

THE CITY OF NEWCASTLE

<b>JRPP No.</b>	2010HCC044
<b>DA No.</b>	DA 10/1511
<b>Proposal</b>	Demolition of existing structure and erection of multi-level residential flat buildings containing 107 units and a 112 room boarding house.
<b>Property</b>	Lots 2 & 1, DP 1050041, 121-123 Union Street, Cooks Hill
<b>Applicant</b>	ADW Johnson
<b>Report By</b>	David Paine - Senior Development Officer (Planning)
<b>Checked by</b>	Peter Chrystal - Manager Development & Building Services

## **Assessment Report and Recommendation**

### **Executive Summary**

#### **Proposed Development**

An application has been received seeking consent to the demolition of the existing building and the erection of a mixed urban housing development and boarding house development and two lot subdivision at 121 and 123 Union Street, Cooks Hill.

The Statement of Environmental Effects prepared by ADW Johnson describes the proposal as follows:

'Demolition of the existing Bimet Lodge Executive accommodation and associated structures:

- Construction of a residential flat development containing a total of 107 units, being:
  - 91 one bedroom units ranging from 50sqm to 54sqm
  - 12 two bedroom units ranging from 80sqm to 90.5sqm
  - 4 three bedroom units ranging from 109sqm to 134sqm
- Construction of a boarding house containing 112 bedrooms and a manager's residence;
- At grade and basement car park for a total of 153 vehicles and a two lot into two lot Torrens Title subdivision. The two lots consist of lot 1 being 7,435.5m<sup>2</sup> and lot 2 being 2,895.5m<sup>2</sup>. The proposed boarding house will be located on lot 2 and the residential flat buildings will be located on lot 1.

The applicant submitted amended plans after suggestions by Council's Urban Design Consultative Group (UDCG). The changes address these suggestions and include alterations to the car parking layout, increased landscaping and changes to the balustrade treatment. The proposed changes are minor in nature and did not require further public notification or further consideration by the UDCG.

At the time of drafting the report Council was waiting on additional information and clarification for two outstanding issues. The first issue is how the proposal will address the potential contamination of the site and remediate the land in accordance with *State Environmental Planning Policy 55 Remediation of Land* and *Council's Development Control Plan 2005 Element 4.2 Contaminated Land Management*. The second issue is the potential noise impact during the construction of the project. The applicant has submitted additional information which is currently being reviewed by Council and will be forwarded to the Panel under a separate report (**Addendum A**) for consideration at the scheduled meeting.

### Referral to Joint Regional Planning Panel

Pursuant to the requirements of State Environmental Planning Policy (Major Development) 2005, the application is referred to the Joint Regional Planning Panel as the development has a capital investment value of more than \$10,000,000. The application submitted to Council nominates the value of the project as \$35,500,000.

### Permissibility

The site is zoned 2 (b) Urban Core pursuant to Newcastle Local Environmental Plan 2003 (NLEP 2003). The proposal is categorised as an *urban housing development* under NLEP 2003 and *boarding house* under the State Environmental Planning Policy (Affordable Housing) 2009 and is permissible within the zone subject to development consent. All required owner(s) consent has been provided. The proposal is classified as local development under the *Environmental Planning and Assessment Act, 1979*.

### Consultation

The application was publicly exhibited in accordance with the Newcastle Development Control Plan 2005 (NDCP 2005) from 3 to 17 November 2010. In response to public exhibition 300 submissions, including 101 form letters, were received. The content of these submissions is summarised below:

- Increased impact of noise and traffic
- Social impacts from boarding house
- Privacy issues for residents along Tooke Street and for the adjoining school
- On-street parking impacts on surrounding streets and the potential loss of on street car parking
- Over development of the site
- Concerns about exceeding the 10 metre height limit in terms of increased bulk and scale
- Potential amenity impacts on the adjoining school and safety for school children.
- Potential decrease in property prices
- Potential impacts on the heritage conservation area.

### Key Issues

The main issues identified in the assessment and/or raised in the submissions are as follows:

- Whether the proposed development is compatible with the existing urban character of the area, particularly in relation to dwelling density, height and building bulk;
- Whether the proposed development is satisfactory in relation to potential traffic impacts associated with the proposed development;
- Whether the proposed development is satisfactory in terms of overshadowing impacts onto the adjoining preschool playground area to the south;
- Whether the proposed development is appropriate given that the site adjoins a heritage conservation area, and;
- Whether the proposed variation to Council's ten metre height limit is acceptable in the circumstances of this case.

### Recommendation

**Grant approval to DA 10/1511, subject to conditions in APPENDIX A.**

## 1. Background

The site is currently occupied by Bimet Lodge (a motel) and associated car parking.

An application was lodged on the site in 2004 seeking consent for the development of an urban housing project comprising a total of 32 dwellings (28 x 2-bedroom and 4 x 3-bedroom), with 68 parking spaces, at 123 Union Street, Cooks Hill. This application was approved by Council on 20 December 2004 and has now lapsed.

## 2. Site and Locality Description

The subject property comprises of lots 1 and 2, DP 1050041 known as 121 and 123 Union Street, Cooks Hill, respectively. The total area of land is 1.03 hectares and is relatively flat in nature.

The site is located on the eastern side of Union Street, between Tooke Street and Parkway Avenue and the Newcastle Grammar School to the south-west. To the west, the site is opposite National Park and, to the east, the site is opposite a medium density housing complex. Figure 1 shows the location of the site.



**Figure 1 - Location of the site**

## 3. Project Description

The proposal involves the demolition of the existing Bimet Lodge and the construction of three multi-storey residential flat buildings, two boarding houses and associated car parking. A total of 107 residential flats (91 one bedroom, 12 two bedroom and 4 three bedroom), 112 boarding house rooms plus a manager's residence, and 153 on-site car parking spaces are proposed.

It is also proposed to re-subdivide the site into two Torrens title lots. The two lots consist of lot 1 being 7,435.5m<sup>2</sup> and lot 2 being 2,895.5m<sup>2</sup>. The proposed boarding house will be located on lot 2 and the residential flat buildings will be located on lot 1.

The development has been broken down into a number of buildings across the site ranging from three to five storeys, with the boarding houses located closer to Corlette Street and the residential units facing Union Street. Vehicular access into the site will be via two driveways off Corlette Street.

A driveway proposed adjacent to the north-east boundary of the site will provide vehicular access to an at grade carpark for 13 spaces with provision for motorcycle and bicycle parking located beneath the northern boarding house.

Another driveway proposed adjacent to the south-west boundary will provide vehicular access to the following facilities:

- A basement carpark, containing 56 spaces and provisions for motor-cycle parking and bicycle parking, to be located under the proposed residential flat buildings facing Union Street.
- A ground level carpark, containing 45 single spaces plus eight tandem spaces and provisions for motor cycle parking and bicycle parking, to be located beneath the proposed urban housing building to be sited in the 'middle' of the site.
- An open at grade carpark for 23 vehicles.

The 'central residential block' urban housing building contains a mixture of four and five storeys, consisting of ground level car parking and three to four levels of residential apartments. The southern and northern part of the building consists of four storeys while the middle section contains five storeys. The 'middle' building is well set back from the southern and northern boundaries.

The applicant submitted amended plans after suggestions by the UDCG. The changes include alterations to the car parking layout, increased landscaping and changes to the balustrade treatment.

The proposed development is seeking to vary the 10 metre height limit for the 'middle' residential flat building. The height of the middle building is proposed to be 15 metres. The 15 metre component of the proposal has been located at the centre of site and has been set back about 15 metres from the northern boundary.

Plans and elevations for the proposed development are provided in **APPENDIX B**.

#### **4. Consultation**

The application was publicly exhibited in accordance with the relevant requirements of Element 3.1 - Public Participation of the NDCP 2005 from 3 to 17 November 2010. In response to public exhibition 300 submissions, including 101 form letters, were received in relation to the proposal. Their content is summarised below:

- Increased impact of noise and traffic
- Social impacts from boarding house
- Privacy issues for residents along Tooke Street
- On-street parking impacts on surrounding streets and the potential loss of on street car parking

- Over development of the site in terms of bulk and scale
- Concerns about exceeding the 10 metre height limit
- Potential amenity impacts on the adjoining school
- Potential decrease in property prices
- Potential impacts on the heritage conservation area.

The submissions received are discussed within this report.

## 5. Referrals

### External

The application was referred to the following agencies:

- NSW Police Force (Newcastle Local Area Command)
- Hunter Water Corporation.

### Internal

The application was also referred to the following professional areas of Council:

- Environmental Services
- Traffic Engineering
- Stormwater/Flooding Engineering
- Social Planning
- Heritage Officer
- Building Assessment Team
- Urban Design Consultative Group (State Environmental Planning Policy 65 Committee)

The comments received from the referrals are provided in **APPENDIX C**.

## 6. Section 79C Considerations

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

### **(a)(i) the provisions of any environmental planning instrument**

#### State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)

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

Council's Compliance Service Unit (CSU) requested additional information in accordance with this policy:

*'The preliminary geotechnical and environmental advice letter prepared by Coffey Geotechnics dated 25 August 2010 shows the proposed development site contains a substantial amount of fill material including potential black slag material. The presence of potential uncontrolled fill material may have resulted in contamination of the soil. The site contamination investigation process is required in accordance with Element 4.2 of the Newcastle Development Control Plan (DCP) 2005 and should be*

*carried out in accordance with the Department of Environment and Climate Change's (DECC) 'Guidelines for Consultants Reporting on Contaminated Sites'.*

The applicant submitted a Phase 1 and Phase 2 Environmental Site Assessment. This was reviewed by CSU and is discussed in further detail **Addendum A**.

State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development (SEPP65)

As required under the Environmental Planning and Assessment Regulation 2000, the application has been supported by a design verification report prepared by a qualified designer (architect) outlining how the development achieves the design quality principles. The application has also been supported by extensive photomontage analysis and other information requirements of the Regulations.

SEPP 65 requires the consent authority to consider the advice of the relevant design review panel concerning the design quality of the residential flat development. The UDCG is the constituted SEPP 65 panel for The City of Newcastle. The UDCG has reviewed the proposed development against the ten design quality principles on two occasions, firstly pre lodgement and secondly with the originally submitted design. The UDCG was generally supportive of the proposal. Their advice discussed in greater detail below under the respective design quality principles contained with the SEPP.

(i) Context

The site is located within a Substantial Growth Precinct identified under the Newcastle Urban Strategy and the Newcastle Development Control Plan 2005. It is envisaged that this precinct will support higher density development such as that proposed. It is noted that there is a number of residential flat buildings within the vicinity of the subject site (approximately 130m to the south). Accordingly the proposed development would not be inconsistent with the existing context. The proposed development is therefore considered acceptable in relation to the context.

The UDCG raised no concerns in relation to context.

(ii) Scale

The UDCG provided the following advice in relation to scale.

*'The height and scale of the buildings have been modulated both horizontally and vertically with maximum height located at the centre of the site. The group considered the management of scale to be acceptable to the location.'*

The scale of the proposed development is larger than adjoining development. However the design principle of the SEPP states:

*'In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.'*

The site is located within a Substantial Growth Precinct identified under the Newcastle Urban Strategy and the NDCP 2005. Having regard to the scale of development envisaged for this precinct, the scale of the proposed development is considered acceptable.

(iii) Built Form

The UDCG provided the following advice in relation to built form.

*'The group were generally supportive of the amended, segmented design with smaller 'blocks' located to the northern end in the proximity of low scale housing. Limitation of walkways resulting from the segmented arrangement is considered to improve the overall appearance.'*

The proposed built form is considered acceptable.

(iv) Density

The UDCG provided the following advice in relation to density.

*'Despite the substantial number of dwelling units, the built form, set out and graduated scale are considered to successfully integrate the accommodation within the site and setting.'*

The design principle states:

*'Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density.'*

The site is located within a Substantial Growth Precinct identified under the Newcastle Urban Strategy and the Newcastle Development Control Plan 2005. Having regard to the density of development envisaged for this precinct, the density of the proposed development is considered acceptable.

(v) Resource, energy and water efficiency

The UDCG provided the following advice in relation to density.

*'The alignment, setout and floor plans of the residential buildings are considered to facilitate effective natural lighting and cross ventilation. Fixtures proposed in the applicant's submission are considered to assist in minimizing energy consumption. The group recommended relocation of vehicle access to the visitor's car park as a means of improving the landscape quality of the interstitial space between the central block and the boarding house. Improved quality of this space is considered a means of enhancing use of the zone for natural ventilation and shade by the flanking buildings.'*

The current amended design has maintained the vehicle access to the visitor carpark between the central urban housing building and boarding housing but has reduced the width to provide for increased landscaping. This is considered an acceptable solution.

The application has been supported by a detailed stormwater management plan which includes water reuse within the development. The proposed amended design is considered acceptable in relation to resource, energy and water efficiency.

(vi) Landscaping

The UDCG considered that the landscape plan for the complex was *'well considered and within the context of available areas for landscaping the spatial arrangements,*

*plant selection and finishes are considered to be quite appropriate to the proposed development'.*

The Group noted the following points:

*'The Group noted that the area between the central residential block and the Corlette street boarding house development is currently proposed to accommodate a relatively wide two-way road serving the visitor parking to the central and Union Street residential blocks. It was considered desirable to either remove this roadway in favour of an access via the internal roadway serving the central block, or if this option is not adopted, then to create a much narrower roadway which would impose 'traffic calming' on the use of this driveway. In either case, the area of land won should be densely landscaped to provide additional screening between the boarding house and the central residential block. The former option was considered to be the preferable of the two, as this also helps resolve issues of acoustic imposition of vehicles using this roadway, and allows the visitor parking to be secured and managed by the residents of the residential blocks, rather than leaving it open.*

*The visitor car park was also noted to be capable of accommodating additional shade landscaping, which was considered to be highly desirable. In addition to this, the northern wall of the car park (excepting any opening for the access of vehicles) should be softened by a strip of landscaping between the car park pavement and the blank northern ground floor of the car park.*

*It was noted that a moderately large area between the western and central residential blocks which was capable of deep soil planting was finished with decomposed granite trafficable material. While some area is desirable for recreation spaces and access, given the extent of hard surfaces because of the podiums above car parking, it was suggested that greater opportunity might be taken for quality deep soil planting in these areas of natural ground.'*

The current amended design has maintained the vehicle access to the visitor carpark between the central urban housing building and boarding house but has reduced the width by about 2.5m to provide for increased landscaping. While the visitor carpark could potentially be accessed by passing through the central building's carpark this would require passing through the carpark's controlled access roller door.

Additional shade trees have been included adjacent to the northern boundary. However, a strip adjoining the building is not considered possible in terms of vehicular manoeuvring.

While it would be possible to provide additional soft landscaping within the communal areas, it is also considered desirable to maintain a balance of trafficable areas to avoid damaging grassed areas.

The proposed landscaping incorporates tree planting that would assist in reducing the apparent bulk of the development and will provide for increased screening for adjoining properties. On balance it is considered that the proposed landscaping for the site is of a high quality design and will complement the aesthetic quality and amenity for the development and surrounds.



(vii) Amenity

The UDCG considered the proposed development to be generally acceptable in relation to amenity other than:

*'The extent of clear glass balcony balustrades was of concern. Refinement of the design should allow for some level of privacy, clothes drying etc.'*

A condition of consent has been included within the Draft Schedule of Conditions (**APPENDIX A**) requiring obscure glazing to the balconies facing Union Street to ensure adequate privacy to the balcony areas for future occupants.

(viii) Safety and Security

The proposed development provides for passive surveillance of the street and communal areas. The internal driveway design should ensure low speed traffic movements to facilitate pedestrian safety. The proposed development is considered acceptable in relation to safety and security.

(ix) Social dimensions and housing affordability

The proposed development provides for a mix of residential accommodation which supports social mix and housing affordability.

(x) Aesthetics

The UDCG provided the following advice in this regard

*'The design development of the initial scheme has provided aesthetic outcomes more responsive to the setting. The segmentation of long buildings and the physical separation of northern sections of the outer buildings have improved the perceived bulk and scale of the overall complex.'*

*'The group noted the general softening of external colours an aspect serving to reduce the stark white expression of the initial scheme.'*

The Group raised concern regarding the privacy of balconies however this has been addressed as a condition of consent to require obscure glazing.

In relation to the 10 design quality principles of the SEPP the UDCG concluded:

*'The group generally considered the proposal to have addressed previous issues. It is recommended that vehicle access to the visitor carpark be reconsidered with preference given to access through the central basement carpark. Further development of landscaping between buildings is also recommended, particularly in association with relocation of vehicle access to the visitor's carpark. Modification of glazed balustrades is also considered a benefit to the appearance of the complex when occupied. These aspects of the proposal are able to be accommodated within localized design amendment.'*

In summary the amended design is considered to be acceptable in relation to the 10 design quality principles of SEPP 65.

In addition to consideration of the design quality principles, Clause 30 of the SEPP also requires Council to have regard to the publication '*Residential Flat Design Code*'

(RFDC) produced by the NSW Department of Planning and Infrastructure. The relevant quantitative guidelines under the RFDC are discussed below.

### *Building Separation*

For buildings up to 4 storeys in height the RFDC recommends separation of 12m between habitable rooms and 9m between non-habitable rooms. This distance is generally achieved between all buildings within the site, including the boarding house component of the development. The northern and southern ends of the central urban housing building 'step' closer to the boarding house. However these walls are devoid of openings and therefore can reasonably be considered non-habitable and comply with the recommended separation distance of 9m.

The required building separation distances are not achieved between the urban housing building in the north-west corner of the site and the neighbouring dwelling in Tooke Street, Cook Hill. This may compromise privacy for the neighbouring Tooke Street residents and accordingly a condition of consent for screening has been included in the Draft Schedule of Conditions (**APPENDIX A**).

### *Open space*

The RFDC recommends landscaping to a minimum of 25% of the site area. The proposed development provides 25% landscaping. This figure would increase if narrow garden beds are included.

### *Apartment layout*

The RFDC outlines desirable unit depths to promote improved solar access and cross ventilation. In this regard the RFDC nominates a maximum depth of 8m for single aspect apartments and 15m for cross-over apartments. All units comply with these depths.

### *Balconies*

The RFDC indicates that balconies should be a minimum depth of 2m. The balconies of all units are at least 2m deep.

### *Solar access*

The RFDC indicates that it is preferable if 70% of units receive a minimum of three hours of sunlight in mid winter. In dense urban areas two hours may be acceptable. All units have good solar access and achieve three hours of sunlight.

### *Natural ventilation*

The RFDC indicates that it is preferable if 60% of residential units are naturally cross ventilated and 25% of kitchens should have access to natural ventilation. The code indicates that corner apartments and double aspects apartments achieve the best cross ventilation. On this basis some 70% of the units have good cross-ventilation. Of the apartments that are single aspect the relatively shallow apartment depth will still maintain acceptable natural ventilation.

All kitchens have access to natural ventilation.

The proposed development is otherwise considered acceptable in relation to the guidelines of the RFDC and in general terms is considered a good residential flat development design.

#### State Environmental Planning Policy No 71—Coastal Protection (SEPP 71)

This SEPP applies to the Newcastle Local Government Area. The proposed residential flat development and boarding house application is consistent with this policy.

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

This SEPP applies to the Newcastle Local Government Area and is applicable to the dwellings proposed. The applicant has submitted a BASIX Certificate demonstrating that the design of the proposed dwellings complies with energy rating requirements. A consent condition will ensure compliance with the submitted Certificate.

#### State Environmental Planning Policy (Infrastructure) 2007

This SEPP applies to the Newcastle Local Government Area. Given the provisions of clause 104 – Traffic Generating development and Schedule 3, the application does not involve any elements requiring consideration under the provisions of this SEPP.

#### State Environmental Planning Policy (Major Development) 2005

The SEPP applies to the Newcastle Local Government Area and under clause 13C (b) of the SEPP, the proposal is required to be referred to the JRPP.

#### The State Environmental Planning Policy (Affordable Rental Housing) 2009

Part of the proposal is subject to the provisions of this SEPP. That part of the proposal has been assessed against the provisions of the SEPP and is considered to be consistent with the aims of the SEPP.

The SEPP adopts the definitions of the *(Standard Instrument- Principal Local Environmental Plan)* which defines a 'boarding house' as:

*' a building:*

- (a) that is wholly or partly let in lodgings, and*
- (b) that provides lodgers with a principal place of residence for 3 months or more, and*
- (c) that may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and*
- (d) that has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,*

*but does not include backpackers' accommodation, a group home, a serviced apartment, seniors housing or hotel or motel accommodation'.*

#### Division 3 - Boarding Houses

*Clause 26 Land to which Division applies*

The site is zoned 2(b) Urban Core under the Newcastle Local Environmental Plan 2003. The site is also within the R3 Medium Density Residential zone in the draft Newcastle Local Environmental Plan 2011 (dLEP 2011). Accordingly, Division 3 - Boarding Houses applies to the subject site.

#### *Clauses 27 and 28*

A boarding house is a use which is permitted on the site with the consent of the Council.

#### Clause 29 Standards that cannot be used to refuse consent

This clause of the SEPP provides a number of standards which cannot be used to refuse consent. Those standards are discussed in relation to the proposal below:

##### *(1) Density/Scale*

The DCP nominates a maximum Floor Space Ratio (FSR) for the site of 0.9:1. The boarding house component of the development benefits from a 0.5:1 bonus under SEPP (Affordable Rental Housing) 2009, resulting in a maximum FSR of 1.4:1 for that component of the development.

The applicant has applied: (i) the 0.9:1 FSR to proposed Lot 1 which contains the urban housing development and (ii) the 1.4:1 FSR to proposed Lot 2 which contains the boarding house. This is considered the appropriate method of determining the maximum floor space yield.

##### *(2a) Building Height*

There is no environmental planning instrument that nominates a building height for the site. The DCP provides for a maximum building height of 10m for the subject site. The boarding house component adjoining Corlette Street complies with the height limit. The proposed height of the urban housing development exceeds the DCP limit and is discussed in more detail under the heading Building design and appearance (page 24 of this report)

##### *(2b) Landscaped Area*

Landscaping of all setbacks will be compatible with existing streetscapes and is considered acceptable.

##### *(2c) Solar Access*

The requirement for the minimum number of hours of direct sunlight between the hours of 9am and 3pm in the winter are achieved for this development. The proposed development therefore complies with this provision.

##### *(2d) Private Open Space*

Private open space is provided within the site in accordance with the private open space requirements. Additionally, the site benefits from the National Park sporting fields being located immediately to the west, providing additional active and passive recreational opportunities.

(2e) *Parking*

The proposal provides 13 on-site visitor car parking spaces which exceeds the requirement for car parking. The proposal to exceed the number of car parking spaces for the boarding house is supported and should alleviate any potential on-street car parking issues. Parking is also proposed for the on-site manager.

(2f) *Accommodation Size*

All rooms are single occupancy and each room is at least 12m<sup>2</sup>. A consent condition will ensure each room is occupied by only one boarder.

Clause 30 Standards for boarding houses.

This clause of the SEPP contains a list of development standards which must be satisfied by the proposed development. These standards are discussed below:

*'(a) if a boarding house has five or more boarding rooms, at least one communal living room will be provided,'*

Comment:

The proposed development complies with this development standard. There are a number of communal lounge rooms provided throughout the development. The northern building contains a large kitchen/dining room and a lounge area opposite the main entry. The southern building contains a kitchen and dining room area, a laundry, and two lounge areas. Additional communal open space is also provided at ground level between the southern building and the northern boundary.

*'(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres,'*

Comment:

The proposed development complies with this development standard. The proposed development does not include any boarding room that exceeds 25m<sup>2</sup>.

*'(c) no boarding room will be occupied by more than two adult lodgers,'*

Comment:

The boarding house is proposed to be managed in such a way that only one lodger will occupy each room. An appropriate condition (Refer to **APPENDIX A** Draft Schedule of conditions) has been recommended in this regard.

*'(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,'*

Comment:

The proposed development includes both private and communal bathrooms and kitchen facilities for the use of the lodgers.

*'(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,'*

Comment:

The boarding house can accommodate up to 112 lodgers, and an on-site manager's residence is provided.

*'(f) if the boarding house is on land within a zone where residential flat buildings are permissible, no new car parking for lodgers will be provided on the site,'*

Comment:

The applicant has lodged a State Environmental Planning Policy (SEPP 1) Objection which seeks to demonstrate that the inclusion of additional car parking for the boarding house is beneficial for the development and the community. The applicant's SEPP No 1 Objection has demonstrated that the standard is unreasonable and unnecessary in this instance. The request to vary the number of car parking spaces for the boarding house is supported.

*'(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,'*

Comment:

Not applicable.

*'(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.'*

Comment:

This equates to 112 bicycle parking spaces and 23 motorcycle parking spaces. The plans provide for 23 motorcycle parking spaces and general bicycle storage. Bike racks have been accommodated at the front of the southern boarding house facing Corlette Street. There has been provision made for motorcycle parking within the under-croft parking area of the northern boarding house. The proposal will provide a total of 23 motor-cycle parking spaces which complies with the above provisions.

The NSW Government introduced amendments to SEPP (Affordable Rental Housing) on 20 May 2011, including the following revised standards for boarding houses:

- *Boarding houses need to be compatible with the design character of the area in which they are to be located.*
- *Boarding houses proposed in regional areas must be accessibly located within 400 metres of a local centre or mixed-use zone.*
- *Higher parking standards.*

Notwithstanding these revisions, under the savings and transitional provisions of Amendment 2011, existing development applications for boarding houses lodged before the changes took effect may still be assessed under the repealed and amended provisions subject to Council considering whether the design of the development is compatible with the character of the local area.

The proposal is considered compatible with the character of the local area given that the site is surrounded by a range of housing types in a substantial growth precinct. To the north of the site along Tooke Street are a number of single storey residential dwellings while to the east is mixture of urban housing developments. To the south of the site is a school. A number of multi-level urban housing developments also exist along Parkway Avenue.

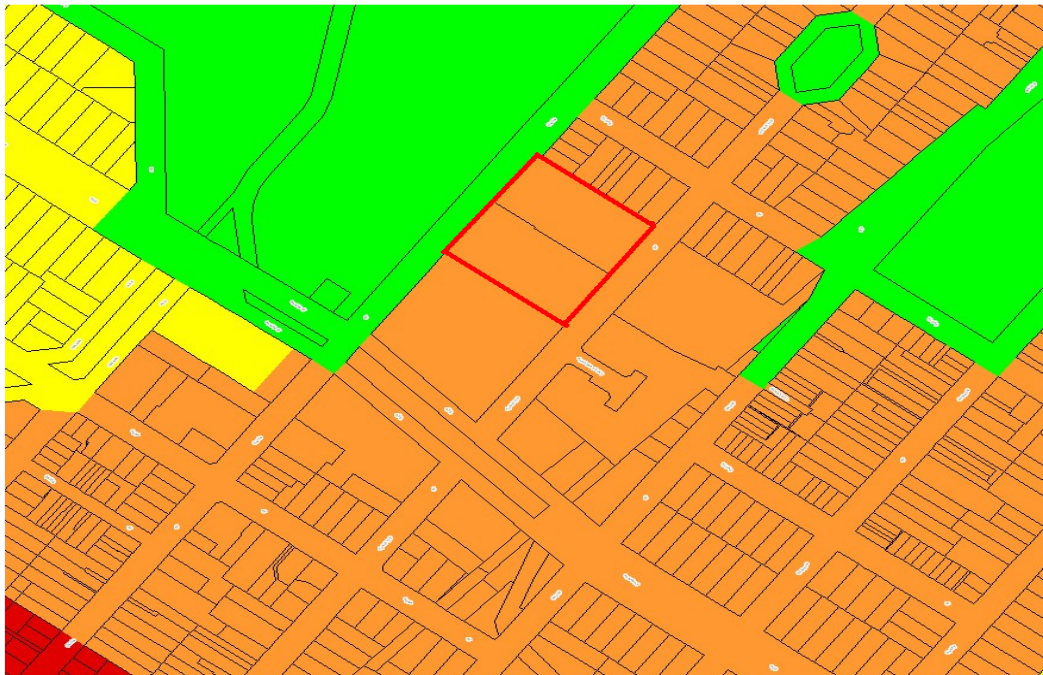
Directly opposite the site to the west is the National Park sporting field. The proposed urban housing development is therefore considered appropriate in terms of bulk and scale and the existing and future character of the area. The character of the area is discussed in more detail under the State Environmental Planning Policy No 65 section of this report.

The proposal is not contrary to the provisions of any other relevant State Environmental Planning Policy.

#### Newcastle Local Environmental Plan 2003 (NLEP 2003)

- Clause 16 Zonings

The site is zoned 2(b) Urban Core pursuant to NLEP 2003 (see figure 2). The proposal is categorised as an 'urban housing development under NLEP 2003 and boarding house development under the State Environmental Planning Policy (Affordable Rental Housing) 2009. Both urban housing and boarding houses are permissible within the zone subject to development consent.



**Figure 2 - Zoning of the site**

The objectives of the zone are:

- (a) To provide for a diversity of housing types that respect the amenity, heritage and character of surrounding development and the quality of the environment.*
- (b) To accommodate a mix of home-based employment-generating activities that are compatible in scale and character with a predominantly residential environment.*
- (c) To accommodate a limited range of non-residential development of a scale and intensity compatible with a predominantly residential environment which does not unreasonably detract from the amenity or character of the neighbourhood or the quality of the environment.*
- (d) To require the retention of existing housing stock where appropriate, having regard to ESD principles'.*

The proposed development complies with the objectives of NLEP 2003 in that the development is providing a range of housing types from one and two bedroom units and some three bedroom units. The inclusion of the boarding house component adds to the diversity of housing choice. It is considered that the development is acceptable in terms of its impact on the character of the neighbourhood and its impact on the quality of the environment.

- Clause 33 - Development in the vicinity of a heritage item or heritage conservation area

The subject property lies adjacent to the Cooks Hill Heritage Conservation Area (HCA) (see figure 3 where it is outlined in bold black), and opposite National Park. This site is outlined in red. There are no heritage listed items on the subject site.





**Figure 3: Cooks Hill Conservation Area**

The application was supported by a Heritage Assessment Report given the site's close proximity to Cooks Hill HCA. A number of objections raised concerns about the potential impact of the proposed development on the Cooks Hill HCA. The application was referred to Council's Heritage Officer, who provided the following comments:

*'The development is arranged into three separate blocks, with the highest block – a five storey component located towards the centre of the site, flanked by buildings of three and four storeys. The greatest setback to any single boundary is the north boundary.'*

*A Heritage Impact Statement as amended supports the proposal for a number of reasons as set out in Chapter 7 of that report. The HIS notes that the 'breakdown of forms along both street frontages results in amassing that respects the context of smaller residential blocks in the area,' (Heritas: 18). The HIS is supportive of the setbacks to boundaries, and the revised landscape treatment which now includes additional vegetation screening between the Boarding houses on Bruce*

*Street and the rear yards of the housing in Tooke Street . An aspect of the development that was previously identified as a potential detrimental impact on the HCA – that is the contrast in the height of the building proposed with the lower scale of housing stock in the HCA. To this extent, additional vegetation and landscape design treatments have been proposed which will ameliorate this impact. The HIS notes 'The proposal of two large mature trees in the visitors car park will contribute to the visual buffering of car-parking along the northern boundary of the site,' (Heritas:18). I support the additional landscape treatment on the basis that it will minimise the obtrusiveness of the development when it is viewed from the houses on Tooke Street, a concern I raised in my assessment of the original proposal.*

*'My concern, similar to concerns raised by the Cooks Hill Resident's Group, regarding the dramatic scale departure of the proposal, especially to Union Street and Corlette Streets, has been attenuated by the revised landscaping design and amended colour scheme for the Union Street apartments. Additional photo montages illustrate that the height variation, when seen in the context of the total streetscape, are not of major concern and are acceptable given the mitigation measures now proposed by the applicant. It is noted that the revised landscaping to Union Street will merge the development into the context in a more sympathetic manner than previously proposed. The HIS notes 'The inclusion of large trees...will soften the development within the streetscape,' (Heritas: 18). Again, 'the positioning of four large trees at the pedestrian site access entrance on Union Street serves to minimise the built form to the north from that access point, reducing the bulk at that end of Union Street to a scale more in keeping with the existing residential pattern in the southern end of the Heritage Conservation Area.' This effect can be seen in the photo montages presented in the Urban Design report and in the documentation submitted by CDKS.'*

In terms of compatibility of any proposed development with the character of the nearby heritage conservation area the Heritage Officer has provided the following comments:

*'Owing to the amendments made to the landscaping design and the colour scheme I am generally comfortable with the proposal in terms of the scale, form, orientation, setbacks, materials and detailing of the proposed development. I am of the view that the development now before council has merit on urban design grounds and as is generally compatible with the edge of the Cooks Hill Heritage Conservation Area.'*

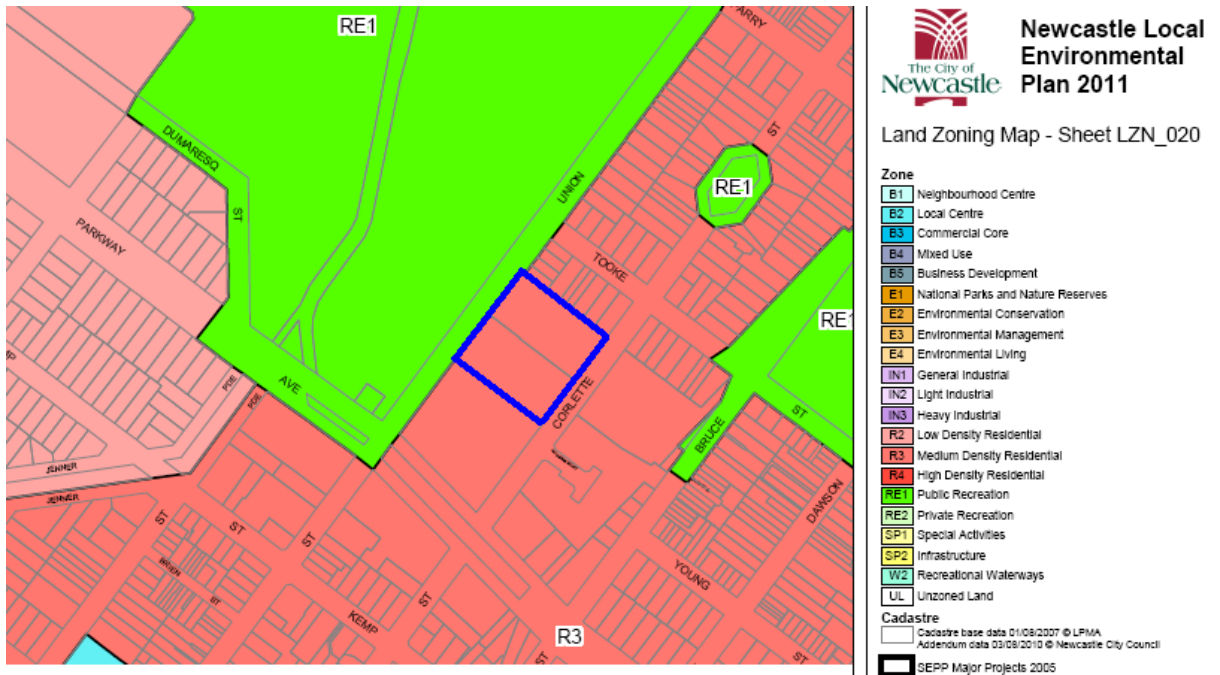
*'The proposed development has been amended to address heritage concerns and I am generally now comfortable with the scale and bulk of the development and its relationship with the edge of the adjacent Cooks Hill Heritage Conservation Area.'*

The proposal is therefore considered acceptable on these grounds.

**(a)(ii) the provisions of any draft environmental planning instrument**

Draft Newcastle Local Environmental Plan 2011 (dNLEP 2011)

The subject property is included within the R3 Medium Density Residential zone under the provisions of the dNLEP, within which zone the development is permissible with Council's consent.



The draft objectives of the NLEP are to provide for:

- *'To provide for the housing needs of the community within a medium density residential environment.*
- *'To provide a variety of housing types within a medium density residential environment.*
- *'To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
  - *To allow some diversity of activities and densities if: the scale and height of proposed buildings is compatible with the character of the locality, and there will be no significant adverse impact on the amenity of any existing nearby development.*
  - *To encourage increased population levels in locations that will support the commercial viability of centres provided that the associated new development: has regard to the desired future character of residential streets, and does not significantly detract from the amenity of any existing nearby development.'*

The proposed development is consistent with the objectives of the Draft Local Environmental Plan 2011. The proposed development will provide the appropriate density and choice of housing stock which is consistent with the above objective. The development is also providing for an appropriate increase in residential density that will support the local shopping centres of The Junction and the West CBD.

#### **(a)(iii) any development control plans**

##### Newcastle Development Control Plan 2005 (NDCP 2005)

#### **a) Element 3.1 - Public Participation**

The proposal was notified in accordance with this element. Issues raised in the submissions received are discussed in this report.

b) Element 4.1 – Parking and Access

The car parking requirement for the urban housing building component of the development (proposed Lot 1) is as follows:

- 91 x 1-Bed at 1 space per dwelling = 91 spaces
- 8 x 2-Bed at 1 space per dwelling = 8 spaces
- 8 x 3-bed at 2 space per dwelling = 16 spaces
- Visitor parking at 1 space for first 3 units and 1 space for every 5 thereafter = 22 spaces.

Therefore a total of 115 residential spaces and 22 visitor spaces required (total 137 spaces).

The proposed development provides for 117 residential parking spaces and 23 visitor parking spaces (total 140 spaces). Element 4.1 requires bicycle parking at a rate of 1 space per dwelling plus visitor parking at one space per 10 dwellings. This equates to 118 bicycle parking spaces. The plans for the proposed development denote bicycle racks and storage compartments within the basement parking area as well as an external visitor bicycle parking area, which are acceptable.

Element 4.1 requires motorcycle parking at a rate of 1 space per 20 car parking spaces. This equates to 7 spaces required. The plans identify 8 motorcycle parking spaces.

In relation to the boarding house component of the development (proposed Lot 2) SEPP (Affordable Rental Housing) 2009 requires bicycle parking at 1 space per boarding room and motorcycle parking at 1 space per 5 rooms. This equates to 112 bicycle parking spaces and 23 motorcycle parking spaces. The plans provide for 23 motorcycle parking spaces and general bicycle storage.

The issue of car parking and traffic is discussed in more detail under the heading of the likely impacts of the development b) traffic and car parking on page 31.

c) Element 4.2 - Contamination

The applicant submitted a Phase 1 and Phase 2 Environmental Site Assessment. This was reviewed by CSU and is discussed in detail in **Addendum A**.

d) Element 4.3 - Flood Management

Council's Senior Stormwater Engineer has provided the following comments in terms of flood management:

*'The site has been identified by Council as in a flood prone area...*

*The calculated 1 in 100 annual chance (1% AEP) flood level for the site is 2.7 m AHD with an estimated Probable Maximum Flood level of 4.9 m AHD. The site has also been identified as a flood storage area. During the June 2007 flood event floodwater was recorded as reaching a peak level of 3.5 m AHD in this part of the catchment.*



*To address the local flooding issues and the development requirements of the Flood Management element of the Newcastle DCP 2005 Northrop Engineers prepared a flood report for the applicant.*

*The proposed minimum floor level for occupiable rooms in the development is 3.8 m AHD. To address local flood impacts the development has been designed to fill no more than 20 percent of the site area as required in the DCP.*

*The basement carpark under the western unit block has been designed to keep floodwaters out up to RL 3.0 m AHD and provide safe evacuation to upper floor levels for larger flood events. Parking under the middle unit block has been set at RL 2.5 m AHD as a low hazard area for the design 1% AEP flood event while providing flood storage areas for larger flood events.*

*The site will have access to flood free land on Corlette Street and incorporate onsite flood refuge areas. It is recommended that a flood emergency response plan be prepared and instigated for the site to ensure residents are aware of the flood risk and appropriate response measure are provided'.*

Conditions are recommended to ensure that the submitted flood emergency response plan is developed and implemented as part of the site development works. (refer **APPENDIX A.**)

e) Element 4.5 Water Management

Council's Senior Stormwater Engineer has provided the following comments in terms of water management:

*'The designers have proposed a number of roofwater collection tanks with onsite reuse for toilet flushing, laundry usage and external irrigation. Overflow from the tanks and surface drainage will be collected and directed into gravel retention trenches located in the landscaped areas. Excess stormwater will be piped to the existing stormwater system in Union Street'*

*The proposed site stormwater system has been designed to comply with the requirements of the water management element of Council's current DCP'.*

Conditions are recommended to ensure that the submitted Concept Drainage Plan is implemented as part of the site development works. (refer **APPENDIX A.**)

f) Element 4.10 - Tree Management

The application was supported by an Arborist Report which examined the existing vegetation on the site in accordance with this element. The Arborist Report provided the following comments:

*'The proposed developments footprint will impact on the vast majority of trees onsite with only trees six trees being located outside of building footprints. Of these retainable trees only trees three trees are worthy of retention. A number of trees located within the proposed building footprint are of a suitable size and species to be considered for transplanting within the proposed landscape works.*

*Trees located on adjoining properties to the north will not be affected by works as long as proposed works do not extend any further north than the*

*existing retaining wall which runs the majority of the length of the northern boundary. The TPZ of trees located along the adjoining school's boundary will not be impacted upon by more than 10% with the exception of tree numbered 61. Approximately 20% of the TPZ of tree 61 may be affected by proposed works, however given the hardy nature of this species and the current good health of the tree it is anticipated with the proper supervision and tree protection methods that tree 61 will not suffer negatively'.*

The Arborist made a number of recommendations which have been included in the draft conditions of consent (refer **APPENDIX A.**) These recommendations include the following:

- *'Utilise transplantable trees where possible within proposed landscape works. This can be done by extracting the trees wrapping the root ball and storing onsite with a maintenance regime in place until such time as the proposed landscaping works are undertaken. Trees that are unable to be used onsite should be offered to tree transplanting companies which will generally remove from site at no cost.*
- *Ensure works along the northern boundary do not encroach any further than the existing brick retaining wall to protect trees on adjoining properties.*
- *Trees located on the southern boundary within the Grammar School's grounds must be protected. A suitably qualified arborist must be engaged to prepare a tree protection plan and make recommendations for the tree's ongoing health during and post construction.*
- *Trees that are removed are to be dismantled and mulched with the mulch being utilised within the proposed landscape works.*
- *Ensure all tree removal work is carried out by or supervised by a qualified tree worker (AQF Level 3 or equivalent) in accordance with the NSW WorkCover Code of Practice for the Amenity Tree Industry, 1998.*
- *Undertake appropriate NATSPEC quality replacement plantings to replace lost canopy cover and amenity. Refer to Landscape Architects drawings for suggested species'.*

#### g) Element 4.4 - Landscaping

As required under this element, the application has been supported by a comprehensive landscape concept plan and design report prepared by a qualified landscape architect.

The proposal was supported by a detailed landscaping plan which demonstrates that the site will be suitably landscaped to compensate for the loss of tree canopy cover. The planting schedule provides for additional planting on site. The landscaping plans are consistent with Element 4.4. The area available for deep soil landscaping is 2,061m<sup>2</sup> which equates to just over 25%. A copy of the landscaping plans has been included in **APPENDIX D.**

#### h) Element 4.6 - Waste Management

As required under this element, Waste Management Plan has been provided with the application. The proposal provides for a bin storage area on the western side of the

southern building. The applicant has demonstrated that a heavy ridged vehicle (HRV) can access the site and leave in a forward direction.

A contractor is proposed to be engaged to collect waste on a weekly basis. Monitoring of designated garbage and recycling areas will also be undertaken by the onsite manager. Based on the submitted information, the proposal is considered to be acceptable.

i) Element 5.2 - Urban Housing

This element applies to the urban housing building component of the development. A boarding house is a separately characterised landuse under the NLEP 2003; however the urban housing guidelines have been applied, as considered relevant, to the boarding house component of the development.

j) Newcastle Urban Strategy

This element strengthens the neighbourhood visions and objectives of the Newcastle Urban Strategy (NUS). The NUS identifies density precincts based upon walkable catchments to commercial centres and railway stations. The NUS identifies the site to be within the highest density Substantial Growth Precinct, in this case based upon its proximity to The Junction Commercial Centre. The NDCP 2005, identifies that a Substantial Growth Precinct '*promotes a significant increase in the number and diversity of dwellings and new built form*'. The density FSR controls within Element 5.2 are based upon the NUS density precincts with an FSR of 0.9:1 assigned to the Substantial Growth Precinct.

The proposed development is consistent with the principles of the NUS by locating higher density residential development within close proximity to The Junction commercial centre and also the Newcastle City Centre. The site also has the advantage of good access to public open space. In accordance with the NUS it is considered that the location is ideal for such a development.

A submission received during public notification queried the given density precinct noting that the school site to the south (Grammar School) was nominated as a Limited Growth Precinct, which would mean the subject development was inappropriately located between a low density area to the south and the low density heritage conservation area to the north. The NUS in fact does not assign any density to school sites with the site shown uncoloured on the precinct maps. Redevelopment of such a site would be considered on a merits based approach. Accordingly, the given density for the subject site is not inconsistent with the density regime under the NUS, being located contiguous with higher density emanating from The Junction commercial centre.

The proposed development is considered to be compatible with the objectives of the substantial growth precinct in that it provides for increased residential density in close proximity to services, thereby supporting sustainable urban form and encouraging alternate forms of transport.

Objection was raised to the proposed development on the grounds that it represents an overdevelopment of the site. While the development does represent a departure from the existing development on the site it is clear that the proposed development is consistent with the desired future character for the site.

### Building form

The proposed development is considered acceptable in relation to the DCP guidelines on building form. The development establishes a scale and form appropriate for its respective residential precinct. The proposal achieves an active street frontage, provides for appropriate building depth and bulk and also provides for high quality landscaping.

However, the building form is considered to not be acceptable in terms of dwelling separation. The separation distance between the urban housing building located in the north-west corner of the site and the adjoining property to the north is considered insufficient to provide adequate visual privacy for the adjoining property. This issue is discussed in greater detail below under views and privacy with additional comments provided in UDCG assessment.

### Minimum street frontage

The subject site readily complies with the minimum site frontage of 15m with street frontages of approximately 100m.

### Streetscape and front setbacks

The proposed development complies with the minimum front setback of 5m.

In terms of streetscape the DCP provides the following objective for the Substantial Growth Precinct:

*'To ensure that new development makes a positive contribution to the desired built form of the precinct.'*

It is considered that proposed development provides a well articulated and active street front of a scale and form consistent with the desired built form for this precinct.

### Side and rear setbacks

The DCP requires a minimum side set back of 4m for buildings over 6m in height. The buildings fronting Union and Corlette Street are set back 5m from the northern boundary, and the central building is set back 15m from the boundary. The buildings are set back 8.4m from the southern boundary.

### Usable Open space

The DCP requires that a dwelling above ground level have a balcony as private open space of a minimum dimension 2m and minimum area of 8m<sup>2</sup>. All units are considered above ground units and comply other than unit types denoted 'B' and 'E' on the submitted plans (**APPENDIX B**). Unit type 'B' provides for balconies of 9m<sup>2</sup> however part of the balcony is below 2m in depth. Unit type 'E' are located on the upper level and provide light-well style courtyards of 6m<sup>2</sup>. The DCP does not distinguish balcony requirements based upon apartment size and the proposed balconies are considered satisfactory for smaller 1-bedroom apartments. Furthermore the provision of large, high quality communal open space within the development readily compensates for any minor shortfalls in the provision of private open space.

As part of SEPP 65 considerations, Council's UDCG raised no concerns in regard to the provision of private open space and the private open space is considered satisfactory in relation to the RFDC.



### Landscaping / Communal open space

The DCP requires a minimum of 25% of the site at ground level to be landscaped, with landscaped areas a minimum of 3m wide. Furthermore a minimum of 25% of the landscaped area is required to be a deep soil zone.

The applicant has submitted a comprehensive landscape plan and report. The proposal provides 25% landscaping (more if areas less than 3m wide were included) with the majority of this landscaping being a deep soil zone.

### Building design and appearance

A number of submissions were received raising concerns regarding the proposed height of the development, particularly given the non-compliance with the DCP guidelines.

The DCP requires that buildings within the Substantial Growth Precinct '*enhance and make a positive contribution towards the desired built form*'.

The proposed development is of a contemporary architectural style with well articulated building form both horizontally and vertically. While the development is clearly more intensive than current development on the site it is considered acceptable in terms of the desired built form for the area.

The DCP provides for a maximum building height of 10m for the subject site. The boarding house component adjoining Corlette Street generally complies with the height limit. The residential flat buildings adjoining Union Street exceed the height limit by up to 1.5m. The central urban housing building exceeds the height limit by up to 4.8m with the upper level sitting entirely above the height limit. (Sheet DA-523 A within **APPENDIX B** provides a diagrammatic building mass envelope superimposed over the development).

The DCP states:

*'The maximum height limit may be varied where a written request has been received from the applicant that seeks to justify the variation by demonstrating:*

- compliance with the height and/or FSR controls is unreasonable or unnecessary in the particular circumstances; **OR***
- the height of the proposed building is equivalent to or less than the height of a building on an adjacent site; **OR***
- the variation is minor and would satisfy the objectives and performance criteria of this section; **AND***
- other requirements of this Element relating to streetscape, daylight, sunlight and privacy are satisfied.'*

The height of the proposed development is not comparable to any adjoining buildings and therefore the other points need to be considered.

The applicant has submitted the following as a basis to seek a variation to the height limit guidelines of the DCP.

*'The site and development exhibits unique circumstances that the DCP envisaged when it was designed to ensure developments are not unnecessarily refused or limited, these include:*

- *The site is a large parcel of land within an inner city suburb. A large site offers the opportunity for development to provide additional height without significant adverse impacts.*
- *The site is subject to flooding and hence it has been necessary to raise buildings above the flood level, this has the effect of increasing height without increasing density.*
- *The site is located in a flood storage area, thus limiting the amount of fill to 20% of the site. This has an impact on the amount of basement car parking that can be provided.*
- *The location of the site relative to public transport, significant public open space and within reasonable walking distance of The Junction Shopping Centre (in combination with the large consolidated site area) means that every effort should be made to maximise its yield (within acceptable impact limits) in order to implement the objectives of the Substantial Growth Precinct and more broadly speaking to be consistent with Urban Consolidation and its associated ESD principles.*
- *The proposed height when viewed in context of the driving experience along Union Street is consistent with the streetscape and locality generally.*
- *The proposed height has been so positioned and setback as to have no significant adverse impact to the adjoining neighbourhood.'*

The flooding constraints on the site are not considered to justify a departure from the height guidelines in their own right but it does mean that the applicant is constrained in exploring alternative design solutions such as underground basement parking.

The maximum height limit under the DCP of 10m does not distinguish between allotment sizes and it is agreed that the size of the subject site provides opportunity to explore alternative design solutions for the distribution of floor space yield over the site.

In addition to the above basis for seeking a variation to the height limit the applicant has also submitted a detailed 'Urban Design Assessment of Building Heights' which states:

*This report documents in detail the reasons why the height of the proposed development is satisfactory. In summary:*

- *Any potential for overlooking of adjoining properties has been carefully managed and the proposed additional height does not increase this potential and does not have any unacceptable impacts.*
- *The proposal causes less overshadowing of neighbours than would a development adopting Council's height and setback controls.*
- *Portions of the proposed development exceeding 10m in height which are visible from the public realm in close proximity to the site are generally limited to Union Street. Their extent is not considered significant given the active recreation uses opposite.*
- *Portions of the proposed development exceeding 10m in height which are visible in more distant views will generally only be seen from National Park. These impacts are considered acceptable given that the park does not comprise passive recreation uses and that the building height will be below the horizon line of the coastal ridge to the east in the majority of views.*
- *The parts of the proposed development which exceed 10m in height do not block any existing views.*

*.....The site is within Council's 'Substantial Growth Precinct'. Within the context of the proposed development, and given the findings of this report, Council's 10m height limit is considered both unreasonable and unnecessary.'*

The Urban Design Assessment concludes:

*'Provided that a development is configured on the site, as is the case here, so that the places where it exceeds Council's height limit do not result in significant adverse impacts on its context, it is considered to be unreasonable to reject the proposal on the basis of sheer non compliance with the numerical height control. A merit consideration of the issue is considered to establish that the proposed height of the development is appropriate.'*

The Urban Design Assessment included 3D analysis of the building envelope and also an analysis of the shadowing impacts generated from the DCP building envelope compared to the proposed development (refer to **APPENDIX B**).

The analysis identifies that the development as proposed provides for improved solar access for the school site to the south when compared to the DCP building envelope (i.e. a compliant development).

Having regard to the applicant's submission it is considered that the proposed development with a reduced building footprint, albeit with non-compliant building height, provides for a better overall planning outcome than what could reasonably be expected from an alternate design of compliant building height but increased footprint. It is accepted that the higher portions of the proposed development are located centrally on the site, thereby minimising visual impact and the increased setbacks from boundaries (particularly the north) provide for improved privacy.

As outlined in this report, Council's UDCG has considered the proposed development and has raised no objection to the proposed scale.

In summary it is considered that the submission has adequately justified that the compliance with the height control is unnecessary in the circumstances and has demonstrated that the requirements relating to streetscape, daylight, sunlight and privacy are satisfied. The applicant has demonstrated that the objectives are achieved, in particular that the height relates to the desired future built form and that the privacy and overshadowing of adjoining properties is satisfactory. It is considered that the height of the proposed development is acceptable.

#### Floor space ratio

The DCP nominates a maximum Floor Space Ratio (FSR) for the site of 0.9:1. The boarding house component of the development benefits from a 0.5:1 bonus under SEPP (Affordable Rental Housing) 2009, resulting in a maximum FSR of 1.4:1 for that component of the development.

The applicant has applied: (i) the 0.9:1 FSR to proposed Lot 1 which contains the residential flat buildings and (ii) the 1.4:1 FSR to proposed Lot 2 which contains the boarding house. This is considered the appropriate method of determining the maximum floor space yield.

The urban housing building component of the development on proposed Lot 1 results in a density of 0.88:1 and therefore complies. The DCP requires excess parking to be included in the Gross Floor Area (GFA). The proposed development provides an excess of 3 parking spaces for the urban housing building component which results in an additional 39m<sup>2</sup> of additional GFA. This equates to an FSR of 0.89:1 and therefore the proposal still complies.

The boarding house component of the development on proposed Lot 2 results in an FSR of 1.37:1 and therefore complies. It is noted however that Clause 30(1)f) of SEPP (Affordable Rental Housing) 2009 (at the time the development application was lodged) stated:

*'if the boarding house is on land within a zone where residential flat buildings are permissible, no new car parking for lodgers will be provided on the site.'*

The proposed boarding house component of the development incorporates 13 parking spaces equating to 168m<sup>2</sup> of additional GFA. If this area were included as GFA then the resultant FSR is 1.42:1, marginally over the maximum FSR of 1.4:1.

Under the DCP the GFA excludes any car parking to meet any requirements of the consent authority. The DCP stipulates a parking rate for boarding houses of 1 space per 2 bedrooms, however this is negated by operation of the SEPP. Given that Council seeks a higher parking rate than that provided it is considered that the provided parking should not be included in GFA calculations. Therefore the proposed boarding house is considered to comply with the maximum FSR.

A number of submissions received raised objection to the proposed development on the grounds that it represented an overdevelopment of the site. Given that the proposal complies with the FSR, the development cannot reasonably be considered an overdevelopment of the site.

#### Solar access and other energy requirements

The application has been supported by a BASIX Certificate as required and is considered acceptable.

The residential flat buildings are generally orientated in a north-south direction. The units on the northern ends of the building would receive good solar access. The remaining residential units are cross-over type design and therefore would still collectively enjoy good solar access throughout the day.

Objection was raised to the proposed development on the grounds that it would overshadow the adjoining school site to the south. It is reasonable to expect that the type of development envisaged for a Substantial Growth Precinct will generate some impact. The application has been supported by detailed shadow diagrams which identify that the school site will experience some overshadowing impacts, predominantly between 9am and 12 noon. After 12 noon the majority of buildings within the school receive solar access for the remainder of the day. As outlined previously the shadow analysis identifies that the proposed development, results in less overshadowing impact than the DCP envelope (ie a compliant development). This is because the proposed buildings are set back over 8m from the southern boundary, well in excess of the DCP minimum of 4m, with the upper level of the central building set back further again.

It is considered that the proposed development maintains adequate levels of solar access for adjoining development and could not reasonably be refused on the grounds of overshadowing.

#### Views and Privacy

Objection was raised to the proposed development on the grounds that it would impact upon the privacy of surrounding properties, particularly properties adjoining to the north.

The DCP requires a minimum 9m separation to be provided between the windows of habitable rooms of facing dwellings that abut a public or communal street. This distance is to be increased to 12m for windows above first floor level. The proposed development satisfies this separation distance across Corlette Street to dwellings on the opposite side of the street.

The DCP also requires that direct views between living area windows of adjacent dwellings are to be screened or obscured where:

- Ground and first floor windows are within an area described by taking a 9m radius from any part of the window of the adjacent dwelling. An area so defined is described as a 'privacy sensitive zone'.
- Other floor windows are within a privacy sensitive zone described by a 12m radius.

Furthermore, the DCP requires that direct views from living rooms of dwellings into the principal area of private open space of other dwellings are to be screened or obscured within a privacy sensitive zone described by a 12m radius. If privacy sensitive zones cannot be achieved the DCP requires appropriate screening.

The dwellings to the north of the site predominantly front Tooke Street, with Council's aerial mapping identifying rear setbacks of at least 13m to the rear walls of these dwellings. This combined with the 5m setback of the proposed development results in separation distances of at least 18m, thereby complying with the privacy sensitive zone. Furthermore, existing and proposed landscaping ensures additional screening between the development and the adjoining properties.

The adjoining dwelling at 115 Union Street is positioned close to the common boundary. The urban housing building proposed in the north-west corner of the site has a number of north facing decks that could compromise the privacy sensitive zone for this property.

While substantial landscaping is proposed to this boundary it is considered reasonable that additional built screening be provided to ensure adequate privacy is maintained. The draft schedule of conditions (**APPENDIX A**) includes conditions requiring privacy screening to the decks of Units 101, 102 and 103 at ground level and obscure glazing for the balustrades to the units above.

In relation to the adjoining school to the south the DCP does not provide any specific privacy requirements for non-residential landuse. The buildings are set back over 8m from the southern boundary and are generally not orientated in this direction. The landscape concept plan includes extensive planting adjacent to the southern boundary. Privacy impacts on the school site are considered acceptable.

With the above mentioned privacy measures in place it is considered that the proposed development is acceptable in relation to privacy.

The proposed development is considered to not affect any important view corridors.

### Fencing and walls

The proposed fencing and walls that are orientated to public streets are considered acceptable in relation to streetscape appearance and maintaining surveillance of the street.

In relation to side boundary fences, the landscape plan identifies a 1.8m high double lapped and capped paling fence to part of the boundary. The remainder will either be retained or replaced. It is noted that part of the existing northern fencing comprises a 2.3m high metal fence which appears in good condition. The plans do not identify any fencing to the southern

boundary. To maintain adequate privacy it is considered that as a minimum a 1.8m high fence should be erected on side boundaries. This has been addressed within the recommended conditions of consent (**Appendix A**).

#### Carparking

The provision of carparking has been discussed under Element 4.1 - Parking and Access. The access and parking areas are well integrated into the development and streetscape is considered acceptable in relation to the DCP guidelines.

#### Heritage considerations

The site does not contain a heritage item nor is it within a HCA. The site does adjoin the Cooks Hill HCA. This has been discussed in greater detail in consideration of NLEP 2003 Clause 33 earlier in the report.

#### Landscape design, security, services and site services

The application has been supported by a detailed landscape concept plan and report. The proposed development incorporates extensive landscaping along street frontages, side boundaries and internal communal areas. The proposed landscaping is of an adequate scale to assist in mitigating the apparent bulk of the development and also provides for increased privacy screening to adjoining properties. The proposed landscaping is considered acceptable in relation to the DCP guidelines.

The security of the proposal is considered acceptable in relation to the DCP guidelines and includes adequate entry control, including gates into communal landscaped areas and roller doors to basement carparks. The dwellings provide passive surveillance of the streets and internal communal areas.

The proposal is considered acceptable in relation to the DCP guidelines relating to services. The proposed development incorporates storage for dwellings at the front of carparking spaces and shared entries to the buildings serve under the required maximum of 12 dwellings. Central bin storage areas are provided. A condition of consent has been recommended in the draft schedule of conditions (**APPENDIX A**) requiring group type mail boxes to be provided.

#### Subdivision

The proposed subdivision of the site is considered acceptable in relation to the proposed built form.

#### **(a)(iia) any planning agreement that has been entered into or any draft planning agreement that the developer has offered to enter into**

Not applicable.

#### **(a)(iv) any matters prescribed by the regulations**

The proposal is considered to be satisfactory in this regard.

**(b) the likely impacts of the development**

**Traffic**

Council's Senior Traffic Consultant raised concerns about the original traffic report and requested additional information and clarification on a number of key points. The revised traffic report was submitted and reviewed by the officer. The officer provided the following comments:

*'Having reinspected the site and read the arguments presented in the traffic report about the traffic conditions during school periods I am willing to support the proposal for the following reasons;*

- *The AM peak for the school lasts approximately 30 minutes only but will coincide with the development peak. However provided suitable sight lines in accordance with AS2890.1-2004 are provided there is no reason why a suitable road safety environment would not exist at the site.*
- *The PM peak for the school will not coincide with PM development peak and provided suitable sight lines in accordance with AS2890.1-2004 are provided there is no reason why a suitable road safety environment would not exist at the site.'*

The officer is of the opinion that the narrow section of Corlette Street has some traffic management advantages in that it will slow traffic in the vicinity of the school and will discourage development traffic from heading south past the school, particularly during the school peaks.

Therefore despite initial concerns, Council is now of the opinion that at least the section of Corlette Street along the school frontage should not be widened. However, widening of the section of Corlette Street along the frontage of the development may encourage vehicles to access the site from the north as well as improve driver visibility in the region of the proposed accesses and is recommended. A condition has been included in the draft schedule of conditions.

A number of conditions have been recommended and these conditions have been included in draft conditions of consent (refer to **APPENDIX A**).

**a) Acoustic Impacts**

The likely acoustic impacts of the proposal have been assessed by Council's Compliance Service Unit and are considered to be satisfactory subject to the recommended conditions of consent. A copy of the Compliance Service Unit comments in relation to noise can be found at **APPENDIX E**.

**Noise**

The officer's detailed assessment is as follows:

*'The Acoustic Assessment prepared by Reverb Acoustics dated September 2010 has calculated the potential traffic noise impacts from nearby Union Street on the proposed residential units. The Acoustic Assessment prepared by Reverb Acoustics has also included other existing urban environment noise sources such as mechanical plant, people on the street, nearby sporting events, and site vehicles. The Acoustic Assessment prepared by Reverb Acoustics also noted the noise levels within the existing acoustic environment, dominated by traffic*

*noise and urban noise sources, will exceed, within the internal spaces of the proposed development, the recommended criteria set out in Australian Standard, AS/NZS 2107 2000 Acoustics – Recommended Design Sound Levels and Reverberation Times for Building Interiors .*

*The Acoustic Assessment prepared by Reverb Acoustics has provided a series of recommended acoustic treatments of windows and walls to ensure internal noise levels within the proposed development are satisfactory. In addition because peak vehicle noise was predicted to be above the sleep arousal criterion an acoustic fence along the north site boundary adjacent of the car park ramp is recommended. The recommended acoustic treatments require incorporation into the design of the proposed residential development and a sign-off from a suitably qualified acoustical consultant is required. The implementation of the acoustic measures for the proposed residential buildings shall be addressed by an appropriate consent condition.*

*The proposed carpark exhaust or ventilation system has the potential to generate adverse noise impacts for neighbouring residential properties. A letter prepared by Reverb Acoustics dated 5 June 2011 has recommended a sound pressure level noise limit for the proposed carpark exhaust to ensure the plant complies with the night time project specific noise criteria. To ensure the plant does not exceed the recommended sound pressure level limit, a sign-off from the acoustic consultant is required. Certification of the carpark exhaust plant, in compliance with the recommended sound pressure level limit, will be addressed by an appropriate condition of consent.*

*Council also raised concern regarding the potential impacts of construction noise and vibrations. At Council request, Reverb Acoustic prepared a Construction Noise and Vibration Management Plan Residential Development 121-123 Union Street Cooks Hill NSW, Reverb Acoustics dated June This Management Plan outlines potential impacts and provides mitigation measures. Early excavation and piling is only expected to last approximately 10 weeks. The total project duration is projected to be approximately 70 weeks.'*

Council raised further concerns about the potential impact of construction noise on the adjoining residents and requested additional information. This information was submitted and reviewed and is discussed in greater detail in **Addendum A**.

(b) Social Impacts

Documentation submitted with the development application includes a Social Impact Comment (SIC) in accordance with Council's adopted Social Impact Assessment Policy. The SIC states that the proposed development will contribute in a positive manner to an increased diversity and quantity of housing style and choice and will increase the resident population in accordance with Council's urban consolidation objectives.

Crime and public safety issues have been considered in the SIC. The application was also referred to the Crime Prevention Officer, Newcastle Local Area Command of NSW Police, however no response has been received to date.

The SIC was reviewed by Council's Community Planner who raised a number of points of concerns. These concerns are summarised below:



*'The boarding house proposal notes (p.20-21 SIA) that the likely 'profile of the boarding house will be:*

- 70% student orientation (university, TAFE and senior high school as defacto boarders)*
- 20% professional people*
- 5% single men and women aged 50 years and over*
- 5% other including persons on pensions (other than aged), part-time employees and people with a mild disability.'*

*In terms of boarding house amenity, the provision of open space for residents is quite limited and does offer the opportunity to link with the kitchen and dining room areas. There does not appear to be any consideration for the provision of open space where residents can sit or socialise in the sun. Within the boarding house complex, both kitchen and dining room areas overlook car entry points which may be good for passive surveillance but not necessarily providing a reasonable level of amenity for residents.*

*There is also a question as to whether either of the communal living rooms of the boarding houses receives adequate winter sunlight as defined under the SEPP. The communal living areas also appear to be quite limited in size compared to the number of residents.*

*A Plan of Management (POM) is recommended by the Land and Environment Court (as a planning principle) to encourage consistent, adequate and appropriate consideration of and decision making in regards to the social impacts of development proposals. Therefore, potential issues of amenity, safety and security can be comprehensively addressed at a number of levels within a POM'.*

In response to this advice the applicant provided the following response:

*'A number of issues have been raised in regards to the amenity of the boarding hours for future occupants. Council's review commented on the provision of open space, location of communal living rooms and the location of the kitchen and dining rooms. The provisions of communal space is consistent with the requirements of the Affordable Rental Housing SEPP and hence can not be considered ground for refusal. The location and size of internal communal areas such as living rooms, kitchen and dining rooms is largely determined by security and function. The main point of entry for the boarding house building is adjacent to these communal spaces and this should not be altered within the overall design, as any change would compromise active and passive surveillance of these areas'.*

The proposed boarding house complies with the provisions of the SEPP Affordable Rental Housing 2009.

A condition has been recommended by Council's Community Strategist that the proposed development is to obtain a licence under s12 of the Youth and Community Services Act, 1973 if such a licence is required under that Act. A condition has been included in the draft schedule of conditions (**APPENDIX A**) and should ensure that any necessary approvals are obtained from relevant authorities.

A number of submissions raised concerns about the potential negative social impact of the proposed boarding house. The applicant submitted a draft plan of management which has been incorporated into the recommended conditions of consent. A number

of other conditions have been recommended to ensure that the proposed facility is managed to minimise any potential impact on adjoining residents. The concern raised by the objectors regarding a possible reduction in property values in the vicinity of the site as a result of the proposed development is not a matter for consideration.

### Economic Impacts

The total cost of the development exceeds \$34 million dollars. The project is expected to have a significant flow on effect on the local economy in terms of construction jobs, accommodation and local business.

The applicant has provided the following statement on the economic benefits of the proposal:

*'Using the total project cost of \$25.9 million, the potential employment<sup>4</sup> and consequential income effects are summarised as follows:*

*Employment: Direct 162 jobs Indirect 260 jobs*

*Income (\$2010) Direct \$8,150,000*

*Indirect \$13,080,600'*

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

(c) the suitability of the site for development

The site is within a Mine Subsidence District. The Mine Subsidence Board has assessed the proposal and has issued their General Terms of Approval subject to conditions of consent as attached at **APPENDIX E**.

The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development.

The site is located between Union Street and Corlette Streets and, as the Statement of Environmental Effects submitted with the development application states, is located in close proximity to public transport, educational, recreational, and retail and commercial sectors within a suburb of relatively flat topography that encourages pedestrian and bicycle movements

(d) any submissions made in accordance with this Act or the Regulations

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

(e) the public interest

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

## **7. Conclusion**

Subject to various conditions, the proposal is acceptable having regard to the relevant considerations under section 79C.

## **8. Recommendation**

That the Joint Regional Planning Panel grant consent to DA 10-1511, subject to the conditions contained in Appendix A.

## APPENDIX A - Conditions of Consent

### A General Conditions

A1 The proposed development being carried out strictly in accordance with the details set out on the submitted plans,

- DA – 101 Issue AA
- DA – 102 Issue AA
- DA - 103 Issue AA
- DA – 104 Issue AB
- DA - 105 Issue AA
- DA – 201 Issue AF
- DA – 202 Issue AB
- DA - 203 Issue AA
- DA – 204 Issue AA
- DA – 205 Issue AA
- DA – 303 Issue AA
- DA – 304 Issue AA
- DA – 401 Issue AA
- the Statement of Environmental Effects dated October 2010 prepared by ADW Johnson, and the following reports:
  - The applicant's letter dated 5<sup>th</sup> May 2011
  - Urban Design and Assessment of Building Heights Report dated 5<sup>th</sup> May 2011
  - Reverb Acoustic – Construction Noise and Vibration Management Plan Residential Development dated June 2011 and Noise Impact Assessment Report dated September 2010
  - Reverb Acoustic – additional information letter dated 5 June 2011
  - Heritage Impact Assessment Report, prepared by Heritas dated 26 October and the amended Heritage Report dated 2 May 2011
  - External Finishes – Perspective and photomontage prepared by CKDS Architects
  - Northrops Engineering – Concepts Stormwater Management and Flooding Report
  - Northrop Engineering – Additional information letter dated 7 April 2011
  - Traffic Management and Safety Consultants dated October 2010 and the supplementary traffic report dated April 2011.
  - Preliminary Geotechnical and Environmental Advice dated 25 August 2010 prepared by Coffey Geotechnics
  - Arborist Report prepared by Terras Landscape Architects (revision D)
  - BASIX Report
  - Building Compliance Report dated October 2010.
  - State Environmental Planning Policy 65 – Design Quality of Residential Flat Development – Compliance Report – dated 27 October 2010.
  - Socio-Economic Impact Assessment dated November 2010
  - Phase 1 and Limited Phase 2 Environmental Site Assessments.

and on the Application form, except as otherwise provided by the conditions of this consent.

**Note:** Any proposal to modify the terms or conditions of this consent whilst still maintaining substantially the same development to that approved, will require the submission of a formal application for Council's consideration in

accordance with the provisions of Section 96 of the *Environmental Planning and Assessment Act, 1979*.

**Reason:** To confirm and clarify the terms of Council's approval.

- A2. The proposed boarding house development being operated in accordance with the definition of a 'boarding house' contained in the State Environmental Planning Policy (Affordable Rental Housing) 2009) being:

'a building;

- a) that is wholly or partly let in lodgings, and
- b) that provides lodgers with a principal place of residence for 3 months or more, and
- c) that may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
- d) that has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, but does not include backpackers' accommodation, a group home a serviced apartment, seniors housing or hotel or motel accommodation.'

**Reason:** To confirm the terms of Council's approval and the basis of Council's consideration under State Environmental Planning Policy (Affordable Rental Housing) 2009.

- A3. The development having a maximum of one boarder per boarding room (total of 112 boarders).

**Reason:** To confirm and clarify the terms of Council's approval.

- A4 The boarding house manager shall be provided with a designated room and carparking space on site. Contact details of the boarding house manager, including a mobile phone number, shall be available to the public by way of signage near the entrance of the boarding house. The contact details shall be kept up to date.

**Reason:** To confirm and clarify the terms of Council's approval.

- A5 Appropriate acoustic treatment being implemented in accordance with the recommendations set out in the report prepared by Reverb Acoustic dated 9/2010 and 06/201. Written certification from the said consultant confirming that the recommended acoustic treatment has been implemented in accordance with the requirements is to be submitted to the Principal Certifying Authority prior to the commencement of any noise generating activity within the premises.

**Reason:** To ensure that appropriate noise control measures are implemented.

- A6 The recommendations of the Arborist Report prepared by Terras Landscaping shall be complied with including the following conditions:

- a) Utilise transplantable trees where possible within proposed landscape works. This can be done by extracting the trees wrapping the root ball and storing onsite with a maintenance regime in place until such time as the proposed landscaping works are undertaken. Trees that are unable to be used onsite should be offered to tree transplanting companies which will generally remove from site at no cost.
- b) Ensure works along the northern boundary do not encroach any further than the existing brick retaining wall to protect trees on adjoining properties.

- c) Trees located on the southern boundary within the Grammar School's grounds must be protected. A suitably qualified arborist must be engaged to prepare a tree protection plan and make recommendations for the tree's ongoing health during and post construction.
- d) Trees that are removed are to be dismantled and mulched with the mulch being utilised within the proposed landscape works.
- e) Ensure all tree removal work is carried out by or supervised by a qualified tree worker (AQF Level 3 or equivalent) in accordance with the NSW WorkCover Code of Practice for the Amenity Tree Industry, 1998.
- f) Undertake appropriate NATSPEC quality replacement plantings to replace lost canopy cover and amenity.

**Reason:** To confirm and clarify the terms of Council's approval.

- A7 An appropriate form of on-site management with responsibility for the operation, administration, cleanliness and fire safety of the premises, including compliance with the Plan of Management and Emergency Management and Evacuation Plan, must be provided to the premises. The name and 24 hour contact phone number of the accommodation manager or resident caretaker must be prominently displayed in the reception area of the premises.

**Reason:** To confirm and clarify the terms of Council's approval.

## **B Conditions which must be satisfied prior to the demolition of any building or Construction**

- B1 Nil.

## **C Conditions which must be satisfied prior to the issue of any construction certificate**

### **C1 Section 94A Levy**

A total monetary contribution of \$345,745 being paid to Council, pursuant to Section 94A of the *Environmental Planning and Assessment Act 1979*, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

- Note:**
- i) This condition is imposed in accordance with the provisions of the *Newcastle City Council S94A Development Contributions Plan 2006* operational from 15 January 2007. A copy of the plan may be inspected at Council's Customer Enquiry Centre, ground floor of the City Administration Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays.
  - ii) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual

contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation quarters	Approx release date
September	Late October
December	Late January
March	Late April
June	Late July

Any party intending to act on this consent should contact Council's Customer Enquiry Centre for determination of the indexed amount of contribution on the date of payment.

**Reason:** To assist Council in the provision of public facilities within the local government area in response to the additional demand likely to result from the proposed development.

- C2 All proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required under the conditions of this consent being implemented and a comprehensive landscape design plan and specification in respect thereof being prepared by a qualified landscape designer and being submitted with a Construction Certificate application.

**Note:** i) The required comprehensive landscape design plan and specifications is to be in accordance with the provisions of Council's adopted Newcastle Development Control Plan, 2005 and is to include cross sections through the site where appropriate, proposed contours or spot levels, botanical names, quantities and container size of all proposed trees, shrubs and ground cover, details of proposed soil preparation, mulching and staking as well as treatment of external surfaces and retaining walls where proposed, drainage, location of taps and the nominated maintenance periods.

- ii) A Landscape Practical Completion Report is required to be submitted to the Principal Certifying Authority by the consultant responsible for the landscape design plan prior to occupation of the premises or any portion of the premises that is the subject of this consent. The report is to verify that all landscape works have been carried out in accordance with the approved landscape design plan to a high professional standard and that an effective maintenance program has been commenced.

**Reason:** To ensure that adequate and appropriate provision is made for landscaping of the site in association with the proposed development, to enhance the external appearance of the premises and to contribute to the overall landscape quality of the locality.

- C3 Fences being constructed in a high quality presentation style of attractive appearance and of sufficient height to afford adequate privacy to residents in accordance with the performance criteria and provisions of Council's adopted Newcastle Development Control Plan, 2005. Full details are to be included in the documentation for a Construction Certificate application.

**Reason:** To ensure proposed fences and screen walls provide adequate privacy and do not unreasonably detract from the external appearance of the development.

- C4 The applicant complying with all requirements of the Hunter Water Corporation regarding the connection of water supply and sewerage services, including the payment of any required cash contribution towards necessary amplification of service mains in the locality as a result of the increased intensity of land use proposed. A copy of the Corporation's certificate of compliance is to be included in documentation for a Construction Certificate application.

**Reason:** To ensure that water supply and sewerage services are properly connected to the proposed development in the public interest.

- C5 On-site parking accommodation for the urban housing building component of the development (proposed Lot 1) being provided for a minimum of 140 cars (comprising 117 resident parking and 23 visitor parking), as well as 118 bicycle spaces and 8 motor cycle spaces. Such facilities being set out generally in accordance with the minimum parking layout standards indicated in Australian Standard AS 2890.1-2004 '*Parking facilities – off street car parking*', Australian Standard AS 2890.6-2009 '*Parking facilities – off street car parking for persons with a disability*' and Element 4.1 of Council's Newcastle DCP 2005. Full details are to be included in documentation for a Construction Certificate application.

**Reason:** To ensure the provision of adequate on-site parking facilities commensurate with the demand likely to be generated by the proposed development.

- C6 On-site parking accommodation for the boarding house component of the development (proposed Lot 2) being provided for a minimum of 13 cars, as well as secured bicycle spaces and 23 motor cycle spaces. Such facilities being set out generally in accordance with the minimum parking layout standards indicated in Australian Standard AS 2890.1-2004 '*Parking facilities – off street car parking*', Australian Standard AS 2890.6-2009 '*Parking facilities – off street car parking for persons with a disability*' and Element 4.1 of Council's Newcastle DCP 2005. Full details are to be included in documentation for a Construction Certificate application.

**Reason:** To ensure the provision of adequate on-site parking facilities commensurate with the demand likely to be generated by the proposed development.

- C7 All proposed driveways, parking bays and vehicular turning areas being constructed with a basecourse of adequate depth to suit design traffic, being sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers and being properly maintained. All driveways and manoeuvring areas are to be designed in accordance with Australian Standards AS 2890.1 – 2004 '*Parking facilities – Off-street car parking*'. Full details are to be included in documentation for a Construction Certificate application.

**Reason:** To facilitate the use of vehicular access and parking facilities and to minimise any associated noise and dust nuisance.

- C8 Landscaping and any other obstructions to visibility should be kept clear of or limited in height to 0.6 m in the 2.5 metre by 2 metre splay within the property boundary each



side of the driveway entrance. Full details are to be included in documentation for a Construction Certificate application.

**Reason:** To ensure adequate sight distance to traffic on the frontage road and sight distance to pedestrians on the frontage road footway.

- C9 Wheel stops being provided along the front of parking spaces in accordance with AS 2890.1 Parking. Full details are to be included in documentation for a Construction Certificate application.

**Reason:** To ensure safe and convenient use of on-site parking and to minimise vehicular and pedestrian conflict.

- C10 A pavement design report for the construction of the internal access driveway and carpark is to be prepared and certified by a practising geotechnical engineer, and such being included in documentation for a Construction Certificate application.

**Reason:** To ensure the future integrity of the internal road network and carpark of the development.

- C11 Prior to the release of the Construction Certificate the applicant shall prepare an operational Plan of Management for the boarding house. The operational Plan of Management shall address the following as a minimum:

- Maintenance and fire safety in the building;
- Measures to ensure that guest numbers do not exceed those proposed numbers;
- Measures to minimise unreasonable impact to the habitable areas of adjoining premises;
- Proposed staffing arrangements, including location and contact details of the site manager or resident caretaker;
- Prominent display of appropriate house rules eg guest behaviour, activities and noise, visitor policy, operating hours of outdoor common areas, use of alcohol and/or drugs;
- Waste minimisation and recycling; and
- Professional cleaning details and vermin control (as a minimum, shared facilities such as kitchens and bathrooms shall be cleaned to a professional standard at least once a week.)
- Safety and security measures for all residents may include but not be limited to such things as: Internal signage indicating the property caretaker or manager and contact number, emergency contact numbers for essential services such as fire, ambulance, police, and utilities such as gas, electricity, plumbing, installation of perimeter lighting, appropriate fencing and secure gates, all residents to have own room keys, keys for security entrance doors be made available to essential services such as fire brigade in case of emergency and suitable provision be provided for residents to ring emergency services in the event of an emergency, i.e. provision of a landline telephone.

**Reason:** To ensure that the proposed boarding house is managed in an appropriate way to minimise disturbance to the adjoining residents and the internal occupants of the facility.

- C12 The development being designed to satisfy the requirements of the flood management element of the Newcastle DCP 2005 as outlined in the Concept Stormwater Management Strategy and Flooding Report, Revision B, dated Sept. 2010, prepared

by Northrop Engineers. Full details to be included in documentation for a Construction Certificate application.

**Reason:** To minimise the extent of property damage and the risk of injury in the event of future flooding of the site.

- C13 All stormwater runoff from the proposed development being managed in accordance with the requirements of the *Water Management* Element 4.5 of the Newcastle Development Control Plan 2005 and the associated Technical Manual as indicated on the Proposed Stormwater and Levels Plan prepared by Northrop Engineers, (Drawing No. C02DA, Rev. D, dated 07/04/11). Full details to be included in documentation for a Construction Certificate application.

**Reason:** To ensure that site stormwater runoff is properly managed in a safe and sustainable manner.

- C14 A copy of the stormwater drainage design plans approved with the Construction Certificate with 'work as executed' levels indicated, shall be submitted to the Principal Certifying Authority and Newcastle City Council prior to occupation of any part of the development. The plans shall be prepared by a Practising Professional Engineer or Registered Surveyor experienced in the design of stormwater drainage systems.

**Reason:** To ensure the stormwater system is constructed in such a manner that achieves the design's objectives.

- C15 Any alteration to natural surface levels on the site being undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties as a result of the development. Full details are to be included in documentation for a Construction Certificate application.

**Reason:** To ensure that any such proposed works do not disrupt existing natural stormwater flows in the vicinity.

- C16 An easement to drain water, 3 metres wide, from proposed lot 12 (boarding house site) through proposed lot 11 (residential flat development site) being created and piped prior to issue of an Occupation Certificate.

**Note:** All associated survey and legal expenses in this regard are to be borne by the Developer.

**Reason:** To ensure that stormwater from the site can be adequately drained and to minimise the risk of future flooding of the subject property and adjacent property.

- C17 A flood emergency response plan being prepared by independent consultants experienced in flood management and put in place by the applicant prior to occupation of the site for its intended use. The plan to be updated and maintained by the occupiers; to include an education and awareness component for the residents and detailed evacuation procedures where required; to interface with the local State Emergency Services plan (where appropriate) and to include provisions for any third parties likely to be involved.

The flood emergency response plan should address the following components:

- a) likely flood behaviour

- b) potential flood warning
- c) education awareness program
- d) evacuation and evasion procedures
- e) evacuation routes and flood refuges
- f) flood preparedness and awareness procedures for residents and visitors

Considerations should include the full range of flood risks, the proposed use of the site, site access constraints and local area evacuation routes to high ground. As much as possible, the plan should be aimed at self-directed evacuation or evasion to minimise the draw on limited State Emergency Services resources. Full details to be included in documentation for a Construction Certificate application

**Reason:** To adequately manage the risk of life, property and all potential adverse flood impacts within the flood environment.

#### **D Conditions which must be satisfied prior to the commencement of any development work**

- D1 Prior to commencement of site works the developer submitting to Council for approval a Construction Traffic Management Plan addressing traffic control measures to be utilised in the public road reserve during the construction phase.

**Note:** The required plan is to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve. The plan is to be prepared in accordance with Australian Standard 1742.3 – 2002.

**Reason:** To control vehicular and pedestrian traffic movements in the public road reserve during the construction phase

#### **E Conditions which must be satisfied during any development work**

- E1 Construction/demolition work that generates noise that is audible at residential premises being restricted to the following times:

- Monday to Friday, 7:00 am to 6:00 pm;
- Saturday, 8:00 am to 1:00 pm;

With no noise from construction/demolition work to be generated on Sundays or Public Holidays.

**Reason:** To prevent 'offensive noise' from construction/demolition sites in order to safeguard the amenity of the neighbourhood

- E2 No construction/demolition work being undertaken on a Public Holiday or on a Saturday or Sunday adjacent to a Public Holiday

**Reason:** To safeguard the amenity of the neighbourhood.

- E3 Council's 'PREVENT POLLUTION' sign being erected and maintained in a conspicuous location on or adjacent to the property boundary so that it is clearly visible to the public or at other locations on the site as otherwise directed by Council for the duration of construction work.

**Note:** Council's 'PREVENT POLLUTION' sign can be obtained by presenting your development application receipt at Council's Customer Enquiry Counter at 282 King Street Newcastle or at the Master Builders Association office.

**Reason:** To increase industry and community awareness of developer's obligations to prevent pollution and to assist in ensuring compliance with the statutory provisions of the Protection of the Environment Operations Act 1997.

- E4 A Hazardous Substances Management Plan being prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with Australian Standard *AS2601: 2001 - The Demolition of Structures*. A copy of the Hazardous Substances Management Plan is to be provided to Council (marked to Attention: Compliance Services) and the demolisher prior to commencement of work.

**Reason:** To ensure hazardous substances are identified and recommendations made for their appropriate management during demolition.

- E5 The demolition works being undertaken in accordance with Australian Standard *AS2601: 2001 - The Demolition of Structures* and the following requirements:

- a) Demolition works shall be conducted in accordance with the submitted Hazardous Substances Management Plan and a copy of the Hazardous Substances Management Plan shall be kept on-site for the duration of the proposed development;
- b) The removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by WorkCover NSW;
- c) A copy of all waste disposal receipts are to be kept on-site for the duration of the proposed development and made available to authorised Council Officers upon request;
- d) Seven working days notice in writing is to be given to Council and the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor. Notification to owners/occupiers of neighbouring premises shall also include Council's contact telephone number (49742000) and Workcover NSW telephone number (49212900).
- e) On sites where asbestos materials are to be removed, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent position during asbestos removal works.

**Reason:** To ensure demolition works including the removal or handling of hazardous substances is undertaken in accordance with appropriate standards and to protect public health and the environment.

- E6 A dwelling type vehicular crossing 6 m wide and 6 m wide being constructed across the public footway at the proposed driveway entrance/exit at no cost to Council and in

accordance with Council's A17 Series (Concrete Vehicular Crossings) design specifications and such crossing being properly maintained.

**Note:** A separate approval from Council must be obtained for all works within the public road reserve pursuant to Section 138 of the Roads Act 1993. For further information contact Council's Works Depot on 4974 6000 to request a Road Opening Approval. A fee will be payable in this regard.

**Reason:** To ensure the provision of adequate clearly defined and properly constructed means of all-weather vehicular access to the site in order to encourage the use of on-site parking facilities and in the interest of maximising vehicular and pedestrian safety and convenience.

E7 Any redundant existing vehicular crossings being removed at no cost to Council and the public footway and kerb being restored to match the existing infrastructure and being completed prior to the issuing of a Final Occupation Certificate for the proposed development.

**Note:** A separate approval from Council must be obtained for all works within the public road reserve pursuant to Section 138 of the Roads Act 1993. For further information contact Council's Works Depot on 4974 6000 to request a Road Opening Approval. A fee will be payable in this regard.

**Reason:** To clarify site access arrangements in the interest of traffic and pedestrian safety, as well as road efficiency, to maximise kerbside parking opportunity and to ensure that reinstatement work is undertaken to an appropriate standard.

E8 Any necessary alterations to public utility installations being at the Developer/Demolisher's expense and to the requirements of both Council and the appropriate authorities.

**Reason:** To ensure that any required alterations to public utility infrastructure are undertaken to acceptable standards and without demands on public sector resources.

E9 A temporary protective crossing being provided over the footway for vehicular traffic before building operations are commenced. This approval does not permit access to the property over any adjacent private or public land.

**Reason:** To ensure public safety and protection of public assets.

E10 The developer designing and constructing the widening of Corlette Street to match the existing kerb alignment at the Tooke Street intersection along the frontage of the site at no cost to Council and in accordance with Council's current construction requirements. Such works are to be implemented prior to occupation of the premises. Full details are to be included in documentation for a Construction Certificate.

**Reason:** To ensure that public road facilities are upgraded to an appropriate standard having regard to the additional traffic movements likely to be generated by the proposed development.

**Note:** The Developer is advised to confer with Council's Development & Building Services Section in order to confirm Council's design

requirements and construction standards prior to the commencement of the civil works within the public road.

- E11 The proposed visitor parking bays being clearly indicated by means of signs and/or pavement markings.

**Reason:** To encourage the use of the proposed on-site car parking facilities and thereby minimise kerbside parking in the adjacent public road as a result of the proposed development.

- E12 The vehicular entrance and exit driveways and the direction of traffic movement within the site being clearly indicated by means of reflectorised signs and pavement markings.

**Reason:** To ensure that clear direction is provided to the drivers of vehicles entering and leaving the premises in order to facilitate the orderly and efficient use of on-site parking spaces and driveway access and in the interest of traffic safety and convenience.

- E13 All vehicular movement to and from the site being in a forward direction.

**Reason:** To ensure that the proposed development does not give rise to vehicle reversing movements on or off the public road with consequent traffic accident potential and reduction in road efficiency.

- E14 The Developer instituting appropriate erosion protection and soil stabilisation measures in association with the proposed site works. Such measures to be designed in accordance with the requirement of the Reference Blue Book (Landcom). Full details to be included in the documentation for a Construction Certificate application.

**Reason:** To control soil erosion and prevent sedimentation of surrounding lands both private and public.

**F Conditions which must be satisfied prior to any occupation or use of the building**

- F1 All public footways, footpaving, kerbs, gutters and road pavement damaged during the works being restored to match existing conditions at the Developer's/Demolisher's expense.

**Reason:** To ensure that the required restoration is undertaken to acceptable standards and without demands on public sector resources.

- F2 Prior to selection and installation of mechanical plant, including car park exhausts, noise emission data for mechanical plant items are to be reviewed by an appropriately qualified acoustic professional to ensure cumulative Sound Power Levels within the rooftop plant room does not exceed 65dB(A) at a distance of 1m in accordance with the recommendations of the Reverb Acoustics report dated September 2010. Certification of the appropriateness of the equipment and installation location by an appropriately qualified acoustic professional is to be prepared and submitted to the Principal Certifying Authority and Council prior to the issue of an Occupation Certificate for any part of the development.

**Reason:** To ensure appropriate selection of mechanical plant and noise control measures in order to protect the existing amenity of the neighbourhood.

**G Conditions which must be satisfied prior to the issue of any Subdivision Certificate**

- G1 Submission to the Principal Certifying Authority of a Subdivision Certificate Application accompanied by the appropriate fees as required by the Principal Certifying Authority. The application is to be supported by a survey plan of subdivision, seven copies thereof and a Section 50 Certificate from the Hunter Water Corporation.

**Reason:** To ensure compliance with the requirements of the Environmental Planning and Assessment Act 1979.

- G2 The appropriate notation being placed on the plan of subdivision and an instrument under Section 88B of the Conveyancing Act being submitted to Council setting out the terms of easements as required by this consent. Council in addition to the owner of the land benefited by the easement is to be a party whose consent is needed to release or vary easements.

**Reason:** To ensure that the required easements and/or 'Rights of Carriageway' are properly registered against the title of the land and are only released, varied or modified at a future date with the concurrence of Council.

**H Conditions which must be satisfied during the ongoing use of the development**

- H1 All building work must be carried out in accordance with the provisions of the Building Code of Australia.

**Reason:** To confirm a condition of consent prescribed by the Environmental Planning & Assessment Regulation 2000.

- H2 If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land (including any public road or place), the person causing the excavation to be made:

- a) must preserve and protect the building from damage, and
- b) if necessary, must underpin and support the building in an approved manner, and
- c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

**Reason:** To confirm a condition of consent prescribed by the Environmental Planning & Assessment Regulation 2000.

- H3 Appropriate lighting being provided for the car park and pedestrian pathways in accordance with AS 1158 - Lighting and AS 4282 - 'Control of the Obtrusive Effects of

Outdoor Lighting,' such being installed prior to the occupation of the portion of the premise the subject of this application.

**Reason:** To ensure that adequate and appropriate lighting facilities are provided for the proposed development.

- H4 Appropriate arrangements being made for the collection of waste (recyclable and non-recyclable) from the development and such arrangements being in place prior to the occupation of the premises the subject of this development application.

**Reason:** To ensure suitable garbage removal arrangements are provided in association with the proposed development in the interest of public safety.

- H5 Separate bins being provided within the proposed development to enable the on-site separation of recyclable and non-recyclable garbage, such arrangements being in place prior to the occupation of the premises the subject of this development application.

**Reason:** To ensure suitable garbage arrangements are provided in association with the proposed development in accordance with Council's Waste Minimisation Policy.

- H6 The maximum size vehicle that shall access the development is to be a heavy rigid vehicle (HRV) 12 metres in length as defined in Australian Standard AS 2890.2 – 2002 – 'Parking facilities – Off-street commercial vehicle facilities'. Under no circumstances should any vehicle larger than this enter the site.

**Reason:** To control vehicular activity associated with this development in the interest of public safety and amenity.

- H7 The developer being responsible for the provision of additional regulatory signage and all adjustments to and/or relocation of existing regulatory signage as part of this development at no cost to Council and in accordance with Council requirements, such works to be implemented prior to the occupation of the premises.

**Note:** Alterations to regulatory signage will need to be referred to the Newcastle City Traffic Committee for approval.

**Reason:** To ensure that public road facilities are upgraded to an appropriate standard having regard to the additional traffic movement and pedestrian activity likely to be generated by the proposed development.

- H8 All external ramps and pathways within the site required to be accessible for persons with disabilities being designed and constructed in accordance with AS.1428 – 'Design for Access and Mobility'. Kerb ramps are to be provided adjacent to disabled parking bays. Full details are to be included in documentation for a Construction Certificate application.

**Reason:** To ensure appropriate disabled persons access is provided for this development in accordance with the appropriate standards.

- H9 Proposed parking areas, driveways, vehicular ramps and turning areas being maintained clear of obstruction and being used exclusively for purposes of car parking and vehicle access, respectively. Under no circumstances are such areas to be used for the storage of goods or waste materials.



**Reason:** To ensure the proposed/required parking, facilities and associated driveways are able to function efficiently for their intended purpose and are not otherwise used in a manner which detracts from the overall appearance of the development.

H10 No work within the public road being commenced until Council's separate written approval has been obtained.

**Note:**

- 1) A separate road works application is required for the works to be undertaken in the public road.
- 2) Engineering design plans and specifications for the works being undertaken in the public road reserve are required to be submitted to Council for approval with the Road Works application.
- 3) An additional fee will be required by Council for the assessment of engineering plans submitted for the public road works. In this regard the developer is advised to confer with Council's Development & Environment Section in order to confirm this fee.

**Reason:** To ensure that any work within the public road is carried out in accordance with Council's and the Roads & Traffic Authority's requirements and under Council supervision.

H11 Written certification from a Practising Geotechnical Engineer that the internal access driveway and carpark has been constructed in accordance with the geotechnical requirements is to be submitted to the Principal Certifying Authority prior to the occupation of any part of the development.

**Reason:** To ensure the future integrity of the internal access driveway and carpark of the development.

H12 Appropriate bus shelters being provided in accordance with Council requirements at no cost to Council at the bus stops designated as servicing the subject development. Full details to be included in documentation for a Construction Certificate.

**Reason:** To ensure that adequate and appropriate facilities are provided for residents utilising public transport.

H13 An acoustic fence being constructed along the full length of the northern boundary of Lot: 2 DP: 1050041 known as 121 Union St. The fence is to be a lapped and capped timber fence or materials with similar or greater acoustic properties, to a height of 1800mm, and maintained such that no significant gaps exist in the fence. The fence is to be constructed prior to the issue of an Occupation Certificate for any part of the development.

**Reason:** To ensure appropriate noise control measures are implemented and amenity of the area is protected.

H14 Continuous monitoring of peak vibration levels being conducted at properties considered to be potentially impacted by vibration due to site works as determined by a suitably qualified consultant. The results of vibration monitoring are to be provided to Authorised Council Officers upon request.

**Reason:** To confirm the terms of consent, allow assessment of vibration impacts on neighbouring properties and ensure compliance with the relevant assessment criteria.

H15 A privacy screen being provided to the northern edge of north facing decks of proposed Units 101, 102 and 103. The privacy screen is to be a minimum height of 1.6m above deck floor level, permanently fixed and has a maximum area of 25% openings. Screens are to be installed prior to the issue of an Occupation Certificate for Units 101, 102 and 103.

**Reason:** To ensure adequate privacy is maintained between the development and adjoining properties.

H16 The balustrade of the northern facing decks of proposed Units 203, 203, 302 and 303 to be a minimum height of 1.2m above deck level and constructed of obscure glazing.

**Reason:** To ensure adequate privacy is maintained between the development and adjoining properties in accordance.

H17 The balustrades of unit balconies facing Union Street on Levels 01 and 02 are to be constructed of obscure glazing which are to be installed prior to the issue of an Occupation Certificate for these units.

**Reason:** To ensure adequate levels of privacy for occupants.

H18 The fencing to the northern side boundary to be as per the landscaping plan by Terras Landscape Architects, Job No. 8728.5, dated 15 April 2011. Any upgraded fencing (if required) is to be at a minimum a 1.8 m high, lapped timber paling fence, or equivalent, being erected in consultation with the adjoining owners involved.

**Note:** Any dispute which may arise between the developer and the adjoining property owners in respect of this matter is to be resolved in accordance with the provisions of the Dividing Fences Act.

**Reason:** To minimise any adverse impact which the proposed development may have upon the neighbouring dwellings in terms of noise nuisance or loss of privacy.

H19 A 1.8 m high, lapped timber paling fence, or equivalent, being erected along the southern boundary of the site in consultation with the adjoining owners involved.

**Note:** Any dispute which may arise between the developer and the adjoining property owners in respect of this matter is to be resolved in accordance with the provisions of the Dividing Fences Act.

**Reason:** To minimise any adverse impact which the proposed development may have upon the neighbouring dwellings in terms of noise nuisance or loss of privacy.

## **I Other Agency Conditions**

I1 The applicant must obtain a licence under Section 12 of the *Youth and Community Services Act, 1973* if such a licence is required under that Act.

**Reason:** To ensure the owner of the premises does not commit an offence under the *Youth and Community Services Act, 1973* and to ensure that persons with a disability are accommodated in housing of a sufficient standard that provides for their health, comfort, safety and proper care.

- I2 Working drawings and specifications of the proposed buildings being submitted to the NSW Mine Subsidence Board for approval prior to an application for a Construction Certificate. Any requirements of the Board are to be complied with.

**Reason:** To ensure that structural stability of the proposed development having regard to underground mine workings.

## **J Advisory Notes**

- J1 Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Act 1979 (the 'Act') are to be complied with:

- a) A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
- b) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act and form 7 of schedule 1 to the Regulations.
- c) Council is to be given at least two days notice of the date intended for commencement of building works, in accordance with Section 81A(2)(c) of the Act and Form 7 of Schedule 1 to the Regulations.

**Reason:** To advise of matters to be resolved prior to the commencement of work.

- J2 A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

**Reason:** To ensure compliance with Clause 172 of the Environmental Planning and Assessment Regulation 2000.

- J3 Prior to the occupation of a new building, or, occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Clause 155 of the Environmental Planning and Assessment Regulations.

**Reason:** To ensure compliance with Section 109M of the Environmental Planning and Assessment Act 1979, as amended.

## **APPENDIX B – Plans and Elevations**