

Department of Planning and Environment

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REVIEW OF ENVIRONMENTAL FACTORS

Proposed General Housing Development

at

Nos. 25 – 29 Prospero Street, Maryland NSW 2287

October 2023





Acknowledgement of Country

The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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DOCUMENT CONTROL REGISTER

The following register documents the preparation and issue of this Part 5 Review of Environmental Factors (REF), prepared by Creative Planning Solutions (CPS) for the New South Wales Land & Housing Corporation.

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1	4.08.2023	v1	Not applicable – initial version	88
2	06.09.2023	v2	Minor edits following review	Various
3	16/10/2023	V3	Minor edits following review	Various

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Having prepared the Review of Environmental Factors:

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- I do not consider I have any personal interests that would affect my professional judgement.
- I will inform the A/Head of Policy and Innovation, NSW Land and Housing Corporation as soon as I become aware of a possible conflict of interest.

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1 Executive Summary

The subject site is located at 25 – 29 Prospero Street, Maryland NSW 2287, and is legally described as Lots 395, 396 and 397 in Deposited Plan 702896. The proposed general housing development is described as follows:

Demolition of 3 existing dwellings and structures, removal of trees, and the construction of 9 residential units comprising 1 x 1-bedroom, 5 x 2-bedroom and 3 x 3-bedroom units, with associated landscaping and fencing, surface parking for 6 cars, and consolidation into a single lot.

The proposed activity is permitted on the site under *Newcastle Local Environmental Plan 2012* (NLEP 2012) and can therefore be carried out by the NSW Land and Housing Corporation (LAHC) without consent under the provisions of Chapter 2, Part 2, Division 6 of the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) as it does not result in more than 60 dwellings on the site and does not exceed 9 metres in height.

Demolition has been considered as part of the proposed activity. Demolition is permitted with consent under the provisions of NLEP 2012 and is therefore permitted without consent under the provisions of the Housing SEPP.

The removal of trees on the site is covered by the definition of consent under Section 6 of the Housing SEPP. It has therefore been incorporated in this review of environmental factors under Part 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Part 8 of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation).

The REF demonstrates the following:

- from an analysis of the potential environmental impacts associated with the proposed activity, it has been concluded that the preparation of an Environmental Impact Statement is not required;
- based on a review of the potential environmental impacts resulting from the proposed activity it has been determined that, subject to implementation of mitigation measures to be incorporated as Identified Requirements, the activity will not have any significant adverse impact on the environment;
- the proposed activity will not have any effect on matters of national significance and its approval under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* is not required;
- the design of the proposed activity has adequately taken into account design principles and better practices set out in the *Seniors Living Policy: Urban Design Guidelines for Infill Development* and taken into consideration the *Good Design for Social Housing* and *NSW Land and Housing Corporation Design Requirements*;
- the site planning and design of the proposed activity adequately address NLEP 2012 and development controls of City of Newcastle Council provided in *Newcastle Development Control Plan 2012* (NDCP 2012) and *Planning for Bushfire Protection 2019*;
- a BASIX certificate and NatHERS certificate and stamped plans have been submitted for the proposed activity demonstrating compliance with the State Government's environmental sustainability targets;
- there are no separate approvals, authorisations or notifications required in relation to the proposed activity prior to determination under Part 5 of the EP&A Act or under any other Acts; and
- City of Newcastle Council and occupiers of adjoining land were notified of the proposed activity under the provisions of the Housing SEPP. Two separate notification periods occurred. The first response was received from Council dated 20 September 2022 and a second response was received from Council dated 28 June 2023. Comments on the responses are provided in Section 6.1 of this REF. Six

submissions were received from occupiers of adjoining land. Comments on the submissions are provided in Section 6.2 of this REF.

The proposed activity, when carried out in accordance with the environmental mitigation measures outlined in the REF, will not result in any significant and long-term negative impacts on the environment and can proceed subject to the implementation of the Identified Requirements of determination contained in the ***Activity Determination***.

2 Introduction

This Review of Environmental Factors (REF) under Part 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) is for an activity involving the demolition of existing dwellings and structures, removal of trees, and the construction of 9 residential units comprising 1 x one bedroom unit, 5 x two bedroom units and 3 x three bedroom units, with associated landscaping and fencing, surface parking for 6 cars, and consolidation of 3 lots into a single lot at 25 – 29 Prospero Street, Maryland NSW, 2287.

The activity¹ will be carried out by, or on behalf of, NSW Land and Housing Corporation (LAHC) and is 'development without consent' under the Housing SEPP.

This REF has been prepared by Creative Planning Solutions (CPS) on behalf of LAHC in satisfaction of the provisions of Part 5 of the EP&A Act and Part 8 of the *Environmental Planning & Assessment Regulation 2021* (EP&A Regulations).

A Statement of Compliance accompanying this REF certifies that in accordance with the requirements of the EP&A Act, all matters affecting or likely to affect the environment by reason of the proposed activity have been considered to the fullest extent possible and the activity will not have a significant impact on the environment.

2.1 Purpose of this Review of Environmental Factors (REF)

The purpose of this REF is to assist LAHC to fulfil its obligations as a determining authority for the proposed activity in accordance with Part 5 of the EP&A Act and Section 171 of the EP&A Regulation by:

- describing the existing environment;
- describing the proposed activity;
- analysing the potential impacts of the activity on the environment;
- identifying measures to mitigate those impacts;
- analysing whether the activity, with the mitigating measures in place, will have a significant impact on the environment; and
- recommending identified requirements to ensure the mitigating measures are implemented if the activity were to proceed.

2.2 Assessment Methodology

The following methodology was applied in undertaking this REF for the proposed development activity under Part 5 of the EP&A Act:

- Section 10.7 Planning Certificates were obtained for each lot comprising the site. The zoning was confirmed against the current applicable environmental planning instrument, which is the *Newcastle Local Environmental Plan 2012 (NLEP 2012)*;
- it was determined that residential accommodation (including multi-dwelling housing) is 'permitted with consent' in the R2 Low Density zoning pursuant to the NLEP 2012, and can be carried out 'without consent' under the provisions of Housing SEPP 2021;

¹ Note: The proposed development is permitted without consent and is therefore subject to environmental impact assessment as an 'activity' under Part 5 of the Environmental Planning and Assessment Act 1979.

- a desktop analysis and investigation of the site and surrounds was undertaken based on site clearance information to determine the suitability of the site for the proposed development activity, particularly taking into account the existing site conditions, constraints and local context;
- relevant local planning controls and State and Commonwealth Government legislation were considered in the environmental assessment of the proposed development activity;
- an environmental impact analysis was undertaken to determine if an Environmental Impact Statement was required;
- potential environmental impacts identified in the analysis and measures to mitigate these impacts were subsequently discussed in the Review of Environmental Factors; and
- Identified Requirements incorporating the mitigation measures for undertaking the proposed development activity were identified for inclusion in the recommendation for approval of the activity.

3 Existing Site & Locality

3.1 Existing Site and Immediately Adjoining Development

The site is in the Newcastle local government area (LGA) and comprises 3 residential allotments. A location plan is provided at **Figure 1** and an aerial photograph is provided at **Figure 2**.

Each allotment is currently occupied by a detached single storey dwelling house, of brick construction with tiled roofs (refer to photographs at **Figure 3** to **Figure 5**).

The property immediately to the east (No 23) contains a detached single storey older style brick dwelling house (**Figure 6**). The property to the west (No 31) also contains a detached single storey older style brick dwelling house (**Figure 7**).

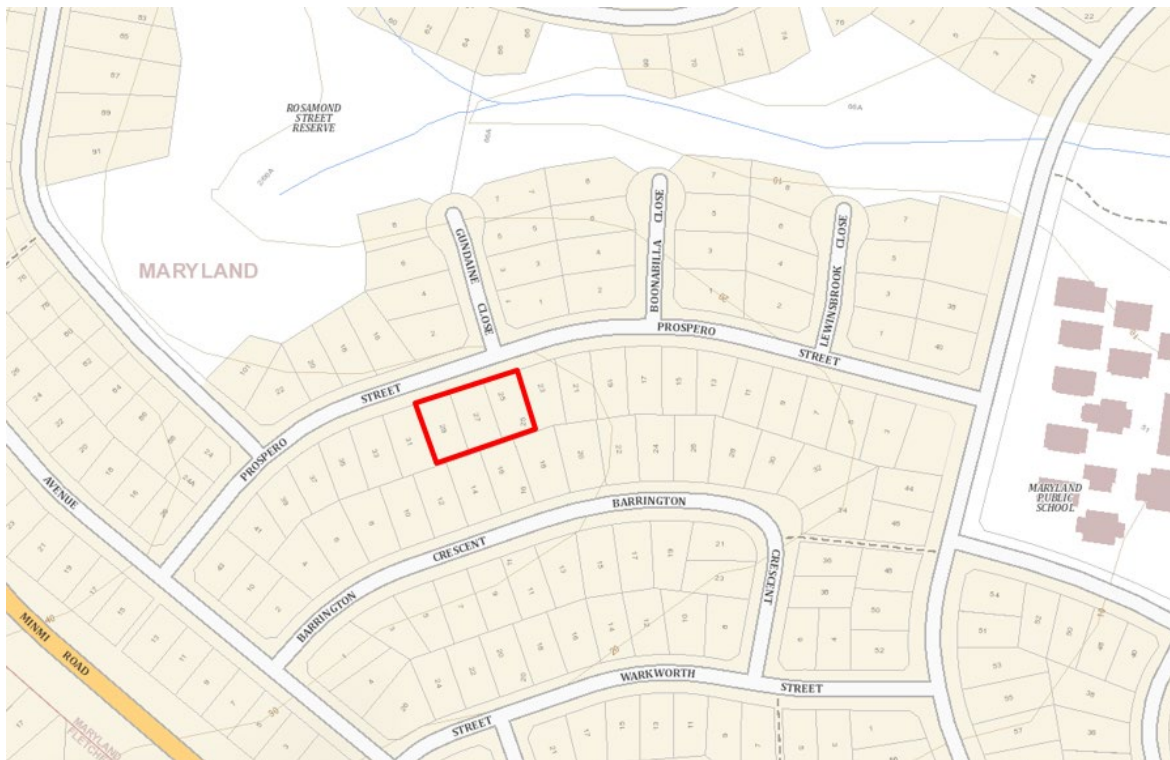


Figure 1 Location Plan (Source: SIX Maps)



Figure 2 Aerial photograph of subject site outlined in red (Source: Nearmap photograph dated 22 May 2023)



Figure 3 Development site – No 29 Prospero Street (Source: Creative Planning Solutions)



Figure 4 Development site – No 27 Prospero Street (Source: Creative Planning Solutions)



Figure 5 Development site – No 25 Prospero Street (Source: Creative Planning Solutions)



Figure 6 Adjoining development – No 23 Prospero Street (Source: Creative Planning Solutions)



Figure 7 Adjoining development – No 31 Prospero Street (Source: Google Street View, dated March 2021)

3.2 Site Description

Copies of the Section 10.7(2) & (5) Planning Certificates (Nos PL2023/01777, PL2023/01778 and PL2023/01779) dated 20 April 2023 are provided in ***Appendix F***.

The site is regular in shape, with a primary street frontage to Prospero Street of 54m (Survey) and an overall site area of 1,764.45m² (Survey). The site is provided with a western boundary of 33.067m, an eastern boundary of 32.282m and a rear boundary of 54m (refer to the submitted Detail Survey in *Appendix D*).

The site slopes approximately 7.13m from the south-west corner (RL 29.49) to the north-east corner (RL 22.36). An easement for the drainage of stormwater is not required as the site drains towards Prospero Street.

There are 6 trees and 9 shrubs upon the site, generally located within the front and rear yards. One street tree and 4 shrubs front onto the site within the Prospero Street road reserve.

The subject site is mapped as 'vegetation buffer' in the bushfire-prone areas overlay mapping. This is discussed in further detail at section 8.14 of this report.

Water, electricity, sewer, and telephone facilities are available to the site (refer to the submitted Detail Survey for the location of available services at *Appendix D*). All services are located within the road reserve of Prospero Street.

There are no encumbrances on title, section 10.7 certificates or indicated on the submitted Detail Survey.

3.3 Neighbouring Development and Locality

The site is located within an established residential area which is characterised by older style single and double storey detached dwelling houses of brick and lightweight weatherboard construction with tiled roofs (refer to photographs at Figure 6 and Figure 7).

To the east is Maryland Public School and beyond that to the north east is the Maryland local centre and Bill Elliot Oval. Maryland local centre is located approximately 415m walking distance to the north of the site.

The site is also within 400m walking distance via a safe pedestrian crossing of bus stop/s ID:

- 2287120 (Maryland Public School, Boundary Road)
- 228757 (Boundary Road opposite Maryland Public School)

Bus stop ID 2287120 (Maryland Public School, Boundary Road) satisfies the frequency requirements under the Housing SEPP to be considered an 'accessible area'. The bus stop is serviced by bus routes 12 and 260 which provide access to Maryland local centre, Fletcher shopping village, and Wallsend and Jesmond town centre.

4 Project Description

4.1 Demolition

The proposed activity includes demolition of 3 single storey detached dwelling houses and associated structures, as identified in the Demolition Plan (refer to *Appendix A*).

4.2 Removal of Trees

The Arborist Stage C Report prepared for the site has identified 6 trees and 9 shrubs located within the site's boundaries. The report has also assessed 4 public shrubs and 1 tree within Council's road reserve. The vegetation that forms part of the assessment is identified within **Figure 8** below. The proposal seeks to remove 4 trees and 9 shrubs located within the site, being T1, T2, T5, T6, S1, S2, S3, S4, S5, S6, S7, S8 and S9 which are of low and very low retention value.

The tree removal within the site boundaries is recommended primarily to accommodate the proposed development or the individual species are recommended for removal as they are not considered to be significant or worthy of retention (refer to submitted Arborist's Stage C Report in *Appendix I*).

The proposal does not seek to remove Council trees or shrubs, or neighbouring shrubs located at 23 Prospero Street. The proposed building envelope and works will have manageable impacts upon the tree protection zone (TPZ) of adjoining shrubs at 23 Prospero Street.

More appropriate tree plantings, including 2 Crepe Myrtle and 2 Blueberry Ash trees will be provided, which are capable of reaching a mature height of 6 – 12m. These trees are to compensate for the loss of trees on site (refer to submitted Landscape Plan in *Appendix B*).



Figure 8 Extract of arborist aerial showing existing trees and shrubs that form part of the assessment (Source: Arborists Stage C Report by Hunter Horticultural Services, 13 April 2023)

4.3 Proposed Dwellings

The proposal will provide 9 dwellings upon the site, grouped into three separate buildings, comprising a mix of one, two and three bedroom dwellings. Unit 4 will consist of a one-bedroom dwelling, Units 1 – 3 and 5 – 6 will consist of two-bedroom dwellings and Units 7, 8 and 9 will consist of three-bedroom dwellings. The ground floor of each dwelling will consist of an open plan living, dining and kitchen area. The first floor will provide a main bathroom and bedrooms; except Unit 4, which is a single storey unit.

Balconies are provided for the main bedroom of Units 3, 2, 6 and 7, that overlook the internal walkways and common open space within the development.

The proposed housing represents a contemporary, high quality design, which will be an improvement on the existing dwellings. The design and materiality of the proposed redevelopment is born out of a number of design and site driven principles. The colour and predominant material palette have been developed following a site tour and desk top investigation, resulting in a selection of bricks and Colourbond sheeting that has a refined palette of earthier hues which are sensitive to the existing streetscape.

Noting the topography of the site, cut and fill is proposed to provide a level building platform. Small retaining walls are proposed to assist with the stability of the east and west boundaries as shown on the Landscape Plan (refer to *Appendix B*).

A variety of new landscape plantings are proposed to offset the proposed tree removal and enhance the appearance of the site. New plantings will consist of a mixture of new trees, shrubs and groundcovers, which will enhance landscaped setbacks and contribute to the streetscape.

Each unit will be provided with its own enclosed private open space area. All these spaces are directly accessible from the living areas.

A total of 6 surface car parking spaces will be provided to the rear of the site, accessed via a new driveway and crossover from Prospero Street. The existing crossovers will be removed and made good to the existing kerb. Stormwater will be collected via a series of stormwater pits and gutters on the site connected to an underground detention tank draining to the existing street drainage pit within the Prospero Street frontage. Roof water will be collected from downpipes and connected to a rainwater tank for recycling with overflow connected to the underground detention tank.

The development will generally retain the existing boundary fences where possible and seeks to provide internal fences with a height of 1.8m. Front fencing is proposed at a height ranging from 900mm – 1.8m. The fencing details are provided within the architectural plans (refer to *Appendix A*).

Figure 9 to **Figure 11** include extracts from the architectural plans illustrating the proposed development.

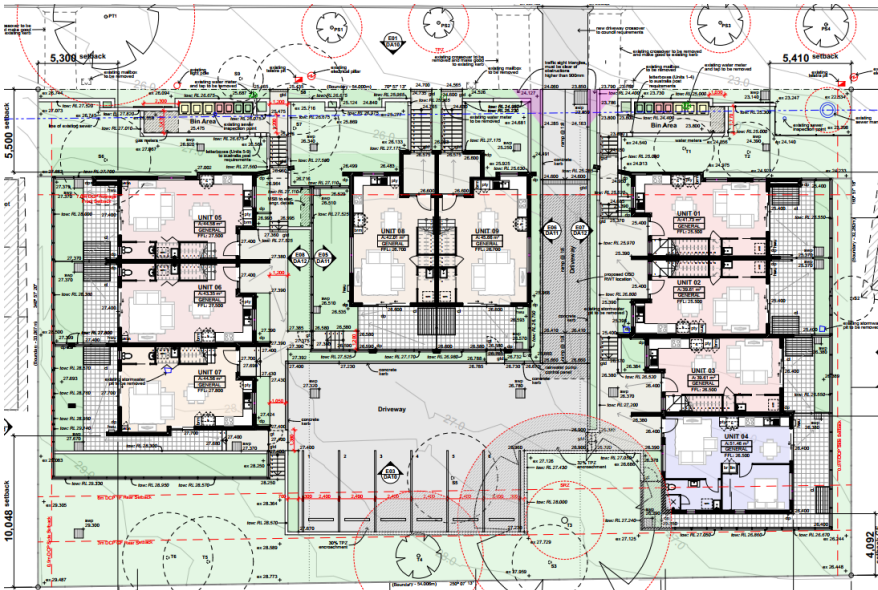


Figure 9 Extract from Architectural Plans – Site & External Works Plan – Ground Floor (Source: Architectural Plans, Stanton Dahl Architects, dated 14 July 2023)

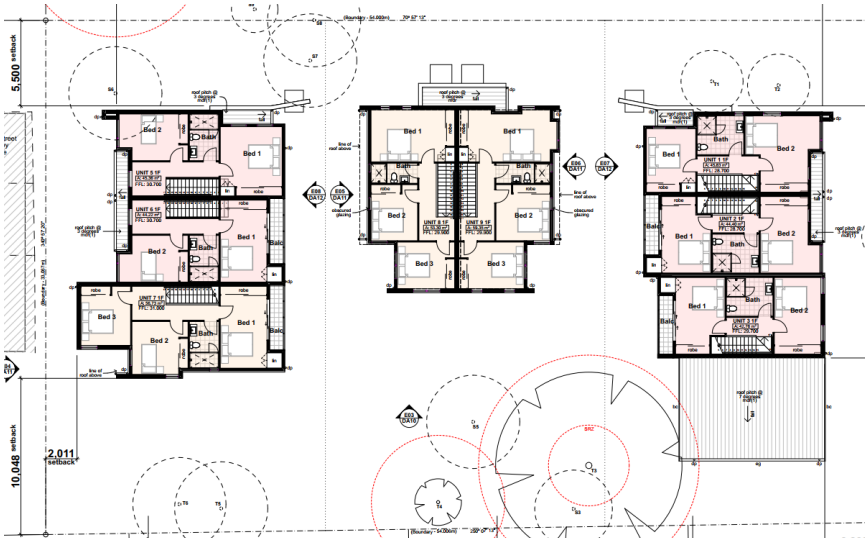


Figure 10 Extract from Architectural Plans – Site & External Works Plan – First Floor (Source: Architectural Plans, Stanton Dahl Architects, dated 16 June 2023)



Figure 11 Extract from Architectural Plans – Prospero Street Streetscape Perspective (Source: Architectural Plans, Stanton Dahl Architects, dated 16 June 2023)

4.4 Supporting information

The proposal is detailed in the following plans, drawings and specialist reports and supporting information.

Table 1 Supporting information

Title / Name:	Drawing No. / Document Ref	Revision / Issue:	Date [dd.mm.yyyy]:	Prepared by:
Architectural – Appendix A				
Coversheet	DA00	05	08.08.2023	Stanton Dahl Architects
Site & Block Analysis Plan	DA01	04	08.08.2023	Stanton Dahl Architects
Demolition Plan	DA02	04	08.08.2023	Stanton Dahl Architects
Cut & Fill Plan	DA03	04	08.08.2023	Stanton Dahl Architects
Site & External Works Plan – Ground Floor	DA04	04	08.08.2023	Stanton Dahl Architects
Site & External Works Plan – First Floor	DA05	03	08.08.2023	Stanton Dahl Architects
Landscape & Deep Soil Diagram	DA06	05	08.08.2023	Stanton Dahl Architects
Floor Plans (Units 1 – 4)	DA07	04	08.08.2023	Stanton Dahl Architects
Floor Plans (Units 5 – 7)	DA08	04	08.08.2023	Stanton Dahl Architects
Floor Plans (Units 8 – 9)	DA09	04	08.08.2023	Stanton Dahl Architects
Elevations – Sheet 1	DA10	04	08.08.2023	Stanton Dahl Architects
Elevations – Sheet 2	DA11	04	08.08.2023	Stanton Dahl Architects
Elevations – Sheet 3	DA12	04	08.08.2023	Stanton Dahl Architects
Sections – Sheet 1	DA13	04	08.08.2023	Stanton Dahl Architects
Sections – Sheet 2	DA14	04	08.08.2023	Stanton Dahl Architects
Shadow Diagrams – Sheet 1	DA15	05	08.08.2023	Stanton Dahl Architects
Shadow Diagrams – Sheet 2	DA16	02	08.08.2023	Stanton Dahl Architects
Shadow Diagrams – Sheet 3	DA17	02	08.08.2023	Stanton Dahl Architects
View From Sun – Sheet 1	DA18	05	08.08.2023	Stanton Dahl Architects
View From Sun – Sheet 2	DA19	05	08.08.2023	Stanton Dahl Architects
POS Views (Units 1 – 4) – Sheet 1	DA20	02	08.08.2023	Stanton Dahl Architects
POS Views (Units 1 – 4) – Sheet 2	DA21	02	08.08.2023	Stanton Dahl Architects
POS Views (Units 5 – 7) – Sheet 1	DA22	02	08.08.2023	Stanton Dahl Architects
POS Views (Units 5 – 7) – Sheet 2	DA23	02	08.08.2023	Stanton Dahl Architects
POS Views (Units 8 – 9) – Sheet 1	DA24	02	08.08.2023	Stanton Dahl Architects
POS Views (Units 8 – 9) – Sheet 2	DA25	02	08.08.2023	Stanton Dahl Architects
External Colour Selection	DA26	05	08.08.2023	Stanton Dahl Architects
Landscape – Appendix B				
Landscape Plan	L01	6	10.05.2023	Stanton Dahl Architects
Tree Protection & Details	L02	6	10.05.2023	Stanton Dahl Architects
Landscape Specification and Maintenance Plan	L03	6	10.05.2023	Stanton Dahl Architects
Civil – Appendix C				
Notes & Legends	C01	5	10.05.2023	Greenview Consulting
Ground Floor Drainage Plan	C02	5	10.05.2023	Greenview Consulting
Site Stormwater Details Sheet 1	C05	5	10.05.2023	Greenview Consulting

Title / Name:	Drawing No. / Document Ref	Revision / Issue:	Date [dd.mm.yyyy]:	Prepared by:
Notes & Legends	ESM12	2	26.04.2023	Greenview Consulting
Environmental Site Management Plan	ESM22	2	26.04.2023	Greenview Consulting
Survey Plan – Appendix D				
Detail Survey (Overall Plan)	118761-300	-	1.10.2020	PRS Australia East Pty Ltd
Detail Survey (Lot 397)	118761-300	-	1.10.2020	PRS Australia East Pty Ltd
Detail Survey (Lot 396)	118761-300	-	1.10.2020	PRS Australia East Pty Ltd
Detail Survey (Lot 395)	118761-300	-	1.10.2020	PRS Australia East Pty Ltd
Notification plans – Appendix E				
Cover Page	N01	4	19.05.2023	Stanton Dahl Architects
Site & Landscape Plan	N02	4	19.05.2023	Stanton Dahl Architects
Development Data	N03	4	19.05.2023	Stanton Dahl Architects
Elevations	N04	4	19.05.2023	Stanton Dahl Architects
Schedule of Finishes	N05	4	19.05.2023	Stanton Dahl Architects
Shadow Diagrams	N06	4	19.05.2023	Stanton Dahl Architects
BASIX Certificate – Appendix J	Certificate No. 1185536M_05		11.05.2023	Northrop Consulting Engineers Pty Ltd
BASIX Pathway Summary – Appendix J	SY202213-SEL01-7	7	11.05.2023	Northrop Consulting Engineers Pty Ltd
NatHERS Certificate – Appendix K				
NatHERS Certificate Summary	Certificate No. 0008635110		10.05.20203	Northrop Consulting Engineers Pty Ltd
NatHERS Certificate Unit 1 - 9	Certificate No. 0008635021-01		10.05.20203	Northrop Consulting Engineers Pty Ltd
NatHERS Certificate Unit 2	Certificate No. 0008635054-01		10.05.20203	Northrop Consulting Engineers Pty Ltd
NatHERS Certificate Unit 3	Certificate No. 0008635088-01		10.05.20203	Northrop Consulting Engineers Pty Ltd
NatHERS Certificate Unit 4	Certificate No. 0008635039-01		10.05.20203	Northrop Consulting Engineers Pty Ltd
NatHERS Certificate Unit 5	Certificate No. 0008635070-01		10.05.20203	Northrop Consulting Engineers Pty Ltd
NatHERS Certificate Unit 6	Certificate No. 0008635096-01		10.05.20203	Northrop Consulting Engineers Pty Ltd
NatHERS Certificate Unit 7	Certificate No. 0008635047-01		10.05.20203	Northrop Consulting Engineers Pty Ltd
NatHERS Certificate Unit 8	Certificate No. 0008635062-02		10.05.20203	Northrop Consulting Engineers Pty Ltd

Title / Name:	Drawing No. / Document Ref	Revision / Issue:	Date [dd.mm.yyyy]:	Prepared by:
NatHERS Certificate Unit 9	Certificate No. 0008635104-01		10.05.20203	Northrop Consulting Engineers Pty Ltd
Specialist Reports				
Access Report - Appendix G	23060	Final	21.04.2023	Vista Access Architects
Arborist's Stage C Report – Appendix I	-	-	13.04.2023	Hunter Horticultural Services
Geotechnical Investigation and Acid Sulfate Soil Assessment - Appendix L	20/3518	-	October 2020	STS Geotechnics Pty Ltd
Waste Management Plan – Appendix N	23013		April 2023	Dickens Solutions
Traffic Impact Assessment- Appendix O	630.30566-R01	v1.0	April 2023	SLR Consulting Australia Pty Ltd
Bushfire Certificate – Appendix P		4	12.04.2023	Newcastle Bushfire Consulting
Final Building Code Of Australia 2022 (Volume 2) Report – Appendix Q	20-215620		3.05.2023	Philip Chun Building Compliance

Section 10.7 Planning Certificates – Appendix F

Planning Certificate, Certificate No PL2023/01777, 29 Prospero Steet, Maryland – Issued by City of Newcastle Council dated 20.04.2023

Planning Certificate, Certificate No PL2023/01778, 27 Prospero Steet, Maryland – Issued by City of Newcastle Council dated 20.04.2023

Planning Certificate, Certificate No PL2023/01779, 25 Prospero Steet, Maryland – Issued by City of Newcastle Council dated 20.04.2023

Part 5 Activity checklist – Appendix T

Part 5 Activity Package Submission, Checklist for Development Proposals under the Housing SEPP, Stanton Dahl Architects dated 19.05.2023

Design compliance – Appendix U

Architect's Certificate of Building Design Compliance – Stanton Dahl Architects dated 19.05.2023

Certificate of Landscape Documentation Compliance – Botanique Design dated 10.05.2023

Certificate of Civil Documentation Compliance – Greenview Consulting dated 25.05.2023

SLUDG Checklist – Appendix S

Seniors Living Urban Design Guidelines checklist, prepared by Stanton Dahl Architects dated 19 May 2023

Titles and Deposited Plans – Appendix O

Title Search, Folio: 397/702896, Search date 12.12.2019 First Schedule: New South Wales Land and Housing Corporation

Title Search, Folio: 395/702896, Search date 12.12.2019 First Schedule: New South Wales Land and Housing Corporation

Title Search, Folio: 396/702896, Search date 12.12.2019 First Schedule: New South Wales Land and Housing Corporation

Deposited Plan 702896 Search Date 12 December 2019

88B Deposited Plan 702896 Search Date 12 December 2019

AHIMS – Appendix H

AHIMS Search Result, 25 Prospero Street, Maryland – 50m search buffer, date 20 April 2023

Notification letters & public authority submissions – Appendix V

5 Zoning and Permissibility

The site is zoned R2 Low Density Residential under *Newcastle Local Environmental Plan 2012* (NLEP 2012) (**Figure 12**). The proposed development is defined as ‘multi dwelling housing’ under the provisions of NLEP 2012 and is permissible with Council’s consent in the R2 zone.

Multi dwelling housing is permitted in the R2 zone under NLEP 2012 and therefore, is permitted on the subject land without consent under the provisions of the Housing SEPP pursuant to section 42.



Figure 12 NLEP 2012 Zoning Map – site outlined in yellow.

The relevant objective of the R2 zone, as set out in NLEP 2012 is:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To accommodate a diversity of housing forms that respects the amenity, heritage and character of surrounding development and the quality of the environment.

The proposed development provides housing within a low-density form that presents to the street as 3 individual buildings. The proposed development provides 1 x one bedroom dwelling, 5 x two bedroom

dwelling and 3 x three bedroom dwellings. The development will improve the diversity of housing forms in a way that respects the amenity, heritage and character of surrounding development and the quality of the environment.

Accordingly, the proposed development meets the identified needs of the community and will be consistent with the above objectives.

Section 42 of the Housing SEPP permits residential development that may be carried out 'with consent' to be carried out by LAHC as 'development without consent' subject to the provisions set out under that section.

Table 5 in subsection **6.6.1** of this REF demonstrates compliance with the relevant provisions of section 42 of the SEPP.

6 Planning and Design Framework

6.1 Environmental Planning and Assessment Act 1979

6.1.1 Duty to consider environmental impact [Section 5.5]

Section 5.5(1) states that, for the purpose of attaining the objects of the EP&A Act relating to the protection and enhancement of the environment, a determining authority in its consideration of an activity shall, notwithstanding any other provisions of the Act or the provisions of any other Act or of any instrument made under the EP&A Act or any other Act, examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity.

Table 2 below demonstrates the effect of the proposed development activity on the matters listed for consideration in subsection 3 of Section 5.5.

Table 2 Compliance with subsection 3 of Section 5.5 of the EP&A Act 1979

Matters for consideration under sub-section 3 of Section 5.5 of the EP&A Act	
Matter for consideration	Effect of Activity
Sub-section 3 Without limiting subsection (1), a determining authority shall consider the effect of an activity on any wilderness area (within the meaning of the <i>Wilderness Act 1987</i>) in the locality in which the activity is intended to be carried on.	No effect, as the site and surrounding areas are not within a wilderness area (within the meaning of the <i>Wilderness Act 1987</i>).

6.2 Biodiversity Conservation Act 2016 (BC Act)

Part 7 of the BC Act sets out the test for determining whether a proposed development or activity is likely to significantly affect threatened species, ecological communities or their habitats. For the purposes of Part 5 of the EP&A Act, an activity is to be regarded as an activity likely to significantly affect the environment if it is likely to significantly affect threatened species.

Based on the criteria set out in Section 7.3 of the BC Act, the proposed activity is unlikely to affect threatened species, ecological communities or their habitats and therefore no further assessment is necessary. This is because the land does not contain threatened species, endangered ecological communities or constitute habitat of threatened species or ecological communities. The proposed activity will not be a key threatening process, and the land is not part of or in the vicinity of any declared area of outstanding biodiversity value.

6.3 Rural Fires Act 1997

Section 63(1) & (2) of the *Rural Fires Act 1997* outlines the duties of public authorities and owners and occupiers of land to prevent bush fires. Section 63(1) states:

- (1) *It is the duty of a public authority to take the notified steps (if any) and any other practicable steps to prevent the occurrence of bush fires on, and to minimise the danger of the spread of a bush fire on or from:*
 - (a) *any land vested in or under its control or management, or*
 - (b) *any highway, road, street, land or thoroughfare, the maintenance of which is charged on the authority*

The majority of the site is mapped ‘vegetation buffer’ under the Bushfire-Prone Land map available on e-Planning Spatial Viewer. A Bushfire Assessment has been prepared (*Appendix P*) and identifies the bushfire protection requirements for the development and provides recommendations in relation to Asset Protection Zones, construction standards, property access and evacuation safety, and water and utility services supply. This is discussed further in section **8.14** of the REF.

Accordingly, LAHC as a public authority and owner of the subject site has undertaken steps to prevent the occurrence of bush fires on the land, and to minimise the danger of the spread of a bush fire.

6.4 Other Acts

No other State and Commonwealth Acts are applicable to the proposed activity.

6.5 Environmental Planning and Assessment Regulation 2021

6.5.1 Factors that must be taken into account concerning the impact of an activity on the environment [Section 171]

For the purposes of Part 5 of the EP&A Act, the factors in **Table 3** and **Table 4** below have been taken into account in considering the likely impact of the proposed activity on the environment. The table and comments made in this section of the REF are not mutually exclusive and are to be read in conjunction with the other sections of the REF dealing with the environmental impacts of the proposed development activity.

Table 3 Environmental Planning and Assessment Regulation 2021 Section 171

Factors to be taken into account concerning the impact of an activity on the environment.	Comment
Is the activity of a kind for which specific guidelines are in force? If so the factors to be taken into account when considering the likely impact of the activity on the environment are those referred to in the guidelines.	No specific guidelines. This does not include guidelines such as the Seniors Living Urban Design Guidelines, that are in force under other legislation or instruments.
Is the activity of any other kind for which general guidelines are in force? If so the factors to be taken into account when considering the likely impact of the activity on the environment are those referred to in those guidelines.	Yes - Department of Planning and Environment issued “Guidelines for Division 5.1 assessments” made under Section 170 of the EPA regulation 2021

Table 4 Compliance with Section 171 of the EPA Regulations 2021

Guidelines for Division 5.1 assessments require the following Environmental factors to be taken into account:	Relevant?	Impact Assessment		
	YES/NA	Temporary	Minor	Significant [Note 1]
(a) environmental impact on the community	Yes	x	x	
(b) transformation of a locality;	Yes		x	
(c) environmental impact on the ecosystems of the locality;	Yes	x	x	
(d) reduction of the aesthetic, recreational, scientific or other environmental quality or value of a locality;	Yes	x	x	
(e) effect on a locality, place or building having aesthetic, anthropological, architectural, cultural, historical, scientific or social significance or other special value for present or future generations;	NA			

Guidelines for Division 5.1 assessments require the following Environmental factors to be taken into account:	Relevant?	Impact Assessment		
	YES/NA	Temporary	Minor	Significant [Note 1]
(f) impact on the habitat of protected animals (within the meaning of Biodiversity Conservation Act 2016);	NA			
(g) endangering of any species of animal, plant or other form of life, whether living on land, in water or in the air;	NA			
(h) long-term effects on the environment;	Yes		x	
(i) degradation of the quality of the environment;	Yes	x	x	
(j) risk to the safety of the environment;	Yes	x	x	
(k) reduction in the range of beneficial uses of the environment;	NA			
(l) pollution of the environment;	Yes	x	x	
(m) environmental problems associated with the disposal of waste;	Yes		x	
(n) increased demands on resources (natural or otherwise) that are, or are likely to become, in short supply;	Yes		x	
(o) cumulative environmental effect with other existing or likely future activities.	Yes		x	
(p) impact on coastal processes and coastal hazards, including those under projected climate change conditions. [Note 2]	NA			
(q) applicable local strategic planning statements, regional strategic plans or district strategic plans made under the Act, Division 3.1,	Yes – discussed below in Section 6.4.1		x	
(r) other relevant environmental factors.	Yes – discussed in Section 7.	x	x	

Note 1: A ‘significant’ impact will trigger the need for an Environmental Impact Statement.

Note 2: The *NSW Coastal Planning Guideline: Adapting to Sea Level Rise* provides guidance on considering projected climate change conditions such as sea level rise.

The proposed housing development is not expected to generate any significant or long-term impacts on the environment. The short-term impacts, during construction, will be offset by positive social outcomes in the long-term social benefits of providing affordable housing that meets the needs of the community. The applicable Local Strategic Planning Statement (LSPS) and Community Strategic Plan are considered below at Section 6.5.2 of this report.

6.5.2 Strategic Planning Framework

Newcastle 2040

Newcastle 2040 is the Community Strategic Plan that sets out the shared community vision for Newcastle, developed as a guide to inform policies and actions throughout the city for the next 10+ years. The strategy focusses on four key themes to achieve the planning process: liveable, sustainable, creative and achieving together.

The strategy has identified that Newcastle’s population is set to grow to 199,700 by 2041 – an increase of 28,393 residents, stimulating demand for some 19,450 new dwellings. It identifies that a mix of affordable and sustainable future housing is imperative to meet the diverse needs of the growing community.

The proposed multi-dwelling development will directly support the Strategic Plan but increasing the supply of affordable housing in the Newcastle LGA.

Newcastle 2040 Local Strategic Planning Statement

The Newcastle Local Strategic Planning Statement (LSPS) is the 20-year land use vision and identifies how Council will sustainably manage the growth and change of the city. The land use planning vision set out in the LSPS is expressed as four inter-related themes: an integrated and accessible transport network; a green city; a liveable city; and a smart and innovative economy.

The proposed development contributes to the objectives of the Newcastle 2040 and the Newcastle 2040 LSPS and will increase the provision of affordable housing in the Maryland area.

6.5.3 Activities in Catchments [Section 171A]

The site is not located within a regulated catchment as defined in Part 6.2 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP).

6.6 State Environmental Planning Policy (Housing) 2021

6.6.1 Development without Consent

Section 42 of the Housing SEPP permits certain development that may be carried out 'with consent' to be carried out by LAHC as 'development without consent' subject to the provisions set out under that section.

Table 5 below demonstrates compliance with the relevant provisions of section 42 of the Housing SEPP.

Table 5 Compliance with relevant provisions under sections Chapter 2, Part 2, Division 6 of the Housing SEPP for 'residential development without consent' carried out by LAHC

Provision	Compliance
42 (1) – This Division applies to residential development if -	
(a) the development is permitted with consent on the land under another environmental planning instrument, and	The development is permissible under NLEP 2012.
(b) all buildings will have a height of not more than 9m, and	The maximum building height is 7.95m.
(c) the development will result in 60 dwellings or less on a single site, and	The development is for 9 dwellings.
(d) for development on land in an accessible area – the development will result in at least the following parking spaces – (i) for each dwelling containing 1 bedroom – 0.4 parking spaces (ii) for each dwelling containing 2 bedrooms – 0.5 parking spaces (iii) for each dwelling containing at least 3 bedrooms – 1 parking space, and	The site is located within an accessible area and provides 6 car parking spaces which satisfies the minimum parking requirements for the development which are as follows: 1 x 1-bed = 0.4 5 x 2-bed = 2.5 3 x 3-bed = 3 = total of 5.9 spaces
(e) for development on land that is not in an accessible area – the development will result in at least the following parking spaces – (i) for each dwelling containing 1 bedroom – 0.5 parking spaces	N/A

Provision	Compliance
(ii) for each dwelling containing 2 bedrooms – 1 parking space (iii) for each dwelling containing at least 3 bedrooms – 1.5 parking space, and	
(2) This Division applies to the following development if the development is permitted on the land under another environmental planning instrument –	
(a) the demolition of buildings and associated structures if the building or structure is on land – (i) that is non-heritage land, and (ii) that is not identified in an environmental planning instrument as being within a heritage conservation area,	The land does not contain a heritage item and is not identified within a heritage conservation area.
(b) the subdivision of land and subdivision works. Note – Section 32 prohibits the subdivision of a boarding house.	The development does not include subdivision.
(3) This Division does not apply to – (a) development to which this Part, Division 5 applies, or (b) development that is part of a project, or part of a stage of a project, that the Minister determined under the Act, former section 75P to be subject to the Act, Part 4.	Noted.
(4) Development to which this Division applies may be carried out by or on behalf of a relevant authority without development consent.	The proposed development will be carried out by Land and Housing Corporation without consent.
(5) <i>State environmental planning policy (Transport and Infrastructure) 2021</i> , sections 2.15 and 2.17 apply to the development and, in the application of the sections –	Not applicable as the proposed development does not trigger notification of any of the public authorities referenced in sections 2.15 and 2.17.
(a) a reference in section 2.15 to “this Chapter” is taken to be a reference to this section, and	
(b) a reference in the sections to a public authority is taken to be a reference to the relevant authority.	
(6) In this section- Former section 75P means the Act, section 75P, as in force immediately before its repeal by the Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011. Residential development has the same meaning as in the Housing Act 2001, section 8.	Noted.
43 Requirements for carrying out residential development –	
(1) Before carrying out development under this Division, the Land and Housing Corporation must-	
(a) request the council nominate a person or persons who must, in the council’s opinion, be notified of the development, and	Advice was sought from Council regarding the scope of notification via email on 24 August 2020. Council provided a response on 7 September 2020 requesting amendments to the neighbour notification map to include additional properties. The notification map was subsequently revised and the notification was forwarded to surrounding development.

Provision	Compliance
	It is noted that the owner details of properties to be notified were confirmed with Council prior to the initial notification period, and second notification period. Council provided a current list of owner details on 2 August 2022 and 21 April 2023.
(b) give written notice of the intention to carry out the development to – (i) the council, and (ii) the person or persons nominated by the council, and (iii) the occupiers of adjoining land, and	A letter notifying City of Newcastle Council of the proposed development activity was sent by LAHC on 23/08/2022. Letters notifying occupiers of adjoining land of the proposed development activity were sent by LAHC on the same date. All parties were notified again during the second notification period which occurred from 30/05/2023 – 23/06/2023.
(c) take into account the responses to the notice that are received within 21 days after the notice is given, and	Council responded to LAHC's notification by letter dated 20/09/2022 and 28/06/2023. Comments on the response are provided in Section 7.1 of this REF. Five submissions were received from adjoining occupiers during the initial notification period and 1 submission was received during the second notification period. Comments on the submissions are provided in Section 7.2 of this REF.
(d) take into account the relevant provisions of the <i>Seniors Living Policy: Urban Design Guidelines for Infill Development</i> , published by the Department in March 2004, and	Refer to checklist in Appendix S and subsection 6.6.2 of this REF. These conclude that the development complies with all relevant development standards relating to the Seniors Living Policy: Urban Design Guidelines for Infill Development, except for the minor variations discussed. In these cases, suitable alternatives are proposed which are necessary due to site specific constraints.
(e) if the relevant authority is the Aboriginal Housing Office – consider the relevant provisions of the <i>Aboriginal Housing Design Guidelines</i> , published by the Aboriginal Housing Office in January 2020, and	N/A
(f) If the relevant authority is the Land and Housing Corporation – consider the relevant provisions of – (i) <i>Good Design for Social Housing</i> , published by the Land and Housing Corporation in September 2020, and (ii) the <i>NSW Land and Housing Corporation Design Requirements</i> , published by the Land and Housing Corporation in February 2023, and	Refer to section 6.6.3 and 6.6.4 and the Architect's Statement and Certificate of Building Design Compliance in Appendix U which indicate that the design and Dwelling Requirements have been considered.
(g) if the development is for the purposes of manor houses or multi dwelling housing (terraces) – consider the relevant provisions of the Codes SEPP, Part 3B.	Not applicable. The development does not consist of terrace housing or manor houses.
(2) In this section, a reference to the council is a reference to the council for the land on which the development is proposed to be located.	Noted.

6.6.2 Seniors Living Policy: Urban Design Guidelines for Infill Development

The *Seniors Living Policy: Urban Design Guidelines for Infill Development* (SLUDG) (March 2004) has been prepared to assist in the design and assessment of applications for development under the Housing SEPP and is used for all Part 5 applications, excluding group homes and boarding houses.

The SLUDG outlines the design issues, principles and better practices that must be considered when designing a development for assessment under the Housing SEPP. There are five sections in the document, each corresponding to a key issue when designing development under the Housing SEPP. These include:

- Improving neighbourhood fit;
- Improving site planning and design;
- Reducing impacts on streetscape;
- Reducing impacts on neighbouring properties; and
- Improving internal site amenity.

Clause 43(1)(d) of the Housing SEPP requires the relevant authority to take into account the relevant provisions of the SLUDG when assessing a proposed residential development under Part 2, Division 6 of the Housing SEPP.

An assessment of the design of the activity against the SLUDG is provided at **Appendix S**. The design has followed the guidelines, except in relation to the following justifiable departures outlined in **Table 6**.

Table 6 Seniors Living Urban Design Guidelines departures

Guideline Requirement	Response
2.15 Provide communal open space?	The development has not provided communal open space as the rear portion of the site will be a planted landscaped area, to preserve the topography of the land where possible and reduce cut and fill on site. Notwithstanding this, each dwelling has been designed with their own private courtyard with the private open space area ranging from 19.37m ² – 44.86m ² .
2.20 Use semi-pervious materials for driveways, paths and other paved areas?	LAHC Design Requirements entail the use of concrete for driveways and parking areas to ensure minimal ongoing maintenance.
2.23 Maintain, where possible, existing crossings and driveway locations on the street?	The site consists of 3 separate allotments which all have existing crossovers and driveways. The activity seeks to amalgamate the lots and provide one new driveway crossover for the development which is appropriately positioned for the layout of buildings on the site. The existing crossovers will be removed and made good to the existing kerb.
3.02 Provide a front setback that relates to adjoining development?	The activity seeks to provide a front setback of 5.5m. The average front setback of buildings facing the same side of Prospero Street that are within 40m of the site is approximately 6.8m and the average existing setback for dwellings on the site is 6.1m. The established front setback along Prospero Street is attributed to the topography of the land and dwellings being sited on the highest part of the site. Nonetheless, the activity will provide a sufficient landscaped front setback that will be compatible with the locality.
3.06 Setback upper levels behind the front building façade?	The upper levels of the building are not setback further than the front building façade to simplify construction. A mix of materials

	and finishes allow for an articulated front façade that works well within the streetscape.
3.20 Orientate mailboxes obliquely to the street to reduce visual clutter and the perception of multiple dwellings?	Letter boxes for the dwellings will be provided at two separate locations within the front setback and have been designed to ensure they are not visually prominent features of the development.
3.22 Vary the alignment of driveways to avoid a 'gun barrel' effect?	The driveway will have a length of 18m, which is approximately half the length of the site. The driveway will not result in a gun barrel effect as appropriate landscaping has been provided on either side of the driveway. Further, the top of the driveway terminates with a vista of the existing tree to be retained at the rear of the site.
3.27 Vary the driveway surface material to break it up into a series of smaller spaces? (e.g. to delineate individual dwellings)	Driveways and paths are concrete to meet LAHC maintenance and durability requirements. Parking is not allocated to individual dwellings.
3.29 Provide gates at the head of driveways to minimise visual 'pull' of the driveway	Driveway gates to common parking areas is not suitable due to maintenance reasons. The visual pull of the driveway is addressed through landscaping.
4.01 Where possible, maintain the existing orientation of dwelling 'fronts' and 'backs'?	The activity consists of 3 separate buildings, which have been designed to provide a principal frontage to the street. Units 8 and 9 have been designed to address the street and provide an entry porch to Prospero Street, whereas all other dwellings are designed to be accessed off the pedestrian pathways.
4.02 Be particularly sensitive to privacy impacts where dwellings must be oriented at 90 degrees to the existing pattern of development?	Due to site constraints, units 1 – 4 and 5 – 7 have been designed to orientate 90 degrees to the existing pattern of development. To mitigate any potential privacy impacts, units oriented towards side boundaries maintain bedrooms only at first floor level with high use areas such as living, and dining rooms located at ground level. Privacy screens, fencing and hedge landscaping has been integrated into the scheme to minimise potential overlooking of neighbours from proposed private open space areas. Setbacks from side boundaries are greater than the minimum specified in the DCP, and windows of living areas are located a minimum of 3.8m from site boundaries.
4.03 Set upper storeys back behind the side or rear building line	Upper floors have not been setback to simplify construction.
4.05 Incorporate second stories within the roof space and provide dormer windows?	Second storeys within roof spaces are not a characteristic in the locality. The proposed second storey complies with height and setback requirements and does not give rise to any adverse streetscape or amenity impacts.
4.13 Design dwellings so that they do not directly overlook neighbours' private open space or look into existing dwellings?	Units 1 – 3 have windows located at the first floor of the building with an outlook to the eastern boundary. These windows only belong to bedrooms and are not principle living areas. Further, an increased setback of 3.9m has been provided to the eastern boundary to minimise opportunity of overlooking into the backyard of 23 Prospero Street. Units 5 – 7 have windows located at the first floor of the building with an outlook to the western boundary. These windows belong to bedrooms and hallways which are not principle living areas. A 4.5m setback has been provided to larger windows overlooking the western boundary, and a 2m setback has been provided to the high sill windows of Unit 7 which are above eye level.

4.14 Locate private open space in front setbacks where possible to minimise negative impacts on neighbours?	Private open space within the front setbacks is not consistent with the streetscape. Additionally, the topography of the land does not provide for accessible private open space areas within the front setback.
5.24 Provide private open space area that are orientated predominantly to the north, east or west to provide solar access?	Unit 9 has a south facing private open space area whereas the rest of the dwellings within the development benefit from east or western aspects to maximise solar access. Given the steep site topography, it was not possible to achieve a north, east or west orientation for all private open space areas.
5.29 Provide private open space areas that use pervious pavers where private open space is predominantly hard surfaced to allow for water percolation and reduced run-off?	Sufficient deep soil/landscape areas have been proposed within common and private open spaces. No requirement for permeable surfaces for hard stand private open area is necessary.
5.30 Provide communal open space that is clearly and easily accessible to all residents and easy to maintain and includes shared facilities, such as seating and barbeques to permit resident interaction?	Communal space is not provided as per LAHC brief for maintenance issues. Large common landscaped areas are provided in the front and rear of the site, creating a pleasant setting for all residents.

6.6.3 Good Design for Social Housing

Good Design for Social Housing establishes the four key goals and their underpinning principles to delivering better social housing outcomes for NSW.

Clause 43(1)(f)(i) of the Housing SEPP requires the relevant authority to consider the relevant provisions of the *Good Design for Social Housing policy* (September 2020) when assessing a proposed residential development under Part 2, Division 6 of the Housing SEPP.

Table 7 includes an assessment against the *Good Design for Social Housing* and demonstrates that the proposed development has adequately considered the goals and principles outlined. Each goal is individually addressed below, and detailed responses are provided by the architect in the SLUDG Checklist in *Appendix S*.

Table 7 Good Design for Social Housing – Relevant Goals & Principles

Goals	Principles	Comment - Discussion on how the design responds to the principles
Wellbeing	<ul style="list-style-type: none"> • Healthy environments • Good for tenants • Quality homes 	<ul style="list-style-type: none"> • Safe access is provided from the car park to entries of the building. • The units have been designed to ensure residents have privacy and feel safe. • Development compliant with BASIX requirements (<i>Appendix J</i>). • The proposal includes high quality landscaping and outdoor areas to enhance the site amenity for residents and the streetscape.
Belonging	<ul style="list-style-type: none"> • Mixed tenure • Good shared and public spaces • Contribute to local character 	<ul style="list-style-type: none"> • The development provides a mix of one, two and three bedroom dwellings to target the needs of the community. • The development has been designed to reflect the existing development within the locality and integrates with the surrounding residential neighbourhood.

Goals	Principles	Comment - Discussion on how the design responds to the principles
		<ul style="list-style-type: none"> The proposal is accompanied by a thoughtfully designed landscape scheme which includes canopy trees in the front and rear setbacks.
Value	<ul style="list-style-type: none"> Whole of lifecycle approach Sustainability and resilience Make every dollar count 	<ul style="list-style-type: none"> The orientation of each dwelling and private open space area has been designed to optimise natural light to these areas. The landscape scheme includes low maintenance landscape species. The development also utilises durable building materials to create an economically sustainable development that requires less ongoing maintenance. An underground rainwater tank is provided for the development to assist with sustainability and on-site water retention. Development meets BASIX requirements for building sustainability.
Collaboration	<ul style="list-style-type: none"> A good partner Sustainability and resilience Make every dollar count 	<ul style="list-style-type: none"> The proposal is of a scale and character that assists with place making, by ensuring integration with the surrounding development. Collaboration and consultation with key stakeholders was also incorporated at critical design milestones.

6.6.4 Land and Housing Corporation Design Requirements

The *Land and Housing Corporation Design Requirements* (LAHC Design Requirements) (February 2023) are used to inform the design and development of the LAHC social housing portfolio. These requirements apply to all new LAHC developments and are driven by tenant wellbeing, design quality, environmental performance and operational effectiveness within cost parameters.

Clause 43(1)(f)(ii) of the Housing SEPP requires the relevant authority to consider the relevant provisions of the *Land and Housing Corporation Design Requirements* when assessing a proposed residential development under Part 2, Division 6 of the Housing SEPP.

An assessment of the proposed development against the *Land and Housing Corporation Design Requirements* document has been undertaken and deemed to achieve compliance, refer to Certificate of Compliance from the Architect in *Appendix U*. Further detail will be incorporated in the construction documentation.

6.6.5 Other State Environmental Planning Policies

Table 8 below outlines applicability of, and compliance with, other State and Environmental Planning Policies (SEPPs).

Table 8 Compliance with other applicable State and Environmental Planning Policies

State Environmental Planning Policy	Applicability
SEPP (Building Sustainability Index: BASIX) 2004	A BASIX Certificate has been obtained for the development proposal, as required under the SEPP (refer to <i>Appendix J</i>).
SEPP (Transport and Infrastructure) 2021	The site is not located in close proximity to a State Classified Road nor is it defined as traffic generating development. The site is not within a future infrastructure corridor or adjoining and does not require written notice to Transport for NSW. The site is not adjacent to rail corridors or interim rail corridors and does not require concurrence from the relevant rail authority.

State Environmental Planning Policy	Applicability
	Section 2.16 of this SEPP requires consideration of <i>Planning for Bush Fire Protection</i> as the activity will provide residential accommodation on land identified as bushfire prone. The Bushfire Certificate at <i>Appendix P</i> confirms that the activity can achieve the requirements provided by <i>Planning for Bush Fire Protection</i> subject to mitigation measures provided at Section 8.13 of this report.
SEPP (Biodiversity and Conservation) 2021	Clause 2.6(1) of this SEPP requires a permit from Council for clearing of vegetation required under the policy. Notwithstanding this, Section 6 of the Housing SEPP specifies that development permitted without consent may be carried out without another consent or a licence, permission, approval, or authorisation otherwise required under another environmental planning instrument. This means the proposed removal of trees within the site can be included within the REF scope and does not require a permit from Council.
SEPP (Resilience and Hazards) 2021	Section 4.6 of this SEPP requires the consent authority to consider whether land is contaminated prior to granting development consent. The site is located within a developed residential area of Maryland. The s10.7 Planning Certificates have not identified the site as potentially contaminated (refer to <i>Appendix F</i>). An Identified Requirement has been included in the Activity Determination and requires implementation of management measures in the event of contamination being discovered during construction works.

6.7 Local Planning Controls

6.7.1 Newcastle Local Environmental Plan 2012 (NLEP 2012)

Compliance with the relevant provisions / development standards set out in the NLEP 2012 is demonstrated in **Table 9** below.

Table 9 Newcastle Local Environmental Plan 2012

Relevant Provisions / Development Standards for Multi Dwelling Housing			
Clause	Provision / Development Standard	Required	Provided
4.3	Height of Buildings	(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The site is mapped as providing a maximum building height of 8.5m.	Maximum building height (measured in accordance with the LEP definition) is 7.95m.
4.4	Floor Space Ratio	(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. The site is mapped as having an FSR of 0.6:1.	Proposed FSR is 0.44:1 (GFA 784.48m ²).
5.10	Heritage conservation	Consider potential heritage impacts	The site does not contain any heritage items or areas and it is not located in the vicinity of any heritage items or areas.

6.1	Acid sulfate soils	Class 5 Development consent is required for works within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5mAHD and by which the water table is likely to be lowered below 1mAHD on adjacent Class 1, 2, 3 or 4 land.	The subject site is located over 500m from the nearest adjacent Class 1, 2, 3, or 4 land that is below 5m AHD. The proposed development activity involves some excavation, however, not to a degree that will lower the water table.
6.2	Earthworks	(3) Before granting development consent for earthworks, the consent authority must consider the following matters – (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development, (b) the effect of the proposed development on the likely future use or redevelopment of the land, (c) the quality of the fill or the soil to be excavated, or both, (d) the effect of the development on the existing and likely amenity of adjoining properties, (e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area. (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	<p>The site has an extensive slope of approximately 7.13m from the south-west corner (RL 29.49) to the north-east corner (RL 22.36).</p> <p>The activity seeks to minimise cut and fill on site where possible and has responded to the topography of the land. To create suitable finished floor levels and appropriate trafficable pathways, the activity will result in a maximum cut of 1.39m at the southwest portion of the site and a maximum fill of 1.155m in the central area of the site.</p> <p>There will be no adverse amenity impact on adjoining properties because of the proposed earthworks. The proposed buildings have been carefully sited to avoid adverse impacts on adjoining properties resulting from privacy and overlooking, overshadowing and dispersion of stormwater.</p>

6.7.2 Newcastle Development Control Plan 2012

Newcastle Development Control Plan 2012 (NDCP 2012) contains specific development controls for multi dwelling housing which are addressed in **Table 10** below.

The general controls for all development set out in NDCP 2012 have generally been addressed in the various sections of this REF that address compliance with the provisions of the Housing SEPP.

Table 10 Newcastle Development Control Plan 2012

Compliance with applicable requirements		
Clause	Required	Proposed
Part 3.03 Residential Development		
3.03.01 Principal Controls		
A. Frontage Widths	The minimum site frontage width is: - Multi-dwelling row housing in R2 Zone, 18m where not in the Moderate Growth Precinct.	The activity relates to multi-dwelling housing on land zoned R2 but does not include row houses or basement car parking. Nevertheless, the site has a

Compliance with applicable requirements		
Clause	Required	Proposed
	- Multi-dwelling with basement car park, 15m where not in the Moderate Growth Precinct.	primary road frontage to Prospero Street of 54m.
B. Front Setbacks	<p>Compliance with the locality specific controls in section 6 of this DCP. Where there are no locality specific controls front setbacks are:</p> <p>(a) In established areas the proposed building is setback the average distance of buildings within 40m either side of the lot on the same primary road. The setback on a corner lot (secondary road) is 2m.</p>	<p>The average setback of buildings facing the same side of Prospero Street that are within 40m of the site is approximately 6.8m and includes the following sites:</p> <ul style="list-style-type: none"> • 35 Prospero Street – approx. 5.7m (nearmap), • 33 Prospero Street – approx. 9.2m (nearmap), • 31 Prospero Street – approx. 6m (survey), • 23 Prospero Street – approx. 5.2m (nearmap), • 21 Prospero Street – approx. 7.2m (nearmap), • 19 Prospero Street – approx. 7.5m (nearmap). <p>The proposal seeks to provide an average front setback of 5.5m to Prospero Street. Whilst the proposed setback does not comply with 6.8m setback required under NDCP 2012, consultation with Council has confirmed that the proposed setback is compatible with the established streetscape character. The porches of Units 8 and 9 are located within the articulation zone and provide a front setback of 5.3m to Prospero Street.</p>
	An articulation zone that extends 1.5m from the building line into the setback from the primary road may be provided where the setback from the primary road is 3m or greater. The articulation zone is a maximum 25% width of the lot at the building line.	Complies. The articulation zone for the site ranges from 5.3m – 5.5m. The width of the articulation zone is 17.6m. The porches of Units 8 and 9 are located within the articulation zone and have a total width of 5.7m and therefore complies with the maximum articulation width.
C. Side and Rear Setbacks	<p>Where there are no locality specific controls, side and rear setbacks are:</p> <p>(a) In the R2 Low Density Residential Zone:</p> <p>(i) Side setbacks are a minimum of 900mm from each boundary up to a height of 4.5m, then at an angle of 4:1 up to the maximum permitted height under NLEP 2012.</p>	<p>Complies. At the ground floor, a minimum side setback of 3.6m is provided for the western boundary and a 3.3m setback is provided to the eastern boundary.</p> <p>At first floor, a minimum 2.01m setback is provided for the western boundary and a 3.4m setback is provided to the eastern boundary.</p>

Compliance with applicable requirements		
Clause	Required	Proposed
	(ii) Rear setbacks are a minimum of 3m for walls up to 4.5m in height and 6m for walls greater than 4.5m height	Complies. A minimum 4m rear setback is provided to the ground floor of the development, achieving compliance with the required 3m rear setback. At the first floor a 10m setback is provided and complies with the required 6m setback.
D. Landscaped Area	A minimum 25% of the front setback is landscaped area	Complies. Approximately 54.8% of the front setback is landscaped area (167.3m ² /305m ²).
	A minimum 3m wide landscaped area is located along the rear boundary	Complies. A minimum 3m wide landscaped area is located along the rear boundary.
	Landscaped areas are distributed throughout the site and incorporated into both private open space and communal open space areas	Complies. Landscaped areas are spread throughout the site within private and communal open space areas.
	Landscaped areas take advantage of existing site conditions and respond to significant site features such as: (a) Significant landscape features including existing trees (b) Change of levels (c) Views	Complies. The activity will retain T3 and T4 within the rear portion of the site which are significant landscape features of the site. Proposed landscaped areas have appropriately responded to the change of levels with landscape planting to ensure maintenance of privacy. The site is not privy to existing view corridors.
	One large tree or two medium sized trees are provided for every 90m ² of landscaped area Note - Large tree is 8m and over - Medium tree is 2m – 8m	The proposed development provides a total landscaped area of 536.5m ² , requiring a total of 6 large trees or 12 medium sized trees. Two large trees will be retained, 2 large trees are proposed, and 2 medium sized trees are proposed. There is a shortfall of 1 large tree or 2 medium sized trees. The extent of tree planting proposed is considered adequate given the site constraints and to ensure that sufficient separation is provided between large canopy trees and buildings and reduce maintenance.

Compliance with applicable requirements

Clause	Required	Proposed
	A medium sized tree with a minimum mature height of 5m is provided in the front setback, where the setback is greater than 3m.	Complies. Two crepe myrtle trees with a mature height greater than 5m are provide in the front setback.
3.03.02 Siting the Development		
A. Local Character and Context		
A detailed site analysis has been prepared and provided within the architectural plans in Appendix A.		
B. Public Domain Interface	Private open space is located behind the building line of the primary road frontage, but may be partially located within an articulation zone	Complies. Private open space has been provided behind the proposed building line of the primary road frontage.
	Windows and balconies overlook the public domain.	Complies. Four dwellings have windows that face onto Prospero Street.
	Direct visibility is provided along pathways and driveways from the public domain	Complies. Direct sightlines are provided along the pathways and driveways to Prospero Street.
	Fences and walls forward of the building line of the primary road frontage: (a) have an average height of 1.2m, with a maximum height of 1.5m and are constructed using materials such as slats or pickets with at least 50% of the fence area open. (c) do not use unfinished timber paling and metal panel fences forward of the building line.	Fencing within the front setback consists of a 900mm metal slatted fence and retaining walls constructed of brick. The retaining walls have a height up to 1.8m. Given the slope of the land, the retaining walls do not obscure sight lines into and out of the site.
	Retaining walls within the front setback that have a height greater than 600mm are softened by landscape planting with a minimum width of 600mm on the low side of the retaining wall	Complies. Retaining walls within the front setback with a height greater than 600mm are softened by landscaping in the form of trees and shrubs.
	Where development adjoins public parks, open space or bushland, or is a corner site, the design positively addresses this interface by: (a) street access, pedestrian paths and building entries which are clearly defined; or (b) paths, low fences and planting that clearly delineate between communal/private open space and the adjoining public open space; or (c) walls fronting the public spaces have openings that are at least 25% of the surface area of the wall	N/A. The site does not adjoin public parks, open space or bushland, or is a corner site.

Compliance with applicable requirements		
Clause	Required	Proposed
C. Pedestrian and vehicle access	Internal streets, lanes, driveways and parking spaces and circulation comply with AS 2890.1.	Complies. The activity provides a driveway on site. Identified Requirement No. 12 will be provided to ensure the driveway complies with AS 2890.1.
	Battle-axe driveways, internal streets, lanes and visitor car parking spaces are setback: (a) at least 1m from a fence; (b) at least 1m from another dwelling; (c) at least 2.5m from a window to a habitable room that has 1m ² or larger in size.	N/A. The activity does not contain a battle-axe driveway, internal streets, lanes or visitor car parking spaces.
	Landscape planting is incorporated into the driveway, street and lane setbacks.	Complies. Landscape planting is provided along the driveway.
	Driveways that are adjacent to a tree are located outside of the dripline or comply with the recommendations in a report prepared by a qualified arborist.	Complies. The driveway is not located adjacent to a tree.
	All internal driveways, streets and lanes are overlooked by windows from habitable rooms or private open space.	Units 3, 7, 8 and 9 have an outlook to the car park. The habitable rooms of Units 1, 2 and 9 also have an outlook to the internal driveway.
	Open space or the window of a dwelling is provided at the termination point of an internal driveway, street or lane.	Complies. The living area of Unit 4 has an outlook to the termination point of the internal driveway.
	Multi dwelling developments that contain 20 or more dwellings include pedestrian paths that are separated from the internal road or lane by a kerb or landscaped area.	N/A. The activity only contains 9 dwellings.
	Where pedestrian circulation is separated from vehicle circulation, the paths still function like streets with pavement at least 1.5m wide, clearly identifiable dwelling entrances and clear lines of sight to create a legible and safe network.	Complies. Pedestrian circulation has been separated from vehicle circulation. Given the scale of development only 1.5m wide pedestrian paths have been provided.
	Lighting is provided in accordance with AS 1158.3 to roads and pedestrian spaces and avoids light spill into private open space or habitable rooms.	Able to comply. Lighting is to be provided on site in accordance with AS 1158.3 to ensure pedestrian paths and communal spaces have adequate lighting.
	The maximum length of a dead end lane or driveway is 40m and serves a maximum of 10 dwellings.	Complies. The length of the driveway is 24m.
	Lanes and driveways including pedestrian paths are straight and all parts have a clear line of sight from internal or public streets.	Complies. A separate pedestrian path is provided to the east of the driveway. Clear sightlines are provided from the driveway and pedestrian paths.

Compliance with applicable requirements		
Clause	Required	Proposed
D. <i>Orientation and Siting</i>	The principal area of private open space and the window to a living room of an adjoining dwelling receives greater than 2 hours of solar access between 9am and 3pm on the winter solstice. Where the window or principal area of private open space is already overshadowed, solar access is not reduced by more than 20%.	Complies. The principal private open space and windows to adjoining dwellings will continue to receive greater than 2 hours of solar access between 9am and 3pm on the winter solstice.
	On sloping sites the buildings respond to the topography with changes in floor level to minimise the need for cut and fill.	Complies. The floor levels of the buildings have been stepped to reduce the extent of cut and fill across the site.
	Fill outside the building footprint does not exceed a height measured from existing ground level of: (a) 600mm if located within 1m of a boundary, and (b) 1m if located greater than 1m from a boundary	Complies. Fill outside of the building footprint does not exceed 600mm. Noted.
	Dwellings are orientated to maximise solar and daylight access to living rooms and private open space	Complies. The dwellings proposed on site have been orientated to maximise solar and daylight access to living spaces and Private Open Space.
	Each dwelling has a frontage to a public street, internal street or lane.	Complies. Four dwellings have a frontage to Prospero Street and 5 dwellings have an outlook to the internal pedestrian pathways and driveways on site. This is sufficient to achieve good passive surveillance of the street and an active frontage that reflects the residential character of the local area.
	Dwellings facing the street have a covered entry door and a window of a habitable room facing the street.	Complies. Units 8 and 9 have a covered entry door and a window of a habitable room facing the street. Unit 1 and 5 also include a window of a habitable room facing the street. The entry door to Units 1 and 5 however, is provided off the internal pedestrian pathways as a result of the topography and efficient site planning.
	Ground floor levels are not more than 1.3m above existing ground level and not more than 1m below existing ground level	Complies. The ground floor provides a maximum finished floor level of 885mm above ground which relates to Unit 3. At the western portion of the allotment, Units 5 – 7 have a maximum

Compliance with applicable requirements		
Clause	Required	Proposed
		finished floor level that is 730mm below existing ground level.
	Excavation does not exceed a depth measured from existing ground level of: (a) 600mm if located within 1m of a boundary and (b) 1m if located greater than 1m from a boundary	<p>Does not comply with (a). Excavation reaches a maximum depth of 1.39m within 1m of a boundary located within the private open space area of Unit 7. The extent of excavation is required to achieve a level area of Private Open Space and to ensure sufficient separation is provided from the building to maintain adequate solar access and amenity for Unit 7. The visual impact of the excavation is lessened through the introduction of two small retaining walls less than 1m in height, rather than a single 1.39m high retaining wall. This also removes the need for fencing and provides an opportunity for additional planting.</p> <p>Complies with (b). Excavation reaches a maximum depth of 915mm where greater than 1m from a boundary, which relates to the POS of Unit 7.</p>
<i>E. Building separation</i>	The minimum separation between two or more buildings on the same lot is: (a) 3m where a wall height is less than 7.5m (b) 6m where a wall height is 7.5m or greater.	<p>Complies. A 6m building separation is provided between Unit 9 and Units 1 and 2 at the ground floor.</p> <p>A 5.3m building separation is provided between Unit 8 and Units 5 and 6 at the ground floor.</p> <p>Complies. Unit 9 has a wall height greater than 7.5m however this only relates to 1.2m of the front portion of the building. Correspondingly, Unit 1 has a setback of approximately 8.3m to this portion of the building. Units 5, 6 and 8 do not have a wall height greater than 7.5m.</p>
	Buildings are broken into a series of massing elements. Each massing element has a maximum wall length of 25m and is separated by a minimum 6m x 6m landscaped area. The landscaped area between each massing element may incorporate open car parking spaces and driveways, only where a minimum 3m wide deep soil zone is provided adjacent to the boundary.	Complies. The proposed development has been designed to appear as 3 separate dwellings, as viewed from Prospero Street. The eastern and western elevations are further broken up to have a series of massing elements.

Compliance with applicable requirements		
Clause	Required	Proposed
3.03.03 Amenity		
A. Solar and Daylight Access	Direct sunlight is achieved when 1m ² of direct sunlight on the glass is achieved for at least 15 minutes. To satisfy 2 hours direct sunlight, 8 periods of 15 minutes will need to be achieved - the periods do not need to be consecutive.	Noted. This definition has been applied when calculating solar access.
	Every habitable room has a window in an external wall with a total minimum glass area of at least 15% of the floor area of the room	Complies. Every habitable room has a window in an external wall with a minimum glass area of at least 15% of the floor area of the room.
	Daylight is not borrowed from other rooms, except where a room has a frontage to a classified road.	Complies. Daylight is not borrowed from other rooms.
	No part of a habitable room is more than 8m from a window.	Complies. No part of a habitable room is greater than 8m from a window.
	No part of a kitchen work surface is more than 6m from a window or skylight	Complies. All kitchen worksurfaces are within 6m from a window.
	Courtyards are fully open to the sky, have a minimum dimension of one third of the perimeter wall height and a minimum area of 3m ² .	Complies. A minimum dimension of one third of the perimeter wall height of each courtyard is fully open to the sky. A small roofed area is provided to each courtyard.
B. Natural Ventilation	For all other residential development: (a) Each habitable room is naturally ventilated (b) Each dwelling is cross ventilated (c) the area of unobstructed window openings is equal to at least 5% of the floor area served	Complies. Each habitable room is provided with an external window or door, allowing for natural ventilation. Complies. Each dwelling is cross ventilated. Complies. Each dwelling has window openings that comprise at least 5% of their respective floor areas.
C. Ceiling Heights	For all other residential development the ceiling height measured between finished floor level and finished ceiling level are: (a) 2.7m to all ground floor habitable rooms (b) 2.7m to first floor living rooms (c) 2.4m to all first floor bedrooms	Complies. The minimum ceiling height for all rooms is 2.7m.
E. Private Open Space	For all other residential development:	
	(a) All dwellings have at least 16m ² private open space.	Complies. All dwellings have a private open space area ranging from 19m ² – 29m ² .
	(b) The minimum dimension of the included area is 2m, excluding any storage space.	The areas calculated are based on a minimum dimension of 2m.

Compliance with applicable requirements										
Clause	Required	Proposed								
	(c) Primary private open space and balconies are located adjacent to the living room, dining room or kitchen.	Complies. All primary private open space areas are located adjacent to the open plan living spaces.								
F. Storage	<p>For all other residential development</p> <p>(a) In addition to storage in kitchens, bathrooms and bedrooms, storage is to be provided as follows:</p> <table><tr><th>Dwelling size</th><th>Storage size volume</th></tr><tr><td>1 bedroom</td><td>6m³</td></tr><tr><td>2 bedrooms</td><td>8m³</td></tr><tr><td>3+ bedrooms</td><td>10m³</td></tr></table>	Dwelling size	Storage size volume	1 bedroom	6m ³	2 bedrooms	8m ³	3+ bedrooms	10m ³	Complies. Storage is provided for each unit under the stairs. For Unit 4, separate storage is provided for the dwelling off the living and dining area.
Dwelling size	Storage size volume									
1 bedroom	6m ³									
2 bedrooms	8m ³									
3+ bedrooms	10m ³									
	(b) At least 50% of the required storage is located in the dwelling.	All storage is located within the dwelling.								
H. Visual Privacy	<p>For all other residential development, new development is located and orientated to maximise visual privacy between buildings on site and for neighbouring buildings. This is to be achieved by:</p> <p>(a) Inclusion of privacy screens where the distance from the window of a habitable room to the boundary is:</p> <p>(i) less than 3m, and the habitable room has a finished floor level greater than 1m above existing ground level, or</p> <p>(ii) less than 6m, and the habitable room has a FFL greater than 3m above ground level.</p>	<p>Complies. All habitable rooms are greater than 3m from a common boundary, where they have a finished floor level greater than 1m above the existing ground level.</p> <p>Complies. Units 1, 2, 3, 5, 6 and 7 have a habitable window located within 6m of the boundary where the FFL is greater than 3m above ground. A privacy screen is not required for these windows as they relate to bedrooms with a window, with an area less than 2m² or have a sill height of 1.7m.</p>								
	(b) A privacy screen is not required to:	Noted. Privacy screens are not required for Units 1, 2, 3, 5, 6 and 7 as bedroom windows have an area less than 2m ² or have a sill height of 1.7m.								
	<p>(i) a bedroom window with an area less than 2m²; or</p> <p>(ii) any window that has a sill height of 1.5m or greater, or</p> <p>(iii) any window that has a frontage to a road or public open space.</p>									
	<p>(c) Provision of a privacy screen on the edge of a terrace, balcony or verandah, where the edge is:</p> <p>(i) less than 3m from the boundary, and the habitable room has a finished floor level greater than 1m above existing ground level, or</p> <p>(ii) less than 6m and the habitable room has a finished floor level greater than 2m above ground level.</p> <p>(d) A privacy screen is not required to a balcony or terrace that has an area less than 3m², or a balcony or terrace of any</p>	Balconies are only provided to Units 2, 3, 6 and 7. These balconies have an area of 3m ² and so do not require a privacy screen.								

Compliance with applicable requirements

Clause	Required	Proposed
	size that has a frontage to a road or public space.	
	(e) Separation distances between windows and balconies of dwellings on the same site are double the distances above.	Complies. The development has been designed to strategically locate windows and balconies on the same site to not result in direct overlooking or sight lines.
	(f) Where privacy screens are provided to windows, they do not cover part of the window required to meet the minimum daylight or solar access requirements, or restrict ventilation.	Privacy screens are not proposed as part of this development.

Part 4.02 Bush Fire Protection

Refer to the Bushfire Certificate provided at *Appendix P*, which addresses fire protection for the proposed activity.

Part 4.04 Safety and Security

Developments incorporate the CPTED Principles into the design of the proposed development.

The proposed development has been designed as 3 separate dwellings presenting to Prospero Street, as such, surveillance is provided to the street and internally within the development.

Part 5.03 Vegetation Management

An Arborist's Stage C Report has been prepared for the subject site. Consideration to vegetation on the site and adjoining sites and their respective TPZs is detailed in the Arborist 'S Stage C Report. Refer to the Arborist's Stage C Report in *Appendix I*.

Part 7.03 Traffic, Parking and Access

Parking provision has been calculated as per the Housing SEPP and 6 spaces are provided. A Traffic Impact Assessment report has also been prepared. Refer to *Appendix O*.

Part 7.06 Stormwater

A Stormwater Plan has been prepared which includes provision for OSD. Refer to *Appendix C*.

Part 7.08 Waste Management

A Waste Management Plan has been prepared. Refer to *Appendix N*.

7 Notification, Consultation and Consideration of Responses

Copies of the notification letters sent to the Council and to the adjoining occupiers are provided in *Appendix V*, together with a copy of responses from statutory authorities (where provided).

7.1 Council Notification

In accordance with section 43 of the Housing SEPP, City of Newcastle Council was first notified of the development by letter dated 23 August 2022. The notification response period formally closed on 16 September 2022 and Council responded to the notification by letter dated 20 September 2022.

Following the submission received from Council and adjoining land owners / other persons, the design of the development was amended. Accordingly, a second notification period occurred from 30 May 2023 until 23 June 2023. Council responded to the notification by letter dated 28 June 2023. **Table 11** below identifies the key issues raised in both submissions and discusses how these have been addressed.

A response is provided in relation to the matters raised in Council's letter and where appropriate, these matters have been addressed in the Identified Requirements in the *Activity Determination*.

Table 11 Key issues raised in Council submissions

Issues raised	Response
Front setback	<p>Council raised concern with the extent of building encroachment into the front setback and recommended a minimum 5.5m setback be provided.</p> <p>The proposal has been revised to incorporate a minimum front setback of 5.5m in accordance with councils' submission. The porches of Units 8 and 9 are located within the articulation zone of the site and will provide a small amount of articulation for the central building.</p>
Building articulation and material finishes palette	<p>Concern raised concerns regarding the scale and colour of cladding provided to the street façade, as well as the safety and accessibility of the front porches to Units 8 & 9.</p> <p>The activity has been amended to respond to the comments. Council's recommendation included a greater front setback and articulation of the building facades through a mix of materials which has been provided within the revised scheme.</p> <p>The colour of the proposed buildings is of a natural tone, which is complementary to the Prospero Street streetscape. The front entry porches provide articulation in the façade and have been designed in response to site topography which rises steeply from the front boundary thereby requiring steps to the front entrances.</p> <p>As confirmed in the Access Report in <i>Appendix G</i>, the entire development is classified as Class 1a and therefore the development is exempt from Disability Access related requirements of the BCA/NCC and no requirements apply under the Access Code of Disability (Access to Premises-Building) Standards 2010. This issue is further discussed below under 'accessibility'.</p> <p>The proposed development incorporates two separate porches to Units 8 and 9. The dimension of each porch is relative to the scale of the development and addresses crime prevention concerns as clear sightlines are provided from the top of the steps to the front door of each unit. However, the depth of the entry portico has been reduced in response</p>

	to Council comments to minimise the extent of building protruding forward of the 5.5m front setback. Roof and awning elements still assist in providing articulation and movement in the façade.
Accessibility	<p>Council outlined that in accordance with the NDCP 2012, all units should be designed in accordance with the Silver Level universal design features.</p> <p>LAHC have undergone an extensive design development process to provide housing upon the site that responds to the topography of the land. The site is located on the high side of Prospero Street and experiences a steep slope from the southern to the northern boundary.</p> <p>Accordingly, designing each dwelling to achieve Silver Level universal design standard was not possible. LAHC have several developments in the City of Newcastle area that include both adaptable and achieve Silver Level, thereby ensuring availability of suitable housing for those with varying mobility needs.</p> <p>Furthermore, as confirmed in the Access Report in <i>Appendix G</i>, the entire development is classified as Class 1a and therefore the development is exempt from Disability Access related requirements of the BCA/NCC and no requirements apply under the Access Code of Disability (Access to Premises-Building) Standards 2010.</p>
Stormwater design and management	<p>Council recommended amendments to the stormwater management plan to ensure consistent with Councils Coastal Wetland catchment provisions.</p> <p>The proposed stormwater design (<i>Appendix C</i>) has been amended to address the comments raised by Council. Identified Requirements have also been incorporated in the Activity Determination to ensure the detailed stormwater plan is designed in accordance with Council requirements and does not increase natural surface runoff to adjoining properties.</p>
Roof water	As recommended by Council, the proposed stormwater design has been amended to ensure that all roof water is drained to a centrally located, 24kL rainwater tank and the lower 50% (12kL) is to be reticulated into external taps, toilets and cold-water washing machine and laundry taps.
Erosion and sediment control measures	The comments provided regarding erosion and sediment control measures are addressed under Identified Requirement No. 13.
Public domain works	Councils comments regarding works in the public domain are partially covered by Identified Requirement No. 10, or have been incorporated as Identified Requirements No. 76 and 77 in the Activity Determination.
Vehicular access/crossing	<p>Council, in their first submission, requested that the access driveway be increased to 5.5m in the road reserve and extending 6m into the property boundary.</p> <p>The proposed driveway was not increased to 5.5m due to site limitations. However, the revised scheme has been assessed by a traffic engineer (<i>Appendix O</i>) who confirmed that the proposed access width was compliant with the requirements of AS2890.1:2004 for a domestic driveway associated with a Class 1 or 1A building and servicing less than 25 spaces.</p> <p>In addition to the above, the following points raised by Council in their letter on 28 June 2023 have been addressed below.</p> <ul style="list-style-type: none"> (a) Identified Requirements Nos 10 and 11 satisfy the matters raised by Council. (b) The driveway crossing has a maximum width of 3.7m.

	<p>(c) Traffic sight triangles have been demonstrated on the Site & External Works Plan – Ground Floor plan (refer to Appendix A) which requires objects within the zone to not have a height greater than 900mm.</p> <p>(d) The proposed driveway is located more than 3m from tree trunks within the public reserve.</p> <p>(e) The driveway is more than 750mm from a power pole or other obstruction.</p> <p>(f) Redundant vehicle crossings will be removed as demonstrated on the Demolition Plan provided at Appendix A, and as per Identified Requirement No. 77.</p>
Car parking	Identified Requirement No. 12 is provided to ensure car parking and vehicular access is constructed in accordance with AS/NZS 2890.1:2004, consistent with Council's comment.
Consolidation of lots	Council requested that all lot subject lots are consolidated into a single title, which is required under Identified Requirement No. 5 of the Activity Determination.
Waste management / communal bin storage areas	<p>Council initially identified that the proposal did not incorporate the number and configuration of bins required under the NDCP 2012. In their second submission, Council raised concern with the potential visual impact of the revised bin storage location, which was moved from the rear of the site to 2 separate bin storage areas close to the front boundary.</p> <p>Council's comments are noted, however, in this instance the proposed communal bin locations are more appropriate for the subject site. This is due to the site experiencing a steep fall from the rear to the front of the site, making it difficult for residents to wheel the bins to the kerb for collection and via versa.</p> <p>Screening around the two separate bin areas has been designed to appear as fencing/low retaining walls with a minimum 600mm landscape strip at the front boundary to ensure they are appropriately screened from the public domain and not impact on the streetscape.</p>
House numbering	Identified Requirement No. 79 is recommended to ensure the units are numbered in accordance with Councils' submission dated 28 June 2023.
Street trees	<p>Councils' comments regarding the protection of street trees are noted and align with the recommendations relating to Tree Protection Zones outlined in the Arborist' Stage C Report (Appendix I). However, Identified Requirement No. 78 has been included to ensure the driveway crossover adjacent to Council street tree PT1 is removed using hand tools only, as this requirement hasn't been included in the Arborist's recommendations.</p> <p>Identified Requirement No. 36 requires trees and other vegetation to be retained to be protected prior to commencement of works and for the duration of the construction period in accordance with the details provided in the Arborist' Stage C Report.</p>

7.2 Notification of Occupiers of Adjoining Land and Other Persons

Under section 43(1)(b) of the Housing SEPP, Newcastle City Council was requested to nominate any other persons who should, in the Council's opinion, be notified of the development.

Advice was sought from Council regarding additional persons or property that should be notified of the development via an email dated 26 July 2022. Council provided an email response on 2 August 2022 advising that 3 additional properties should be notified of the development. **Figure 13** illustrates the properties in which the occupiers and landowners were notified of the development.



Figure 13 Map of Properties Notified of the Proposed Development (Source: LAHC)

Under section 43(1)(b) of the Housing SEPP, occupiers of adjoining land, as identified in the above map, were first notified of the proposed development activity by letter dated 23 August 2022. Copies of the notification letters are provided at **Appendix V**. The notification response period formally closed on 16 September 2022.

As a result of the design development undertaken in response to the submissions received during August – September 2022, a second notification period occurred on 30 May 2023 to 23 June 2023. Five submissions were received during the initial notification period, and 1 submission was received during the second notification period. The submissions received are discussed in **Table 12**.

Table 12 Issues raised by adjoining owners / neighbours

Issues raised	LAHC Response
1st Notification Period	
Submission 1: <ul style="list-style-type: none"> Anti-social behaviour and future tenants. Number of on-site car parking. Increase in street traffic and parking. Bulk and scale (2 storey). Overshadowing to surrounding properties particularly to 23 Prospero St. Privacy within development with the open courtyards.. Reduction in property value. 	<p>Anti-social behaviour and the selection of future tenants within the development are not a matter for consideration as part of this assessment. Nevertheless, the Department of Communities and Justice (DCJ) has in place a policy for dealing with disruptive tenants to ensure any anti-social behaviour is mitigated and controlled to ensure the amenity of the locality is maintained.</p> <p>A Traffic Impact Assessment report (Appendix O) has been prepared for this activity and indicates the activity would generate 6 additional vehicle trips during the respective peak periods which is not expected to have any negative impacts on the local street network. The report also indicates that the level of on-site parking satisfies the requirements of the Housing SEPP.</p> <p>Consideration has been given to the new buildings and how they will blend into the local community. The revised scheme incorporates a single storey building form where the development is closest to the rear boundary, and side setbacks that exceed Council requirements to assist in minimising visual bulk and scale. The development is compliant with the building</p>

	<p>height and floor to space ratio provisions under the Newcastle Local Environmental Plan 2011 and satisfy the requirements of the Housing SEPP.</p> <p>The overshadowing plans prepared at Appendix A demonstrates the activity will maintain at least, and in most cases more than, 3 hours solar access during mid-winter to the existing dwellings and principal private open space areas of adjoining properties which satisfies the requirements provided within NDCP 2012 and the Housing SEPP.</p> <p>Privacy impacts are discussed in section 8.6 of the REF.</p> <p>Reduction in property value is not a matter for consideration as part of this REF. Nonetheless, the proposed development will provide new modern housing that will positively contribute to the streetscape of the local area.</p>
<p>Submission 2:</p> <ul style="list-style-type: none"> Concern with insufficient parking on site and increased traffic demand. Concern is also raised for overlooking from Units 5-6 to the rear yard of 23 Prospero Street. Units 5-6 will cast shadow into the backyard of 23 Prospero Street and 14 and 18 Barrington Crescent at 3pm. Units 7-8 will overshadow the house and backyard of 31 Prospero Street, affecting privacy and solar access. 	<p>The activity provides parking on site in accordance with the requirements of the Housing SEPP and will not result in a significant increased traffic demand.</p> <p>The finished floor levels of Units 5 – 6 (Units 4 and 3 in the revised scheme) have been amended to address overlooking concerns which is explained in further detail in section 8.6 of the REF. These units will generate a small amount of overshadowing to the dwelling and backyard of 23 Prospero Street from approximately 2pm onwards in mid-winter however more than 3 hours direct solar access to these areas is maintained which is in accordance with the requirements of the Housing SEPP and Councils DCP.</p> <p>Units 7 and 8 (Units 5 and 6 in the revised scheme) overshadow the dwelling and a portion of the private open space of 31 Prospero Street between 9am – 12pm during mid-winter, however a minimum of 3 hours solar access is maintained from 12pm onwards. The development will create a small amount of overshadowing to the private open space of 14, 16 and 18 Barrington Crescent, however, this is limited to the afternoon period only and the shadows cast are only slightly more than the shadow line cast by the existing boundary fencing. More than 3 hours solar access will be maintained for these properties during mid-winter.</p> <p>The activity does not result in overlooking to the property at 31 Prospero Street, as sufficient separation distances have been provided and site levels do not allow for direct overlooking into this neighbouring property.</p>
<p>Submission 3:</p> <ul style="list-style-type: none"> Concerns regarding anti-social behaviour. Parking issues. Property devaluation. Privacy concerns. Noise. Two storey dwellings are inconsistent with the locality. Boundary setbacks. 	<p>Refer to discussion above, with regards to anti-social behaviour, parking property devaluation and overshadowing. Impacts on privacy are discussed in detail under section 8.6 of the REF.</p> <p>The proposed development is for a residential use and therefore noise generated will be consistent with that expected in a residential area.</p> <p>Two storey dwellings are common within the Prospero Street and Barrington Crescent streetscapes, for example 10, 14 and 18 Barrington Crescent and 39 and 35 Prospero Street all contain 2 storey dwellings. Multi dwelling housing is permitted on the site and the proposal is consistent with the height and setback controls prescribed by Council.</p>

<ul style="list-style-type: none"> • Overshadowing of 18 Barrington Crescent. • Loss of view of trees and roof tops from sunroom. • Existing dwellings should be renewed instead of demolished and replaced with the proposed development. 	<p>The development has been designed as three distinct building forms therefore maintaining opportunity for direct view lines across and through the site in a north to south direction. The proposal has also been amended to remove the second storey off the dwelling located closest to the rear boundary at the southeast corner which will further assist in reducing visual bulk when viewed from the neighbouring properties at the rear.</p> <p>The LAHC-owned sites selected for renewal are chosen because they are close to transport, shops, services, and have redevelopment potential. Additionally, our policy and planning team continually assesses the amount and condition of social housing in each local government area; the waiting list for social housing in the area; the impacts of development on infrastructure and community; and where potential for redevelopment exists. LAHC need to increase the number of homes and make the best use of existing ones to address the current priority wait list for social housing and supply of affordable housing. This involves a program to build a mix of social, affordable and private homes like the proposed development at 25-29 Prospero St Maryland.</p>
<p>Submission 4:</p> <ul style="list-style-type: none"> • High density development and the setbacks provided are inconsistent with the locality. • Height. • Overshadowing concerns from 4pm mid-winter. • Privacy concerns which are exacerbated due to the existing change in levels, excavation and fill on site. • First floor windows will result in overlooking. 	<p>The activity provides multi dwelling housing on the site which is consistent with the objectives of the R2 zone under NLEP 2012. The activity provides setbacks in excess of what is required by the NDCP 2012 and results in a density, height and scale that is compatible with the locality and envisaged under the current zoning.</p> <p>The concern relating to overshadowing is discussed above, and privacy impacts are discussed in detail under section 8.6 of the REF.</p> <p>The development at 23 Prospero Street receives solar access from 9am – 3pm mid-winter which achieves more than the minimum requirements provided by NDCP 2012.</p> <p>The design has been amended to ensure privacy and overlooking has been adequately addressed.</p>
<p>Submission 5:</p> <ul style="list-style-type: none"> • Concerns regarding anti-social behaviour, • Demand on services within the area, • Noise. • Overshadowing issues. 	<p>Refer to discussions provided above, which address concerns relating to anti-social behaviour, noise and overshadowing.</p> <p>The proposed activity is supported by a stormwater management plan to ensure stormwater is appropriately managed on site and will not create undue burden on existing public infrastructure. Council was notified of the proposal and no concerns were raised regarding the capacity of existing public infrastructure in the area, such as sewer, water, and power.</p>
<p>2nd Notification Period</p>	
<p>Submission 1 (raised concern within first notification process and identified as submission 4 above):</p> <ul style="list-style-type: none"> • Concern with privacy measures. • Density of development. • Insufficient number of car parking spaces. • Stormwater. • Overshadowing. 	<p>Concerns relating to privacy impacts are addressed in detail in section 8.6 of the REF.</p> <p>Matters relating to proposed scale and density, car parking and overshadowing have been addressed above and previously in the REF.</p> <p>The concern raised in relation to stormwater drainage was reviewed in detail by the consultant engineer for the project who confirmed the following:</p>

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- | | |
|--|--|
| | <ul style="list-style-type: none">• The proposed (stormwater) design does not change the natural flow of stormwater as the ground contours still maintains fall toward the north.• The proposed design improves the stormwater catchment to the neighbouring dwelling at No. 23 in that the current dwellings do not appear to have any stormwater mitigation measures.• The proposed stormwater design is in accordance with Council's Stormwater policies. |
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7.3 Notification of Specified Public Authorities

The development is “residential development” under section 42 of the Housing SEPP. As required by section 42(5) of the Housing SEPP, consideration has been given to the need to notify the “specified public authorities” identified in *State Environmental Planning Policy (Transport and Infrastructure) 2021*, sections 2.15 and 2.17. The development is not located in an area that triggers the requirement to notify public authorities other than Council.

8 Review of Environmental Factors

Environmental factors associated with the proposed activity in terms of location, character, bulk and density, privacy, solar access, and overshadowing have been considered in accordance with the provisions of the Housing SEPP and discussed in Section 6.6 of this REF. A review of other environmental factors associated with the proposed activity, and the measures required to mitigate any adverse impacts to the environment, are provided below.

8.1 Neighbourhood Character

The site is located within an established residential area generally supporting single and 2-storey detached dwelling houses. There is a low level of transition from detached dwelling houses to multi dwelling housing or manor homes despite this form of development being permissible within the zone. It is anticipated that the proposed development may act as a catalyst for more contemporary forms of development in this part of Maryland. The bulk and scale of the proposed development is compatible with the existing character of the neighbourhood and will deliver a built form outcome consistent with the planning controls for the locality. The 2-storey design, siting, layout, and landscape setting of the proposed development aligns with the established area and from the public domain presents as three separate dwelling houses.

Mitigation Measures

No mitigation measures are required, as the design of the proposed development is sympathetic to the neighbourhood character, providing setbacks to neighbouring development that are consistent with surrounding dwelling houses. Suitable design treatments, including fencing, landscaping and a considered planting mix ensure the proposal will generate benefits to neighbourhood character.

8.2 Bulk and Density

The proposed development is consistent with the bulk and scale of surrounding development within the Prospero Street streetscape and wider locality. The 2-storey buildings incorporate appropriate setbacks distinguished by a variety of articulation features, external finishes and materials to reduce the visual bulk of the development. The development is split into 3 separate buildings and designed with suitable façade articulation and roof form to minimise bulk and scale.

The proposal incorporates a floor space ratio of 0.44:1 and a maximum height of 7.95m which is consistent with a low-density residential area. The FSR and 2-storey built form is sympathetic to the surrounding context and is an appropriate response to the intended future character envisaged for the R2 zone, which encourages a variety of housing types. The form of residential development on the site is characterised as multi dwelling housing and achieves the objectives of the zone by providing a mixture of housing forms that respect the surrounding development in the locality. The building envelopes provided upon the site reflect a similar building envelope that would be provided for a new dwelling house or attached dual occupancy.

The reasonable floor space ratio in conjunction with generous setbacks and landscaped deep soil areas confirms the proposal does not constitute an overdevelopment of the site. The proposal will suitably increase housing density which is consistent with State and regional strategies and the development controls applying to the site.

Mitigation Measures

No mitigation measures are required.

8.3 Streetscape

The architectural style of the proposed development has been designed to respond to the established character of the locality. The building will consist of a predominantly brick face in a neutral tone with accents of metal cladding in Colorbond Aries and Ironstone, which is complementary to the Prospero Street streetscape. The roof form will consist of pitched roofs, at different degrees of pitches which is consistent within the streetscape. The street façade is divided into a number of distinct elements, separated with substantial landscaping resulting in a finer grained streetscape appearance, consistent with existing dwellings in the area. In addition, the hard stand car parking area is located at the rear of the site and will be obscured from street view, resulting in a built form that has been designed with consideration of the surrounding dwellings and streetscape.

In conjunction with strong articulation and modulation along the front façades and additional canopy tree planting within the street setback areas, the proposed development will make a positive contribution to the streetscape of Prospero Street. The proposed development will replace ageing housing stock that has reached the end of its economic life with a new contemporary residential development.

The built form has been designed to address the street frontages through incorporation of street facing windows and doors within the front setback, improving casual surveillance of the street.

Mitigation Measures

The 2 north-facing windows provided on the street elevation of bed 2 in unit 5 are shown on drawings DA08 (first floor plan) and DA10 (elevations) but were omitted on DA05 (site and external works plan – first floor). These windows provide articulation to the streetscape façade and as such, Identified Requirement No. 75 has been recommended to ensure drawing DA05 is updated to show these windows.

No further mitigation measures are considered necessary as the activity appropriately responds to the streetscape.

8.4 Visual Impact

The proposed development will generate some short-term visual impact on the surrounding area during construction, with a long-term positive visual impact associated with the establishment of new dwellings in an existing urban residential context.

The proposed development will make a positive contribution to the residential streetscape through construction of new contemporary dwellings that respond to the site context and neighbourhood character. Articulation, diverse mix of materials and a predominantly neutral colour palette accented with metal cladding will assist with the overall aesthetic of the site.

Additionally, new landscaping proposed within the front setback will incorporate the planting of 2 x Crepe Myrtle trees to a mature height of 6m and Lilly Pilly shrubs to mature heights of 3m. Considered tree and shrub planting along the side and rear boundaries of the site will add to the long-term visual amenity of the surrounding properties and improve the appearance of the site from the street.

Mitigation Measures

No mitigation measures are required.

8.5 Topography and Earthworks

The topography of the land experiences a significant slope from the south-west corner to the north-east corner of approximately 7.13m. Earthworks are required to create suitable building platforms and appropriate trafficable pathways for the proposed development. The activity has sought to minimise cut and fill on site where possible and has responded to the topography of the land.

NDCP 2012 requires that excavation within 1m of the boundary is limited to 1m and the activity will result in a breach of this control by 390mm (maximum cut of 1.39m). The additional 390mm of cut within this area of the site is acceptable, as it will ensure the private open space area of Unit 7 is usable for future residents. Additionally, if the existing ground levels were retained at this aspect of the site, there may be an opportunity for overlooking into the rear yard of No 31 Prospero Street. All other excavation within 1m of the boundary is less than 1m in depth.

The degree of earthworks proposed under this activity is acceptable, as there is no adverse amenity impacts on adjoining properties, stormwater will be appropriately managed, and the degree of cut and fill is generally compliant with NDCP 2012.

Mitigation measures

No mitigation measures are required.

8.6 Privacy

The proposal has been amended to address privacy and visual impact concerns that were raised during the initial notification period. In particular, the 2-storey unit located in the rear southeast corner has been amended to a single storey unit and setbacks have been increased to provide additional separation.

A reasonable level of privacy will be maintained for the residents and occupiers of adjoining land, by virtue of the following:

- First floor windows facing side boundaries are from bedrooms only, with all high use rooms such as kitchens and living areas located at ground level.
- To minimise the opportunity for overlooking into the rear POS of 23 Prospero Street, an Identified Requirement (No. 80) is recommended to remove the bottom fixed windowpane of the two windows on the east elevation of bedroom 2 in unit 3. This is consistent with the DCP requirements which specifies that privacy screening is not required for windows that are less than 2m² in area.
- Screening is provided along the east elevation of the POS areas of units 1-4, which are raised slightly above natural ground level due to site topography. The height of this screening will be 1.5m for units 1 and 2, and 1.7m for units 3 and 4.
- In addition to the above screening, a 1.8m boundary fence is provided along all side and rear boundaries, and hedge landscaping is provided adjacent to the fence line to provide a softer visual buffer.
- The activity includes excavation ranging from 470mm to 1.3m to create a level building platform for Units 5 – 7, which will result in a finished floor level that will sit lower than the adjoining residential dwelling at 31 Prospero Street.
- The first floor windows of Units 5 and 6 have been setback 4.5m from the western boundary and only consist of a window less than 2m² in area. Bedroom 3 of Unit 7 is also provided with a high sill window to mitigate any potential privacy impacts. These design elements ensure the privacy of the neighbouring property at 31 Prospero Street is maintained.

- Screening between the proposed development and adjoining neighbours is achieved through the retention of significant existing trees along the southern boundary and the addition of new landscaping on site which will include canopy trees, hedging and shrub plants.
- The existing 1.8m boundary fences will be retained, to mitigate any potential overlooking.

Mitigation Measures

Identified Requirement No. 80 requires the removal of the bottom fixed windowpane of the two windows on the east elevation of bedroom 2 in unit 3, which will assist in minimising privacy impacts to 23 Prospero Street.

8.7 Solar Access

The design and siting of the proposed development will provide adequate daylight access to the living areas and private open spaces of each unit, as well as maintaining solar access to the living areas and private open space of adjoining dwellings in accordance with the SLUDG and NDCP 2012 requirements.

The submitted Architectural Plans indicate that seven (i.e. 77%) of dwellings receive at least 3 hours direct solar access to the living and POS areas on June 21 (mid-winter), which meets the requirements under the Housing SEPP.

Shadow diagrams (*Appendix A*) confirm the proposed development will facilitate sunlight to living areas and private open space of the dwellings on adjoining sites for more than 3 hours per day, in accordance with the NDCP 2012.

Proposed living and open space areas have been carefully sited to maximise solar access and the proposal is consistent with the Housing SEPP requirements.

Screen fencing provided along the east elevation of units 1 – 4 is proposed at a height of 2.1m. The height of this fencing is greater than that required to prevent overlooking into the neighbouring property at 23 Prospero Street and unnecessarily restricts solar access into the private open space of these units. To improve solar access to these areas whilst still maintaining adequate privacy between properties, it is recommended that the height of the screening fence be reduced to 1.5m for units 1 and 2, and 1.7m for units 3 and 4 which are further above ground level. Landscaping with a mature height of 3m is also proposed within the 900mm setback to the eastern boundary which will assist further in softening the screening when viewed from 23 Prospero Street.

The second fence (labelled as f(5)) along the west elevation of the POS areas of units 5 – 7 is not required for privacy reasons and unnecessarily reduces solar access to these POS areas. An Identified Requirement has been included for this second fence to be deleted.

Identified Requirements have been included to this effect.

Mitigation Measures

The following are recommended to be included as Identified Requirement No. 74:

- The screen fencing provided along the east elevation of the private open space (POS) areas of Units 1 and 2 is to be reduced in height to a maximum of 1.5m measured from the finished floor level of the paved POS area.
- The screen fencing provided along the east elevation of the POS areas of Units 3 and 4 is to be reduced in height to a maximum of 1.7m measured from the finished floor level of the paved POS area.
- The second fence along the west elevation of the POS areas of units 5 – 7 (labelled f(5)) is to be deleted. Fencing separating the POS areas of these units is to extend to the boundary fence on the west boundary to ensure privacy is maintained between these units.

8.8 Overshadowing

The shadow diagrams provided under *Appendix A* confirm that the development has been designed to minimise overshadowing of surrounding development. The site has a north-south orientation, and the development has been positioned towards the front of the site and away from the southern boundary to reduce the length of shadow cast across neighbouring properties. Generous setbacks have also been maintained from the east and west side boundaries.

The shadow diagrams demonstrate that on 21 June (mid-winter) the development will generate some overshadowing to the neighbouring properties to the east, west and south of the site for some period of the day as detailed below.

- At 9am, shadows will be cast across a portion of the dwelling and rear private open space of 31 Prospero Street. No shadow will be cast across the adjoining properties to the south or east.
- At 12pm, there will be no change to existing overshadowing conditions generated from the subject property.
- At 3pm, a portion of the rear private open space of 23 Prospero Street will be overshadowed as well as the southwest corner of the existing dwelling. There will be no overshadowing of adjoining properties to the south or east.

As identified above, the adjoining properties will maintain a minimum 3 hours of sunlight to living and principal private open space areas between 9.00am and 3.00pm at the mid-winter solstice. It is noted that very limited overshadowing will occur to the private open space areas of adjoining properties during the summer solstice (21 December).

Mitigation Measures

No mitigation measures required.

8.9 Traffic & Parking

The proposal incorporates 6 at-grade parking spaces for residents, which will be available on site to serve the proposed development. The level of provision of on-site car parking satisfies the parking requirements set out in the Housing SEPP for developments carried out by LAHC. Unrestricted street parking is available on Prospero Street directly adjacent to the site to accommodate any overflow parking demand generated by the proposed development.

The Traffic Impact Assessment report (*Appendix O*) indicates that the projected net increase in traffic, 6 peak hour trips, is acceptable and any increase can be accommodated within the capacity of the existing local street network.

The Traffic Impact Assessment report examined the adequacy of a single lane internal driveway and confirmed the proposed design is suitable based on an assessment of projected vehicle movements and is in accordance with the design requirements for Class 1 or Class 1A developments under AS2890.1:2004.

Mitigation Measures

No mitigation measures are required.

8.10 Flora and Fauna

An Arborist's Stage C Report has been prepared for the site by Hunter Horticultural Services (*Appendix I*). The report considers 7 trees and 13 shrubs and of these, 1 tree and 4 shrubs are located within Council's road reserve.

The proposal requires the removal of 4 trees and 9 shrubs on the site, T1, T2, T5, T6, S1, S2, S3, S4, S5, S6, S7, S8 and S9 which are of low and very low retention value. An existing shrub located in the road reserve, S9, was dead at the time of the site inspection and therefore will also be removed.

The Report also recommended the retention of 2 trees, being T3 and T4. These 2 trees are located within the rear portion of the allotment and the development has been designed to maintain sufficient separation from the Tree Protection Zones of these trees to allow for their retention.

Two Crepe Myrtle and 2 Blueberry Ash trees are proposed to compensate for the loss of existing canopy trees on site and are capable of reaching a mature height of 6 – 12m.

There will be no significant impact on native fauna because of the proposed development, given that compensatory planting is proposed.

Mitigation Measures

Identified Requirement No. 20 requires removal of trees to be undertaken in accordance with the approved landscape plan and the specific recommendations outlined in the Arborist's Stage C Report (*Appendix I*).

Identified Requirement No. 36 requires the tree protection measures outlined in the Arborist's Stage C Report to be in place prior to the commencement of construction and for the duration of the construction period. An overview of the key tree protection measures outlined in the Arborist's Stage C Report include:

- Works within the TPZ of retained trees on the site require protection measures including steel mesh fencing around the TPZs. Alternatively, the TPZ of the tree should be measured and marked with road marking paint, and construction staff informed that the area is a Tree Protection Zone.
- Any excavation within the TPZs must be dug using hand tools or hydraulic or pneumatic excavating equipment, e.g., air spade. New infrastructure for services should be installed around TPZ's where possible.
- If encroachment into a SRZ becomes necessary, the project Arborist must assess the requirement beforehand to ensure the tree's viability.
- Concrete should be above ground and laid on a 75-100mm thick bed of 10-15mm aggregate to facilitate continued air and moisture availability to tree roots.

Council also requested that the driveway crossover adjacent to Council street tree PT1 must be removed using hand tools and no machinery is to be operated within the TPZ. This has been incorporated as Identified Requirement No. 78.

8.11 Heritage (European / Indigenous)

European Heritage

No heritage items are identified in City of Newcastle Council's Section 10.7(2) and (5) Planning Certificates (Certificate No. PL2023/01777, PL2023/01778 and PL2023/01779) (*Appendix F*) or located on or in the vicinity of the site as per NLEP 2012 Heritage Map - Sheet HER_002B.

Aboriginal Heritage

An Aboriginal Heritage Information Management System (AHIMS) search, dated 20 April 2023 (*Appendix H*) did not find any record of Aboriginal Sites or Places on the site or in the surrounding locality and the site is considered to be disturbed land. Consideration of the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales, determined that no additional investigation was warranted. Discovery of cultural material during development activities cannot be ruled out, however, an Identified Requirement has been applied should any Aboriginal relics be discovered on the site during excavation/construction.

Other Cultural Heritage

No cultural heritage items have been identified in City of Newcastle Council's Section 10.7(2) and (5) Planning Certificates (Certificate No. PL2022/02546, PL2022/02545 and PL2022/02544) (*Appendix F*) and the likelihood of any heritage relics being discovered during excavation / construction is considered to be minimal.

Mitigation Measures

An Identified Requirement (No. 46) has been applied should any cultural heritage relics be discovered on the site during excavation / construction.

8.12 Soils / Contamination / Acid Sulfate Soils / Salinity

Geotechnical

A Geotechnical Site Investigation and Acid Sulfate Soil Assessment Report, prepared by STS Geotechnics (*Appendix L*), indicated the following:

- The subsurface conditions generally consist of topsoil/fill overlying fill, gravelly sandy clays and silty sandy clays. Topsoil/fill was encountered to depths of 0.4 to 1.1 metres. Natural gravelly and sandy silty clays underlie the topsoil/fill to depths of 0.6 to 1.5 metres. The consistency of these materials is very stiff. Weathered sandstone underlies the natural soils to the depth of auger refusal, 0.8 to 2.2 metres.
- Groundwater was not observed during drilling of the boreholes, however, some moist to wet zones were noted.

Mitigation Measures

No mitigation measures required.

Contamination

The site is located within a developed residential area. Based on historical aerial imagery viewed on <https://portal.spatial.nsw.gov.au>, the existing dwellings on each lot have been present since the land was originally subdivided in April 1984. Adjoining land was also developed for residential use at the same time.

The s10.7 Planning Certificates have also not identified the site as potentially contaminated.

Mitigation Measures

A, Identified Requirement (No. 17) has been recommended to cover the possibility of discovering site contamination during demolition / construction works.

Acid Sulfate Soils

According to Council's Section 10.7(2) & (5) Planning Certificates (Certificate No. PL2023/01777, PL2023/01778 and PL2023/01779) (*Appendix F*), the land is identified as being within Class 5 Land on the Acid Sulfate Soil Map under NLEP 2012.

Clause 6.1 of NLEP 2012 requires an Acid Sulfate Soil Management Plan for works on Class 5 Land that is within 500m of adjacent Class 1-4 Land below 5m AHD and by which the water table on adjacent Class 1-4 Land is likely to be lowered by 1m AHD. The site is within 500m of Class 2 land (located to the southeast) however the land is not below 5m AHD and is not likely to lower the water table by 1m AHD.

Further, as part of the Geotechnical Investigation and Acid Sulfate Soil Assessment, the soils were compared to action criteria contained in the Acid Sulfate Soils Manual (1998). As the measured test results were less than the action criteria an Acid Sulfate Soils Management Plan was deemed not required.

Mitigation Measures

No mitigation measures are required.

Salinity

Council's s10.7 Planning Certificates indicate that the site is not affected by salinity (*Appendix F*).

Mitigation Measures

No mitigation measures are required.

8.13 Drainage / Flood Prone Land / Hydrology/ Water Quality

Stormwater drainage for the proposed development has been designed in accordance with Council's requirements. Stormwater will be collected via a series of stormwater pits and gutters on the site connected to an underground detention tank located under the proposed driveway, draining to the proposed street drainage pit within Prospero Street at the site frontage. Roof water from the subject development will be collected from downpipes and connected to an underground rainwater tank for recycling with overflow connected to the underground detention tank.

The Section 10.7(2) & (5) Planning Certificates issued by Council for the subject site indicate that the land is not subject to flood related development controls (*Appendix F*).

The proposed development has been designed to have no adverse impact on the hydrology or water quality within the local area, or dispersion of stormwater flow onto neighbouring properties.

Mitigation Measures

Identified Requirements (Nos. 6-9, 14 and 35) have been recommended to ensure that stormwater drainage is managed in accordance with legislative requirements.

8.14 Bushfire Prone Land

The Section 10.7(2) & (5) Planning Certificates issued by Newcastle City Council for the subject site advise that the land is bushfire prone (*Appendix F*).

The majority of the 3 lots are mapped as 'vegetation buffer' as identified in **Figure 14**.

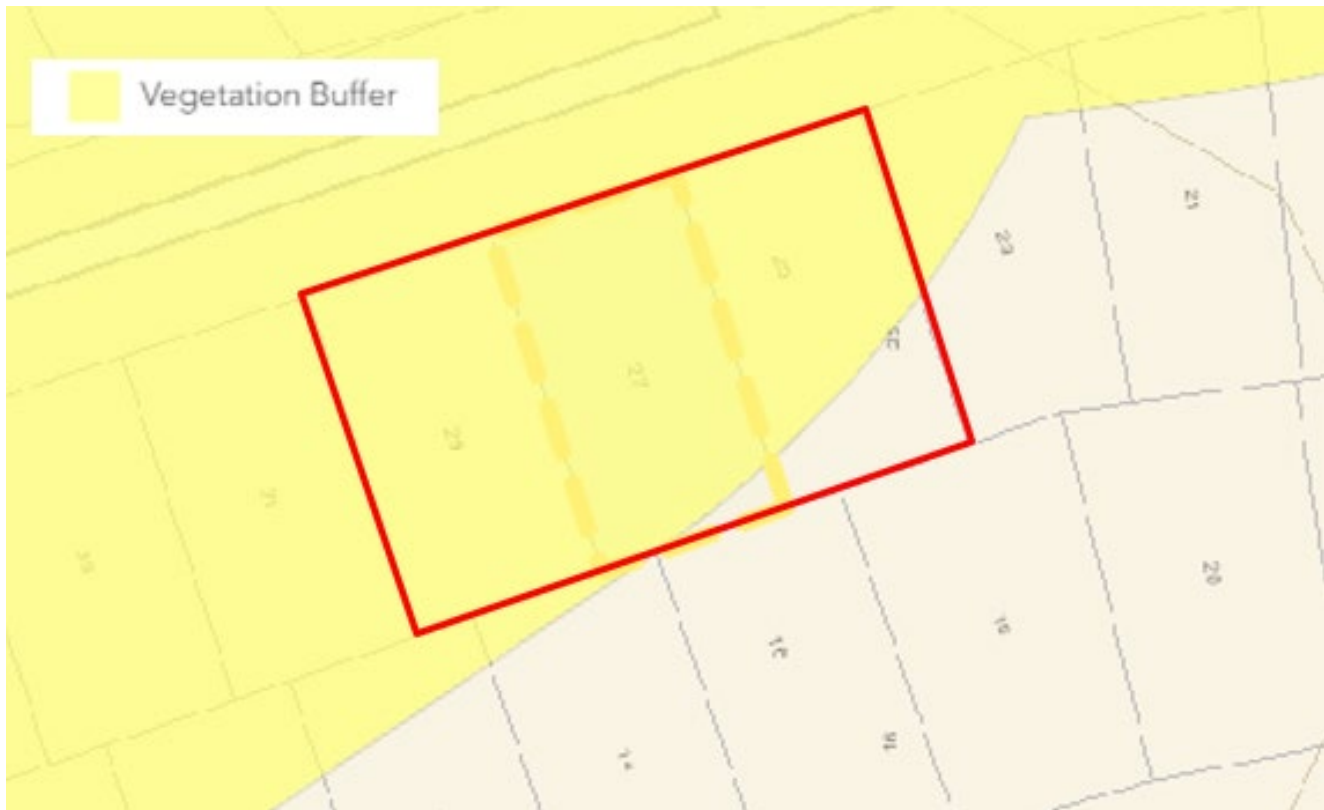


Figure 14 Bushfire Prone Land – site identified as vegetation buffer (ePlanning Spatial Viewer, 2023).

A Bushfire Certificate was prepared by Newcastle Bushfire Consulting for the proposed activity (*Appendix P*). The assessment has found that the proposed development results in a better bushfire outcome by replacing existing dwellings that do not comply with AS3959, with bushfire compliant construction.

Mitigation Measures

The following mitigation measures are required:

- The proposed building works shall comply with BAL-12.5 in accordance with AS3959 (2018) Construction of buildings in bushfire-prone areas or NASH Standard (1.7.14 updated) National Standard Steel Framed Construction in Bushfire Areas – 2014 as appropriate and the additional construction requirements of Planning for Bush Fire Protection (2019) Section 7.5.2.
- At the commencement of building works and in perpetuity, the entire property shall be managed as an inner protection area (IPA) as outlined within Appendix 4 of Planning for Bush Fire Protection 2019 and the NSW Rural Fire Service's document Standards for Asset Protection Zones.
- Water, electricity and gas are to comply with Section 7 of Planning for Bush Fire Protection (2019).
- Landscaping is to be undertaken in accordance with Planning for Bush Fire Protection (2019) Appendix 4 and managed and maintained in perpetuity.
- It is recommended that the property owner and occupants familiarise themselves with the relevant bushfire preparation and survival information provided by the NSW RFS.

Identified Requirement No. 73 has been applied to ensure compliance with the above mitigation measures.

8.15 Noise and Vibration

During Demolition / Construction

During demolition/construction typical noise levels associated with demolition/ building works will be generated within the hours of 7am to 5pm Monday to Saturday, consistent with the requirements for complying development.

During Occupation

Noise generated when the proposed buildings are completed and occupied will be entirely in keeping with their residential surroundings. No major plant or equipment, which would generate unacceptable noise during occupation, will be installed in the proposed development.

Buildings will be constructed to comply with the deemed-to-comply provisions of the *Building Code of Australia* with respect to noise transmission. Buildings to be designed and constructed to achieve internal noise level design targets.

Mitigation Measures

Demolition/construction noise will be controlled to within acceptable limits by sound attenuation measures and undertaking construction activities within EPA/local council requirements.

Buildings will be constructed to comply with the deemed-to-comply provisions of the *Building Code of Australia* and EPA criteria with respect to noise transmission.

Appropriate Identified Requirements (Nos. 2 and 60) have been applied to ensure compliance with the above mitigation measures.

8.16 Air Quality

Temporary and localised air quality impacts including dust, smoke, grit, odours, and fumes might be generated during the clearing and excavation of the site and construction of the proposed development.

Mitigation Measures

Appropriate Identified Requirements (Nos. 64 and 65) have been applied that will satisfactorily mitigate any potential or adverse impacts on air quality.

8.17 Waste Minimisation

The following waste minimisation and management measures have been identified and are to be considered in conjunction with the specific details, including the estimated quantities of waste, provided in the final waste management plan to be prepared by the demolition/building contractor.

During Demolition

Demolition materials will be stored wholly within the site prior to removal for recycling or disposal. Demolition waste will be removed from the site to an approved waste management facility or will be recycled, as follows:

- concrete and bricks will be transported to an approved building waste collection facility;
- any asbestos sheeting and fibrous insulation will be handled according to SafeWork NSW requirements and disposed of to an approved building waste collection facility;
- mixed demolition materials will be transported to an approved building waste collection facility; and

- timber, metal, wall and roof cladding and other salvageable materials will be resold to various salvage yards where appropriate or disposed of at an approved building waste collection facility.

Specific intentions for recycling / re-use / disposal of demolition waste will be determined by the demolition contractor prior to commencement of demolition.

During Construction

Construction materials must be stored wholly within the site prior to removal for recycling or disposal. Construction materials waste must be removed from the site to an approved waste management facility or shall be recycled as follows:

- bricks, tile and concrete to be transported to building recycling facility;
- concrete shall be crushed and reused for filling, levelling or temporary road base;
- tiles shall be crushed and reused for filling, levelling or temporary road base;
- timber shall be sent to second hand suppliers;
- plasterboard shall be sent to building recycling facility; and
- metal offcuts from gutter and downpipes, etc. shall be recycled wherever possible.

During Occupation

General and non-recyclable waste will be disposed of in Council's standard waste storage bins located in the garbage storage enclosures and placed on the street kerb by LAHC contractor for collection by Council's waste services.

Paper / metal / glass will be disposed of in Council's standard waste recycling bins to be located in the garbage storage enclosures and placed on the street kerb by LAHC contractor for collection by Council's waste services.

Mitigation Measures

Identified requirements (Nos. 44, 45, and 48 – 56) are recommended to ensure construction/demolition waste is appropriately managed and disposed.

A, Identified Requirement (No. 37) is recommended to require the preparation of a final waste management plan for the demolition, construction and occupation phases of the development.

8.18 Resource Use & Availability

The proposed activity will not result in any discernible depletion or degradation of natural resources. The proposal has been designed to meet water and energy efficiency targets as demonstrated by the BASIX certificate for the proposal (*Appendix J*).

The recycling and reuse of materials during demolition, construction and on-going occupation of the proposed development will reduce the consumption of natural resources.

The proposed development is for the replacement of existing housing that has reached the end of its economic lifespan. The proposed development will provide contemporary housing that will satisfy current State Government environmental sustainability requirements, particularly through improved energy and water efficiency. These factors will ensure reduced depletion and degradation of natural resources in the long term.

Mitigation Measures

No additional mitigation measures are required.

8.19 Community / Social Effects

The proposed development will generate a number of positive community and social effects, including:

- assist LAHC in meeting its significant, long-standing and continually-growing demand for social housing in the Newcastle local government and surrounding area;
- assist LAHC in improving the amenity of accommodation for its tenants, by providing new, more appropriate housing aligning with demand for social housing; and
- improve the environmental sustainability of housing on the site, particularly through improved energy and water efficiency.

Mitigation Measures

No mitigation measures are required.

8.20 Economic Impact

The proposed development is likely to contribute to a range of economic benefits in the Newcastle local government and surrounding areas through:

- more efficient use of land resources, existing infrastructure and existing services;
- local sourcing of construction materials, where possible;
- the local sourcing of tradesmen and other construction-related professionals, where possible;
- on-going consumption from new/ additional households;
- the reduced maintenance costs of the newer housing; and
- savings associated with improved energy and water efficiency.

Mitigation Measures

No mitigation measures are required.

8.21 Cumulative Impact Assessment

The proposed activity is not likely to have singular or cumulative environmental impacts which would result in unacceptable adverse effects for the following reasons:

- the proposed activity will not result in any adverse cumulative impact when considered in conjunction with any other proposals or developments in the area;
- there will be no synergistic effects of individual project impacts from the proposed activity when considered in combination; and
- there are no known environmental stresses in the area of the proposed activity that would be increased.

Mitigation Measures

No mitigation measures are required.

9 Conclusion

9.1 Summary of Key Issues Raised in Assessment

The proposed activity, given its scale, location and design, will be sympathetic with its residential environment. Following a review of the site constraints, it has been determined that the subject land does not contain any significant environmental hazards and that there are no key issues that have been identified that require further assessment.

The proposed activity has been considered in terms of the provisions of Section 5.5 of the EP&A Act and Section 171 of the EP&A Regulation. Following an analysis of the potential impacts associated with the proposed activity it was determined that an environmental impact statement is not required.

As demonstrated in this REF, the proposed activity is consistent with the relevant objectives and standards set out in the Housing SEPP, NLEP 2012, and the design principles and better practices set out in the relevant guidelines.

In addition, and as demonstrated by the environmental impact analysis and assessment undertaken in this REF, the proposed activity will have environmental impacts that can be mitigated to an acceptable level in accordance with current applicable standards, will have a number of positive environmental effects in terms of the built environment and will deliver a range of social and economic benefits.

The proposed development will enable LAHC to meet the increasing demand for affordable housing in the local area. Therefore, the proposed development is clearly in the public interest.

10 Recommendation

Given the above review of environmental factors, it is recommended that LAHC proceed with the proposed activity subject to the implementation of the Identified Requirements listed in the *Activity Determination* accompanying this REF.

APPENDIX A – ARCHITECTURAL PLANS

APPENDIX B – LANDSCAPE PLANS

APPENDIX C – CIVIL PLANS

APPENDIX D – SURVEY PLAN

APPENDIX E – NOTIFICATION PLANS

APPENDIX F – S.10.7 PLANNING CERTIFICATES

APPENDIX G – ACCESS REPORT

APPENDIX H – AHIMS

APPENDIX I – ARBORIST REPORT

APPENDIX J – BASIX CERTIFICATE AND COMMITMENTS SUMMARY

APPENDIX K – NATHERS CERTIFICATES

APPENDIX L – GEOTECHNICAL REPORT

APPENDIX M – TITLE SEARCH AND DP

APPENDIX N – WASTE MANAGEMENT PLAN

APPENDIX O – TRAFFIC REPORT

APPENDIX P – BUSHFIRE REPORT

APPENDIX Q – BCA REPORT

APPENDIX R – SAFETY IN DESIGN CERTIFICATE

APPENDIX S – SLUDG CHECKLIST

APPENDIX T – PART 5 CHECKLIST

APPENDIX U – CERTIFICATES OF DESIGN COMPLIANCE

APPENDIX V – NOTIFICATION LETTERS AND PUBLIC AUTHORITY RESPONSES