouring properties. However, it appears to be inadequate for the purpose, and it should be extended in area/width, reducing the possibility of overlooking the communal courtyard to the south east, as well as the neighbours to the north east'*

In response, the applicant submitted amended plans which increased the area and width of the level 6 garden bed.

The group concluded with the following comments: *'views this DA proposal as a positive addition to the area, and recommends its approval by Council'*.

#### SEPP No 55 Remediation of Land

The proposed development is subject to the provisions of SEPP 55 and, accordingly, the development requires assessment under this Policy.

Council's Regulatory Services Unit requested additional information in accordance with this Policy. The officer indicated that:

*'A preliminary contamination assessment was undertaken and submitted with the application. The report does not identify any significant contamination concern and there will be no access to soils following construction however the report includes a Plan of Management which should be followed during construction should any contamination such as asbestos, lead paint etc. or unexpected finds be encountered during site works which should form part of the consent'*.

Based on the preliminary contamination report, Council's Regulatory Services Unit is satisfied that the contamination issues identified can be addressed by way of conditions recommended in **Attachment D**.

## SEPP No 71 Coastal Protection

State Environmental Planning Policy No. 71 - Coastal Protection applies to the subject land which is identified on Greater Metropolitan Region Map 2 as being in the NSW coastal zone. The aims and objectives of SEPP 71 are to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast by protecting and improving existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore. Clause 8 considerations apply to the development. However, as the subject development is located within a well-established densely urban setting, there are no likely impacts to surrounding coastal environment, especially with regards to maintaining public access, views and amenity.

## SEPP (Infrastructure) 2007

*State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)* was introduced to facilitate the delivery of infrastructure across the State by improving regulatory certainty and efficiency.

The proposal was referred to Ausgrid under the provisions of Clause 45 of the ISEPP to seek their comments regarding the proposal in context of the electricity transmission and distribution network. Ausgrid have raised no objections to the proposal subject to standard condition.

## State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX assessment was completed and a BASIX Certificate was obtained and lodged with the application that demonstrates the development has achieved the required water and energy reduction targets. A condition will be imposed on the consent reflecting this Certificate.

### **4.1.2 Newcastle Local Environmental Plan 2012**

The subject property is zoned R4 High Density Residential under the provisions of the Newcastle Local Environmental Plan, 2012. The proposed use is defined as 'shop top' housing and is permissible with Council's consent. The proposed development is also consistent with the zone objectives.

The principal development standards under the LEP are:

Clause 7.10 Floor Space Ratio - The maximum FSR for the site is 3:1. The proposal complies with the FSR, with a proposed FSR of 3:1.

- Clause 7.9 Height of Buildings – The maximum height limit for the site is 25m.

This clause requires developments to be of a scale that make a positive contribution to desired built form, allow reasonable access to daylight to all developments and the public domain. The LEP nominates a maximum height limit of 25m. The proposed development has an overall height of 26m and is therefore exceeding the height limit.

- Exceptions to Development Standards – Clause 4.6

The provisions of the NLEP 2012 relating to height constitute 'development standards' and Clause 4.6 of the LEP allows an applicant to formally request that consent be granted to a proposal notwithstanding that it would contravene a development standard. Subclause 4.6(3) requires that the applicant's request justify the contravention of the development standard by demonstrating:

- '(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard'.*

Subclause 4.6 (4) stipulates that consent "must not be granted for development that contravenes a development standard unless:

- (a) the consent authority (Council) is satisfied that:*
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by Subclause (3), and*
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Director General has been obtained."*

In support of the proposed variation, the applicants have lodged a formal request for an exception to the 'Height of buildings' development standard. In assessing the proposal against the provisions of clause 4.6, it is noted that:

1. Clause 4.3 is not expressly excluded from the operation of this clause; and
2. The applicant has prepared a written request seeking Council vary the development standard and demonstrating that:
3. Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
4. there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant has provided the following statement:

*'Shadow diagrams demonstrate that the additional height proposed in exceedance to the 24m height limit will not impact the neighbouring properties. Additionally there will be no additional impacts to visual privacy of the properties to or any existing views and vistas. The proposed development will achieve a high quality design outcome whilst not adversely affecting or hindering its neighbouring sites'*

An assessment of the request has been undertaken and it is considered that:

- a) It adequately addresses the matters required to be demonstrated by clause 4.6(3); and
- b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the R4 High Density Residential zone in which the development is proposed to be carried out.
- c) The Secretary's concurrence to the exception to the height of buildings development standard, as required by clause 4.6(4)(b) of the Newcastle LEP 2012, is assumed, as per Department of Planning circular PS 08-003 of 9 May 2008.

Based on the written justification provided by the applicant, and the comments received from the UDCG, it is considered that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

An assessment of the request has been undertaken and it is considered that:

1. It adequately addresses the matters required to be demonstrated by clause 4.6(3); and
2. The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

In Summary, it is concluded that compliance with the height standard is unreasonable and unnecessary in the circumstances of this case, and that the objectives for the zone and the objectives for the height development standard have been adequately satisfied.

#### 6.4 - R4 zone

Whilst this site is zoned R4 High Density Residential this clause does not apply to sites within the Newcastle City Centre Area.

#### **Clause 5.10 Heritage provisions**

The site is within a heritage conservation zone. The proposal is acceptable having regard to heritage considerations.

#### 6.1 Acid sulfate soils

The subject site is identified as containing Class 4 Acid Sulphate Soils (ASS). The development does not propose works two metres or more below natural ground level and a preliminary acid sulfate soils plan was not required.

#### 6.2 Earthworks

The proposal will not involve significant earthworks and is considered to be acceptable subject to conditions of consent and the proposal complies with the provisions of the DCP.

## 4.2 Merit Considerations

### 4.2.1 Relevant Strategic Policies

The broader strategic policies, including the Newcastle Urban Strategy and the Lower Hunter Regional Strategy (LHRS) identify Newcastle West as being an area that can accommodate residential growth. The application is consistent with the objectives of the LHRS, which include ensuring that there is adequate land available and appropriately located to accommodate the projected housing and employment needs of the Region's population over the next 25 years.

The subject property is zoned R4 High Density Residential zone under the provisions of the Newcastle Local Environmental Plan, 2012. Shop top housing is permissible in the zone with Council's consent. The proposed development is also consistent with the zone objectives.

### 4.2.2 Newcastle Development Control Plan [Section 79C(1)(a)(iii)]

The following provisions of (NDCP) 2012 are relevant to the proposal:

| Section of DCP                             | Comment  |
|--|--|
| Section 3.05<br>Residential Flat Buildings | The proposal is considered to be acceptable.   |
| Section 4.03<br>Mine Subsidence            | The land is identified as within a Mine Subsidence Area. The plans have been stamped as approved subject to conditions prior to lodgement of the development application. An appropriate standard condition will also be imposed relating to Construction Certificate process.   |
| Section 4.04<br>Safety & Security          | The building has been designed with safety and security being a consideration. The application is considered to be in accordance with this section.  |
| Section 4.05<br>Social Impact              | The proposed development is likely to have a positive social impact in that it will provide additional housing accommodation within the CBD. The proposal is also likely to have a positive impact, in terms of street activation, on this section of Parry Street and Ravenshaw Street with the increase in residential apartments and active commercial space on the ground floor. |
| Section 5.07<br>Heritage Conservation Area | The proposed development is a modern design, which responds well to the existing streetscape and does not adversely impact on the heritage conservation area.  |
| Section 6.01<br>Newcastle City Centre      | The site is located within the Newcastle City Centre Area, though not identified as a key site within the area   |



map.

Character Areas

The site is located within the Parry Street 'character area'. The development is consistent with the provisions of this section and provides for increased high density residential development to take advantage of the good amenity offered by proximity to the city centre and National Park and more local services and facilities that the Newcastle West end offers

General Controls

*Building form*

*Street wall height* - The proposal has a street wall height of approximately 18.5 metres to Ravenshaw Street. This exceeds the recommended street wall height under the above control. The variation to the 16m street wall height is considered acceptable in terms of the context of the surrounding natural and built environment. This issue was discussed at the meeting of Council's UDCG who deemed the proposal acceptable.

*Building setbacks* - The proposed development conforms to the requirements of the RFDC and is considered acceptable.

*Building depth and bulk* - The proposal includes the use of natural ventilation in the form of skylights to reduce the reliance on artificial sources, compliant with this section.

*Building exteriors* - The proposed development responds well to the existing streetscape and is acceptable.

*Awnings* - A full length flat awning is provided along the Parry Street frontage consistent with the adjoining development and this section. An internal referral was undertaken to Assets and no concerns were raised, subject to imposing a standard condition on any consent granted.

*Design of parking structures* - The proposal includes ground floor car parking behind the primary frontage of the building and is not visible from Parry Street.

*Public domain* - The proposal includes a public domain plan, which will provide for additional street tree planting and footpath upgrades. The public domain plan will provide a significant positive contribution to the area.

|  |  |
|--|--|
|  | <p><i>Views and vistas</i> - The proposal will not adversely impact any views of vistas within this area.</p> <p><i>Addressing the street</i> - The proposal addresses the street by inclusion of a clear pedestrian entry point into lobby at street level on Parry Street and a small commercial/retail area on the corner of Parry Street and Ravenshaw Street. The proposed development will have a positive contribution in terms of activation of the area.</p>  |
| <p>Section 7.02<br/>Landscape Open Space<br/>and Visual Amenity</p>                                    | <p>The planting of street trees has been supported by Council's Landscaping Section subject to a number of conditions.</p> <p>The proposal also includes a large communal landscape area on the first floor. The area is considered to have a positive contribution for the residents by providing an area for social interaction which has been well designed and integrated into the development. Refer to attached Landscape Plan <b>Appendix D.</b></p>  |
| <p>Section 7.03 &amp; Section<br/>7.04 Traffic, Parking &amp;<br/>Access and Movement<br/>Networks</p> | <p>Under Section 7.03 of Council's DCP the development is required to provide 45 spaces. This includes 31 residential spaces, 7 visitor spaces and 2 commercial spaces being required. The proposal provides a total of 45 spaces made up of 24 spaces in the basement car park and 21 spaces in the level 1 car park. This is considered satisfactory and a minimum of 4 spaces (approx. 50% of requirement) need to be allocated as visitor car parking. Suitable bicycle and motorbike parking are provided in the proposal.</p> <p>A major issue Council has had in respect to the construction of apartments in Newcastle is the provision of parking for construction employees. As parking generally cannot be provided on-site, construction employees are utilising the existing on-street car parking in the area which adversely impacts on the availability of parking for residents, their visitors and CBD workers. The construction traffic management plan will be conditioned and the employee parking issue will need to be addressed in this plan.</p> <p>The application is considered consistent with the above Section of the DCP.</p> |
| <p>Section 7.05<br/>Energy Efficiency</p>  | <p>The application is affected by the BASIX requirements. A BASIX Certificate has been included in the documentation. The proposal generally complies with this section.</p>   |

|   |   |
|---|---|
| Section 7.06 & 7.07<br>Stormwater, Water Efficiency | The proposal is acceptable in regards to stormwater and drainage treatment and the relevant conditions have been placed on the consent.   |
| Section 7.08<br>Waste Management                    | As required under this element, a Waste Management Plan has been provided with the application. Residential waste will be stored in a waste storage room located on the ground floor. Bins will be transferred to the Ravenshaw Street frontage of the site for regular collection by a private waste collector. A condition has been included in the Draft Schedule of Conditions (refer to <b>Attachment B</b> ) requiring construction and operational phase waste minimisation and management measures to be implemented.<br><br>Based on the submitted information, the proposal is considered to be acceptable. |
| Section 7.10<br>Street Awnings Balconies            | The proposal provides for a long street awning along the Parry and Ravenshaw Street. The proposed awning is considered to comply with the above element in terms of providing appropriate shelter for pedestrians. A condition has been included in the Draft Schedule of Conditions ( <b>Attachment B</b> ).   |
| Section 8<br>Public Participation                   | The proposal was notified in accordance with the requirements of this section and four submissions were received in response. Submissions received are discussed within this report.  |

#### 4.2.3 Impacts on the Natural and Built Environment [Section 79C(1)(b)]

Concerns raised during the notification period are noted below:

- a) **Parking and Traffic:** Increase of vehicle congestion to both Ravenshaw Street and Parry Street created by the proposed development would be detrimental to the immediate locality, which is already heavily congested in its current form by service vehicles accessing the loading dock areas of Woolworths and existing utilisation of sporting fields.

Submissions received by Council raised concerns over the number of apartments in the proposed development as being too high when one considers the traffic impact another 31 units will have.

##### Comment:

The submitted traffic report has identified a peak traffic generation of 16 vtpd for the development due to the location of the site and that this is not likely to adversely impact on traffic flows in the area.

- b) **Noise:** The idling of heavy semi-trailer traffic constantly servicing the loading bay of Woolworths in Ravenshaw Street has to utilise both traffic

lanes on most occasions, and trucks are left idling for an extended period of time.

Comment:

It is acknowledged that there may be some short term noise impact during the construction phase. A number of conditions have been placed on the consent to ensure that any potential impacts are minimised during construction.

The existing delivery arrangement for the adjoining commercial development is acknowledged and these may cause some concern for future residents. However, the development is located within a high density residential zone, directly adjacent to a busy commercial centre. Future residents of the development cannot reasonably expect to enjoy the same quiet amenity as would be experienced in a low density zone. As such, objection to development now or in the future on these grounds would be unreasonable.

- c) Loss of privacy, visual amenity and solar access - Objection was raised to the proposed development on the grounds of loss of privacy and impacts upon visual amenity.

Applicant's Response:

The design of the building achieves an appropriate built form in terms of scale, proportions and building composition. Appropriate and well considered mitigation measures have been proposed in order to minimise the potential overlooking into the residential uses located to the north east of the site.

Where apartments face eastwards, no balconies have been proposed. In addition, no balconies are proposed on the northern façade, with the exception of level 6. Here adequate separation is provided through the provision of planter beds. It is noted that this bed has also been extended following recommendation from the UDCG. This area of landscaping provides separation and prevents overlooking.

Window openings facing north east, on the portion of the building closest to Hall Street, have been specifically designed to be minimal in size and for the purpose of allowing light into the spaces, not for purpose of views (aspect). These windows are located within the bathroom and bedroom area of the units, and are generally considered a second order habitable room in terms of aspect. Furthermore, windows have been offset from the external windows of habitable spaces (by height) to the adjoining properties.

Furthermore, windows on the north east of the building will not impact on the privacy of neighbouring dwellings via the utilization of sun control/privacy louvres.

Units located on north east elevation, on the portion of the building closest to the Parry Street, have a setback of 24.6m, which includes the

communal courtyard. This area includes various landscaping features, which also limits transference of noise to these adjoining properties. This setback from the boundary to the adjoining properties at No.16-24 and the commercial premises located at 120 Parry Street, means that balconies located on this elevation are significantly setback reducing any detrimental impact to these adjoining properties.

*The proposed development has considered neighbour's amenity and will result in minimal impacts to the surrounding properties. The quality of the development and the proposed demographic it is aimed at, has resulted in a high quality and well-designed building.*

Comment:

The proposed development has been carefully designed to minimise any potential overlooking of adjoining properties and is considered acceptable in terms of privacy impacts for a residential development in a high density zone.

- d) Impacts on light and ventilation to the residential properties.

Comment:

As shown by shadow diagrams, the proposed development will have minimal adverse overshadowing impact on the surrounding properties.

- e) Submissions to Council stated that the development must ensure the investment in the upgrade of surrounding footpaths, facilities, with the addition of art to improve the neighbourhood.

Comment:

The proposal includes a public domain plan, which will require the developer to construct a new footpath, seating and planting of a number of trees along Ravenshaw Street and Parry Street. The public domain plan will provide a significant positive contribution to the area.

- f) Location of power poles

Comment:

As part of the assessment process, the application was referred to Ausgrid for their comments. The proposed development will be required to comply with all relevant legislation and policies in regards to the supply of electricity to the site and proximity to existing network assets. A condition has been included in **Appendix B** to ensure compliance with Ausgrid requirements prior to the release of Construction Certificate.

- g) Retention of the existing corner building

Comment:

The building located on the corner of Parry Street and Ravenshaw Street is not listed as a Local or State Item under Schedule 5 of the Newcastle LEP.

The existing building has no identified cultural heritage significance and presents no value in terms of built form. This proposal was carefully considered by Council's

Heritage Officer who found no adverse impacts are likely to result to the heritage conservation area from the proposed development.

The proposed development is otherwise considered acceptable in relation to impacts upon the natural and built environment.

#### **4.2.4 Social and Economic Impacts in the Locality [Section 79C(1)(b)]**

The concern raised by objectors regarding a possible reduction in property values in the vicinity of the site as a result of the proposed development is not considered to be justified. The proposal will not adversely impact on the amenity of the adjoining premises or the neighbourhood generally and, accordingly, is not likely to detract from current market values. Indeed, the proposed development may well lead to an increase in the value of nearby properties as it could suggest redevelopment potential.

The proposed development would not be likely to have any significant social or economic impacts in the locality.

#### **4.2.5 Suitability of the Site for the Development [Section 79C(1)(c)]**

The site is within a Mine Subsidence district and conditional approval for the proposed development has been granted by the Mine Subsidence Board. The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development.

#### **4.2.6 Submissions made in accordance with the Act or Regulations [Section 79C(1)(d)]**

This report has addressed the various concerns raised in the submissions received in response to the Public Notification and referral procedures under the Act and Regulation.

#### **4.2.7 Public Interest [Section 79C(1)(e)]**

- **Sustainability**

The proposed development is considered to be satisfactory having regard to the principles of ecologically sustainable development. The proposal is consistent with Council's urban consolidation objectives, making more efficient use of the established public infrastructure and services. A NatHERS assessment has been undertaken in respect of the proposed apartments, all of which achieve an energy rating of between 3.5 and 4.5 Stars.

- **General**

The proposed development does not raise any significant general public interest issues beyond matters already addressed in this report.

The proposed development is considered to be acceptable having regard to all relevant heads of consideration under Section 79C(1) of the EP&A Act, 1979 (as amended) and the application is therefore recommended for approval on the basis of the submitted plans, subject to compliance with appropriate conditions of consent.

## **ATTACHMENTS**

**Attachment A:** Plans and elevations of proposed development - 122 and 124 Parry Street, Newcastle West

**Attachment B:** Draft Schedule of Conditions - 122 and 124 Parry Street, Newcastle West

**Attachment C:** Processing Chorology - 122 and 124 Parry Street, Newcastle West

**Attachment D:** Landscape Plan - 122 and 124 Parry Street, Newcastle West