



Our Ref:CM:KP:238438

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18<sup>th</sup> August 2011

The General Manager  
Newcastle City Council  
PO Box 489  
Newcastle NSW 2300

Attention: Peter Chrystal

Dear Peter,

**RE: 121 & 123 UNION STREET COOKS HILL  
DEVELOPMENT APPLICATION 10/1511**

We refer to the JRPP meeting of 28 July 2011 at which the proposal for a residential flat building and a boarding house at the subject site was considered and deferred until 1 September 2011, with the proponent to address a number of points. This letter and relevant attachments address the points raised.

**1) CERTIFICATION FROM A COMPETENT PERSON OF THE BUILDING HEIGHTS OF ALL PROPOSED BUILDINGS ON THE SITE, CLEARLY STATING THE PROPOSED BUILDING HEIGHTS IN RELATION TO EXISTING GROUND LEVEL AND DISTINGUISHING COMPLYING AND NON-COMPLYING ELEMENTS WITH SHADING OR COLOURING.**

Please find attached plans that have been independently certified by a registered surveyor from DeWitt Consulting as to the height of the buildings as requested. A report has been prepared to this effect and is attached.

It is important to clarify a number of aspects as to the calculation of height. Height controls for this site are currently contained within Newcastle DCP 2005. Height and ground level within the DCP are defined as:

**Building Height (or Height of Building):** the vertical distance between the ground level (existing) at any point to highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

**Existing ground level:** means the ground level in existence immediately prior to the commencement of proposed building or site works, taken at the lower side of a sloping block.

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The attached plans show the heights calculated based on the literal wording of the request of the JRPP. However we make the following observation in relation to the DCP definition of "existing ground level".

The subject site has undergone excavation as a result of the existing Bimet lodge development. This has had the effect of reducing the ground level of the site, this is most prominent in the North East corner of the site (However the site boundary reflects the pre existing natural ground level). This has an impact when calculating height. It is perhaps more correct to interpret the definition of "existing ground level" under the DCP as being the original ground level in existence "immediately prior to the commencement of proposed building or site works..." that is to say that the existing ground level as it was immediately prior to the Bimet lodge building works.

To provide assistance in the consideration of interpreting the definition of height we have also turned to the DOPI publication "*Residential Flat Design Code – Tools for improving of residential flat buildings*". This is a document specifically referenced for consideration when making an assessment under SEPP 65. The document says that:

"height is the distance above ground taken from each point on the boundary of the site."

Having regard to the above discussion on the DCP and in reference to the Residential Flat Design Code it is considered that the most appropriate method of calculating height is from ground at the boundary. In relation to the subject site this is in fact natural ground before Bimet lodge was constructed. This is also considered appropriate because it is at a site's boundaries that a development has the potential to have its' greatest impact.

In addition, the Residential Flat Design Code approach to height is a more common sense approach to the interpretation of height. Otherwise, to provide as an extreme example, height could be measured from the bottom of the existing swimming pool on the site as this is "existing ground" at that point.

Accordingly in addition to the attached plans showing the building heights as measured from existing ground in its literal interpretation the plans have also been marked to show the height as considered more appropriately measured from the existing levels at the boundary of the site.

The extent to which the buildings sit outside of the control height (however defined) is considered to not have a significant impact on the amenity of neighbours or streetscape noting the proposed setbacks, measures taken to protect privacy and shadow diagrams.

## **2) INVESTIGATION AND ADVICE ON THE FEASIBILITY OF VEHICULAR ACCESS TO THE SITE FROM UNION STREET**

The proponent in the early phase of the project was advised by Council that access off Union Street would not be permitted. However, in response to the community desire shown at the JRPP meeting for such an access Council has reviewed its position. Accordingly the Project Architect has now spent significant time in reconsidering this design option. The attached amended plans now include an access off Union Street.

## **3) CLARIFICATION OF BOUNDARY OFFSETS**

The attached plans clearly show dimensioned offsets.

In relation to the concern about offsets to the proposed new boundaries we advise that these offsets are also shown on the attached plans. Offsets from these boundaries comply with the minimum requirements under the Building Code of Australia. Compliance with boundary offsets relative to any DCP control is not necessary given that the boundaries are internal of the site and that on merit assessment the appropriate building separation distances have been achieved.

**4) ADVICE ON THE OPPORTUNITY TO RE EXAMINE ALTERNATIVE DESIGN OF THE PROPOSED DWELLINGS IN THE NORTH WESTERN CORNER OF THE DEVELOPMENT TO IMPROVE THE PRIVACY AND AMENITY OF THE EXISTING ADJOINING DWELLINGS**

The North West corner has been significantly redesigned to take account of the new proposed Union Street access. This has resulted in a greater side boundary setback at this location and further improvement to the privacy and amenity of the existing adjoining dwellings. Further to this, the north-east facing 1-bedroom unit of this building has been re-orientated to face east rather than north, reducing privacy impact to residents to the north.

**5) A REVIEW ADVICE RESPONDING TO MARK WAUGH'S TRAFFIC COMMENTS DATED 22ND JULY 2011 IN RELATION TO THE PROPOSED DEVELOPMENT**

The comments provided in the Mark Waugh submission of 22 July 2011 have been addressed by TPK & Associates, including having regard to the new proposed access on to Union Street. TPKs report is attached.

**6) FURTHER CONSIDERATION OF THE OPPORTUNITY TO PROVIDE A WIDER RANGE OF DWELLING TYPES INCLUDING MORE 2 AND 3 BEDROOM DWELLINGS, NOTING THAT THE CURRENT PROPOSAL IS OVERWHELMINGLY SINGLE BEDROOM DWELLINGS**

The proponent has given substantial consideration to the mix of dwellings. The proposed development and mix of units has been designed in direct response to market demand. Please find attached a report prepared by Mr Andrew Walker of Street Real Estate who has a detailed understanding of the Newcastle Market. Essentially the market has been undersupplied of 1 bedroom dwellings for some time. This growing under supply is also contributed by the gradual reduction in housing occupancy rates.

We note that the zone objectives for the 2(b) Urban Core zone are that the zone is to provide for (a "....diversity of housing types". The zone does this by permitting within it the full range of housing types including boarding houses, town houses, villas, detached dwellings, dual occupancies & residential flat buildings. The zone objectives (and the LEP overall controls) do not specifically identify that a mix of 1, 2 or 3 (or other number) bedroom dwellings is required in respect of any particular site, similarly the objectives (and the LEP overall controls) do not identify what the mix of housing types should be for a site. This allows the market to respond to housing needs.

Essentially the existing mix of housing across the locality does not provide for adequate numbers of 1 bedroom dwellings. The proposed development is an opportunity to address this situation. Demand suggests that there is already an adequate supply of 2 and 3 bedroom dwellings within the locality.

In addition to the above the building has been designed in such a way so as to allow 2 x linear 1 bedroom apartments ( types 'A' and 'F' as indicated on the plans) to be altered to form a 3 bedroom apartment (type 'I' as indicated on the plans) if the market demand alters.

In the redesign of the North West building the unit mix was adjusted to reduce the units within the Residential Flat Building by 8 x 1 bedroom apartments and replace it with 3 x 3 bedroom units.

**7) CERTIFICATION FROM A COMPETENT PERSON OF THE PROPOSED GROSS FLOOR AREAS OF THE PROPOSED DEVELOPMENT**

DeWitt Consulting surveyors have certified the gross floor areas of the development, see attached. It can be seen that they are within the same tolerances of the measurements made by the Project Architect and that the resulting FSR calculations are below that permitted under Council's DCP. In addition the proposed redesign of the North West corner has resulted in an overall reduction in Gross floor Areas of approximately 250sqm.

**8) PROVISION OF A LOCAL CHARACTER STATEMENT FOR THE BOARDING HOUSE COMPONENT OF THE PROPOSED DEVELOPMENT, GIVEN THAT SUCH CONSIDERATION APPLIES UNDER CLAUSE 54A (3) OF THE CURRENT SEPP.**

Please find enclosed the requested character statement prepared by ADW Johnson and CKDS Architecture.

Yours faithfully  
ADW Johnson (hunter office)

A blue ink signature, appearing to read 'Craig Marler', is written over the printed name.

**CRAIG MARLER**  
**SENIOR PLANNER**