

The City of Newcastle

JRPP No.	2011HCC042
DA No.	DA 11/1391
Proposal	ERECTION OF A SIX LEVEL, 93 UNIT RESIDENTIAL DEVELOPMENT WITH ASSOCIATED PARKING FACILITIES
Property	282 BRUNKER ROAD, ADAMSTOWN
Applicant	TOUCHSTONE PROPERTY SOLUTIONS
Report By	DEVELOPMENT AND BUILDING SERVICES

Assessment Report and Recommendation

Executive Summary

Proposed Development

The application has been submitted seeking planning consent to construct a six storey residential flat building comprising 86 units with an additional 7 x two storey terraces incorporated into the west elevation fronting Date Street. The proposed development is to be constructed over the existing Adamstown Club car park and on three neighbouring residential properties which will require the demolition of these existing single dwellings. The proposal includes a multi-level basement car park for car parking spaces associated with the residential units and to cater for the Adamstown Club. The proposal includes details for site preparation works, associated landscaping and services.

Referral to Joint Regional Planning Panel

The proposal is referred to the Joint Regional Planning Panel for determination pursuant to Part 4 'Regional Development' of *State Environmental Planning Policy (State and Regional Development) 2011* as the proposal is listed in Schedule 4a of the *Environmental Planning and Assessment Act 1979*, given the application has a Capital Investment Value of more than \$20 million.

Permissibility

The application was lodged prior to the Newcastle Local Environmental Plan 2012 (NLEP 2012) being adopted. Clause 1.8a of the NLEP 2012 identifies the savings provisions relating to such development applications stating '*the application must be determined as if this Plan had not commenced*'.

Accordingly, the Newcastle Local Environmental Plan 2003 (NLEP 2003) would be the relevant planning instrument.

The land is zoned 2(b) Urban Core and 3(a) Local Centre under the NLEP 2003. The majority of the proposed development is located within the 2(b) Urban Core zone of which *Urban Housing* and *car parks* are permissible with consent. The proposed reconfiguration of the existing club car park is located within the 3(a) zone and is permissible with consent.

Nevertheless, significant weight is to be placed on the NLEP 2012 as, at the time of lodgement, the instrument was in its draft form and had been adopted by Council and referred to the Department of Planning and Infrastructure for making.

The land is zoned R4 - High Density Residential with part of the development being located in a R3 – Medium Density Residential zone pursuant to the Newcastle Local Environmental Plan 2012.

The proposal involves two elements in the design which are separately defined as being a Residential Flat Building and Multi Dwelling Housing. Both land uses are permissible in an R4 zone with development consent. The proposal involves an associated car park in the R3 zone. Car parks are permissible with consent.

Consultation

Advertising

The application was publicly exhibited in accordance with the Newcastle Development Control Plan 2005 from 2 to 16 December 2011. Sixty one written objections, a petition objecting to the development with 45 signatures, 1 letter of support, 1 request for mediation and 1 request for public voice were received.

The application has since been amended resulting in the loss of two units, the latest amendments were submitted to Council on the 26 July 2012. The revised plans were publicly exhibited in accordance with the Newcastle Development Control Plan 2012 from 6 August to 20 August 2012. Twenty Eight written representations were made objecting to the amended development proposal. This represented four new objectors.

Objections raised can be summarised generally as:

- Traffic impacts to the surrounding road network and Date Street during construction and operation
- The building is large and bulky and does not fit in with the character of the area
- Proposal is not within the policy context
- Impact on neighbouring amenity
- The development provides for the wrong demographic
- The financial position of the Club should not be the driving force
- Infrastructure impacts
- Flooding impacts
- Social impacts

Integrated

The application is not 'integrated' or 'advertised' development pursuant to the *Environmental Planning and Assessment Act 1979*.

Referrals

Internal Referrals

Environmental Health / Compliance – The proposal is generally acceptable in regard to acoustic and land contamination matters associated with the main construction that could not be adequately ameliorated by planning conditions. Limited information has been provided with regard to the any lighting impacts that may result of the smaller adjacent secondary car park on Date Street.

Building – No comments, no objections.

Engineering (Stormwater and Flooding) – The revised plans adequately consider matters of stormwater and flooding and appropriate conditions could be imposed to any consent that may be granted.

Engineering (Traffic) – No in-principle objection is raised. However, the amended plans have not adequately considered details of pedestrian and vehicle access which are likely to result in significant redesigns of the proposal and the development can not be supported in its current form.

Social Planner – The recommendations of the Social Impact Assessment have been adequately considered in the current design and no objection is raised.

Property Manager – No objection, however there is a section of land adjacent 59 Date Street which is marked for road acquisition by Council.

External Referrals

Hunter Water Corporation – There is sufficient water capacity to supply the development. The sewer would require additional upgrade works to handle the additional capacity.

Roads and Maritime Services (RMS) – No objection in principle. Development unlikely to affect State road network.

NSW Police Force – Crime Prevention Officer – No comments or recommendations have been received to either referral.

Urban Design Consultative Group (the UDCG) – The UDCG remain unsupportive of the current design, not being satisfied that the proposed design adequately addressed the 10 design principles of SEPP 65 ‘*Design Quality of Residential Flat Development*’.

Key Issues

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

- Whether the proposal in terms of visual impact, density and scale is acceptable
- Whether the proposed development fits within the local context
- Whether the variances to Council's controls on height; setbacks; car spaces; storage and landscaping would be acceptable
- Whether the development will impact upon the surrounding road and pedestrian network
- Whether the logistics of the proposed development integrate the two land uses of the residential and Adamstown Club
- Whether the development will have impacts to the nearby heritage items
- Whether the development offers adequate pedestrian access

Recommendations:

Whilst an acceptable proposal in principle, the proposed development fails to adequately address the 10 design principles of State Environmental Planning Policy 65 as highlighted by the UDCG. The proposed development additionally exceeds a number of development controls that are applicable to this site and lacks significant detail in numerous areas including, but not limited to the logistics of how the two adjacent land uses of the Adamstown Club and the residential building will successfully operate in harmony and in perpetuity.

In considering the areas of non-compliance, the resultant built form would be an excessively large and overbearing development in the context of this site to the detriment of the surrounding existing and future character to this part of Adamstown which would require a

significant redesign of the development and likely similar reductions to the overall development.

On this basis, it is recommended that the proposed development for 93 residential units and associated car parking be refused.

1. Background

The application has been submitted for and on behalf of the Adamstown Club which is located immediately to the east of the site and proposes a residential unit development over the existing Club car park. The car park currently provides parking for some 109 parking spaces.

The existing Club has been recently renovated and includes a premises generally involving a restaurant, cafe, 3 x function rooms, bar area and gaming rooms.

The application details that the proposal involves the construction of a multi-unit flat development for the purposes of the existing and changing demographics associated with Adamstown. Two separate versions of the proposal have been reported to the Urban Design Consultative Group, although the second version did not form part of a complete submission and consequently were not formerly submitted. The current submission includes the amendments and a number of additional reports, report amendments and project amendments to reflect the applicant's interpretation of Council's, external referral's and the UDCG comments.

Generally, the fundamental design of the proposal has not been altered from the original submission albeit, has resulted in the loss of two units. The latest amendments have been through a recent re-consultation process due to the long period in between the original submission and the current proposal.

The assessment and this report is based on the current amended version of the plans attached as **Appendix A**.

2. Site and Locality Description

The application site involves the Adamstown Club, the adjacent car parks and three residential properties along Date Street. Specifically, the subject property comprises Lot 7, DP 668223 (53 Date Street), Lots A and B, DP 362716 (55 and 57 Date Street), Lot 1, DP 1002163 (282 Brunner Road – Adamstown Club), and Lot 38, Section A, DP 10602 (59 Date Street). Although included in the site, the existing Club will not be altered in the proposal except for a reconfiguration of the existing small car park.

The site is best described as being a "T" shaped allotment with frontages to Brunner Road, Victoria Street and Date Street. The site is bisected on the southern side by an existing pedestrian footway linking through from Date Street to Brunner Road.

Brunner Road follows a natural ridge line and the subject site falls some 3.5m to the west toward Date Street. The development site currently supports three single dwellings and a carpark for the Adamstown Club. The three single dwellings are located on the southern end of the site and front onto Date Street. Vehicular access to all properties is currently from Date Street.

The site is located on the western edge of the Adamstown commercial centre which consists of a strip of small shops including the locally listed heritage item supporting the Veterinary Centre, the Adamstown public library and the Bowling Club. To the west of the site is a well established residential area. Existing development on adjoining sites comprises the Nags Head Hotel to the north east, a locally listed heritage item, mixed residential allotments and

low density unit developments to the north, west and south. Refer to the diagram below for a plan showing the site and general locality. Additional plans are provided in Appendix A to this report.



3. Project Description

The application comprises the redevelopment of the existing Club car park and demolition of three residential properties to construct a six storey residential flat building comprising 86 units and seven, two-storey terraces and associated courtyards incorporated into the ground level west elevation.

The residential development generally consists of a singular rectangular, block form over an above ground car park that extends into basement level into the site. The building is to be constructed in neutral tones of white and grey. Small columns and blades will be accented to emphasise key elements of the design. The design has incorporated seven, two-storey terraces into the Date Street frontage which have been reported to incorporate the development in amongst the existing street character and to disguise the raised car park from Date Street.

Each unit has access to individual private balconies and courtyards and to a communal rooftop garden.

The following table summarises the residential unit mix:

Dwelling type	Floor Area	Number
Studio Unit Apartment	48m ² - 54m ²	15
One-Bedroom Apartment	54m ² – 58m ²	41
Two-Bedroom Apartment	65m ² – 100m ²	29
Two-Bedroom Terraces	65m ² – 100m ²	7
Three-Bedroom Apartment	89	1
Total Apartments		93

The proposal includes a basement car park for the residential units and to cater for the Adamstown Club. A total of 243 car parking spaces are proposed (91 are allocated for residential use, 8 spaces are accessible); 104 bicycle spaces and 15 motorcycle spaces and are included in a 6 'split' level basement car park arrangement, the neighbouring ground floor site on Date Street and the existing outdoor car park off Bruncker Road.

Vehicular access is proposed from Date Street. This access will allow for two-way car movement associated with access to the basement car park for residential use and Club use. The access will act as a 'one way' in movement only for vehicles wanting to access the existing Club car park on Bruncker Road, the Veterinary Centre and for all servicing vehicles and truck movements. These will be required to exit the site from a new 'exit only' access onto Victoria Road. An additional access point is to be created further south on Date Street to access a new proposed car park.

Pedestrian access for the apartments is proposed through two main ground level secure entry foyers on Victoria Street and Date Street, each with access to a lift system and stairwell. A third access is provided via a stairwell on Date Street. Internal access is available from the basement car park which accesses the lift system. A separate third lift is provided from the basement car park to the ground level, providing access to the Adamstown Club. Each of the seven two storey terraces fronting Date Street have direct access through a private courtyard to Date Street and separate secure access from the basement car park.

The application additionally includes details for site preparation works and associated landscaping and services.

A copy of the submitted plans and associated reports are attached to this report as Appendix A.

4. Consultation

The application was publicly exhibited in accordance with the Newcastle Development Control Plan 2005 from 2 December 2011 to 16 December 2011. Sixty one written objections, a petition against the development with 45 signatures, 1 letter of support, 1 request for mediation and 1 request for public voice were received.

The application has been amended resulting in the loss of two units, the latest amendments were submitted to Council on 26 July 2012. The revised plans were publicly exhibited in accordance with the Newcastle Development Control Plan 2012 from 6 August to 20 August 2011. Twenty eight written representations were made objecting to the amended development proposal.

It is noted that the latest amendments had removed two units and altered minor elements of the design that Council consider to not have fundamentally altered the proposal. The additional notification was undertaken predominantly to advise neighbouring properties of the development given the large time frame that had passed since receiving amendments to

the originally submitted scheme. Accordingly, the objections raised to the original submission are considered relevant to this current proposal. Of the 28 objections received to the second notification, 24 objected to the original.

The application is therefore being assessed with the following submissions. 65 written objections, a petition with 45 signatures, 1 letter of support, 1 request for mediation and 1 request for public voice.

Objections raised during the consultation process raised the matters summarised below. These have been considered in the report and summarised in section 6(a)(iii)(a)(v)(d) Public Submissions.

- Traffic impacts to the surrounding road network and Date Street during construction and operation
- The building is large and bulky and does not fit in with the character of the area
- Proposal not within the policy context
- Impact on neighbouring amenity
- The development provides for the wrong demographic
- The financial position of the Club should not be the driving force
- Infrastructure impacts
- Flooding impacts
- Social impacts

5 Referrals

Statutory Referrals

Hunter Water Corporation – No comments received. The applicant submitted a letter provided by the HWC confirming that there is sufficient water capacity to supply the development. The sewer would require additional upgrade works to handle the additional capacity.

Roads and Maritime Services (RMS) – Required to be notified under Schedule 3 of SEPP (Infrastructure) 2009 due to proposed parking numbers and total dwelling numbers. The RMS raised no objections in principle to the development as the development will have no significant impact upon the classified (State) road network. However, The RMS brought the following matters to the attention of the Council for further consideration: the narrow alignment of Date Street in this location; the poor functioning intersection of Date Street / Glebe Road and Victoria Street / Brunner Road; Ministerial Direction 3.4 (*Integrating Land Use Development and Transport*) under Section 117 of the EP&A Act 1979 – specifically the provision of adequate access to public transport for the elderly; A Construction Traffic Management Plan should be undertaken; internal traffic arrangements; noise attenuation from road traffic.

NSW Police Force – Crime Prevention Officer – No comments or recommendations have been received to either referral.

Urban Design Consultative Group (the UDCG) – The application has been presented to the UDCG on two separate occasions, the latter incorporating design amendments to address the UDCG's initial concerns. In the first presentation, the UDCG was not satisfied that the proposed design adequately addressed the ten design principles of SEPP 65 '*Design Quality of Residential Flat Development*' and advised they did not support the current design. Their reported concerns referred to the proposed large singular volume of development, its small setbacks over a pre-determined car-park offered limited opportunities for an acceptable

response to the current setting. The UDCG's initial response suggested a significant re-design.

An amended version of the proposal altered the design, but in maintaining the overall unit (loss of two) and parking yield were unable to respond to the UDCG's concerns. The UDCG upheld their lack of support for the proposal in that the large singular volume would remain at odds with the existing setting. Among other matters, the location of the development over a two storey car park exacerbates this impact which appears far greater an impact than any other foreseeable future development within the immediate visual catchment of the site.

Internal Referrals

Internal referrals were made to the following:

Environmental Health / Compliance – The applicant undertook an acoustic assessment in response to Council's concerns with the original submission, specifically in regard to the potential impact of the plant and equipment associated with the commercial properties and the Club to the rear and to the operational impacts of the Club. Environmental health staff were satisfied that the revised design could be adequately treated in accordance with the recommendations of the report to ameliorate potential acoustic impacts and a number of conditions were recommended to be imposed on any development consent that may be issued.

A second letter of advice was issued in regard to the proposed additional car parking component added into the latest amendments. Council staff were not satisfied with the current limited detail provided with regard to the operation, use and design of the car park and were concerned that the car park had the potential to create acoustic and lighting impacts to the neighbouring properties, specifically number 61 Date Street.

Building – No comments, no objections.

Engineering (Stormwater) – The submitted storm water management plan and erosion sediment control plan are acceptable. Conditions were recommended to be imposed on any development consent that may be issued.

Engineering (Flooding) – Council's engineers confirmed that the revised submission now adequately addresses flooding concerns raised in response to the original scheme. The amended plans demonstrate that the floor level of the units will be above the flood planning level.

Engineering (Traffic) – Although no objection was raised in principle to the development, a number of concerns were raised in response to the original submission that required the preparation and lodgement of various additional traffic studies and information with the potential for a re-design of the project.

The amended plans, as supported by an additional traffic assessment, were assessed and overall could not be supported in their current form.

Of particular mention, Council supported the retention of the current road width of Date Street as it acted as a natural traffic regulator, however acknowledged the limited width of the public footway in front of the development along Date Street. The limited width of the pavement would be exacerbated by the location of power poles in the midst of the pavement. It was recommended that the footway be widened to a minimum of 3.5m; The applicant has not considered or adequately ameliorated the potential impact of head light glare; The accesses to and from the development do not maintain adequate sight lines; Location of a power pole close to the car park driveway; no adequate *right of carriageway* has been provided for the Veterinary Centre; Operational logistics with both the Club car

parks; the secondary car park will require vehicles to leave in a forward direction and consequently less parking provision for this site – shortfall in parking; inadequate pedestrian linkages from the secondary club car park to the adjacent site; additional pedestrian safety measures to be incorporated in the foot crossing between the development and the Club; no Green Travel Plan has been provided.

Whilst the above matters are a request for additional information and clarification, it is noted that compliance with these matters would likely affect the overall design of the proposal.

Social Planner – Raised concerns that the design of the development does not respond to the broader and emerging housing needs of the Local Government Area community. The area has a high ageing community and the development initially provided three adaptable dwellings (3%). It was unclear as to how the accessible car parks are to function.

The applicant amended the internal layout of a number of the units in response to a further Social Impact Assessment submitted to Council for review. The conclusions of the report were satisfactory.

Property Manager – Confirmed that the surrounding road networks are dedicated Council Roads. The section of Date Street that widens immediately adjacent number 59 Date Street is in Council ownership but is not dedicated. This is a section of road that is identified as being dedicated in the future.

6. Section 79C Considerations

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

State Environmental Planning Policy No. 55 - Remediation of Land

The proposal involves the excavation of soils on the site and State Environmental Planning Policy No. 55 applies.

The applicant has identified that the site has been utilised as a car park and no evidence has been found that would advise otherwise. Accordingly, the applicant proposes that it is unlikely that the site would be contaminated.

Council's Compliance Services Unit has reviewed the information and generally concurs with the statement. It was noted that the application had not considered the three residential properties that are proposed to be demolished and these properties have the potential to contain hazardous materials such as asbestos and lead (in paint). It was not considered necessary for the applicant to undertake a phase 1 assessment of these properties as the proposed use to a car park and access road, will be a less sensitive land use than the existing.

Council is generally satisfied that the site is not contaminated and should consent be granted, adequate conditions could be imposed to control the removal of excavated materials, quality of imported fill and removal of potential hazardous demolition material.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

SEPP 65 is applicable to this development as it is defined as being a 'residential flat building' in that it meets the criteria as being 'a building that is three or more storeys' and 'consists of four or more self contained dwellings'.

In accordance with this SEPP, the application was referred to Council's Urban Design Consultative Group (the UDCG) on two separate occasions to provide independent advice on the design quality of the residential flat building proposal.

In summary, despite relatively minor alterations made to the proposed internal layout and external appearance and the removal of two units, the UDCG remained critical of the current design when applying the 10 design principles of the SEPP and could not support the development in its current form.

Specifically, the UDCG maintained their objections to the proposal in that:

'the large and singular volume remains at odds with the existing setting. Whilst amendments have addressed some issues previously raised, the limited illustration of the development in relation to the established setting leaves a distinct impression that the building will be of greater impact than suggested in the application.'

'This impact is not ameliorated by the very limited planting about the building, the height of the development at the exposed intersection of Date and Victoria Streets and the persistence with a built form that provides a continuous volume disparate with the low scale surrounds. The location above a two storey carpark exacerbates this impact which appears likely to be far greater than any other foreseeable future development within the immediate visual catchment of the site. This is a somewhat extreme case where the exclusion of the substantial volume generated by parking from FSR calculations negates the value of this measure to control building bulk.'

The applicant defended the current design in their response, focusing predominately on policy and economic grounds. Specifically, that the development has been designed in response to current planning controls, namely the Adamstown Renewal Corridor, and negating the impact the two storey car park has on the bulk and scale of the proposal in both stating:

'Significant feasibility studies were undertaken in an attempt to push the car park further underground. This move is unrealistic as the ground water is charged and the costs of tanking the car park make the entire development economically unsound'

And,

'The scale of the building would be the same regardless of whether the club car park was included.'

Whilst the applicant has prepared a response to the concerns raised by the UDCG, the discussion put forward fails to adequately address the design principles required by this SEPP. The applicant defends the design with references to Council's policy for the renewal corridor rather than focusing on achieving a quality design led development. The development proposal therefore fails the tests under SEPP65 on all 10 design principles and given the advice of the UDCG, an acceptable design solution would most likely lie in a significant re-design of the development, or through implementing a far less unit yield, rather than minor design amendments.

The application of this policy, relating to design and character are considered further in the overall assessment of this application.

Complete, detailed comments from the UDCG have been included as **Appendix B** to this report. The applicant's responses to these comments are attached in **Appendix C**.

Newcastle Local Environment Plan 2003 (NLEP 2003)

The land is zoned 2(b) Urban Core and 3(a) Local Centre under the NLEP 2003. The majority of the proposed development is located within the 2(b) Urban Core zone of which Urban Housing and car parks are permissible with consent. The proposed reconfiguration of the existing club car park is located within the 3(a) zone and is permissible with consent.

Clause 25 - Acid Sulfate Soils

There is no known risk associated with Acid Sulfate Soils to this site or within 500m of this site.

Newcastle Local Environmental Plan 2012 (NLEP 2012)

The application was lodged prior to the Newcastle Local Environmental Plan 2012 (NLEP 2012) being adopted. Clause 1.8a of the NLEP 2012 identifies the savings provisions as '*the application must be determined as if this Plan had not commenced*'.

In terms of the status of the NLEP 2012 at the time of submission, the plan was significantly progressed in that it was adopted by Council and was awaiting adoption by the Department. The LEP 2012 was later made on 15 June 2012. It is therefore considered that in relation to this site, the plan was significantly progressed and that significant weight should be given to this plan.

Accordingly, the site is zoned R4 - High Density Residential with part of the development being located in a R3 – Medium Density Residential zone pursuant to NLEP

The proposal involves two elements in the design which are separately defined as being a Residential Flat Building and Multi Dwelling Housing. Both land uses are permissible in an R4 zone with consent. The proposal involves an associated car park in the R3 zone. Car parks are permissible with consent.

Clause 4.3 – Height of Buildings

This clause requires developments to be of a scale that make a positive contribution to the desired built form, allow reasonable access to daylight to all developments and the public domain and not to exceed the building heights.

The site benefits from a maximum building height allowance of 20m. The applicant has acknowledged that the proposed built form exceeds this building envelope in the most central part of the site resulting from some plant, equipment and lift wells. The height exceeded in this part would be in the order of some 500mm.

Consideration to the exceeded height control would be under clause 4.6 – variations to development standards. The applicant has formerly addressed the areas of non-compliance in their development submission and provides the following justification:

- The height variance is centrally located and will not be seen from surrounding areas;
- It is the result of the existing topography;
- The building can not be constructed lower due to ground water constraints;

The applicant provides a general justification that the height exceeded is minimal and therefore will have no impact. This is not a sufficient justification to accept the height variance. The clause applies a maximum building height in the context that the resultant built form will make a positive contribution to the area. Consideration of this variance is therefore made in regard to the greater development proposal, as the height exceedance is as a result of the massing of the development. Assessment has been made of the development under the design principles of SEPP65 and DCP2005 5.02 and DCP2012 7.01,

which considers the built form, character, amenity and building set backs among others. These specific matters are further detailed throughout this assessment in section 6(a)(i) above and 6(a)(iii) below. In summary, it is concluded that the proposed built form, defined as a large singular volume, with limited setbacks to Date Street, height and the development exceeding the building envelopes, would be an excessive development and on this basis the height variation can not be supported.

The applicant additionally acknowledges the height being exceeded to the north and south of the site as a result of DCP controls. The applicant acknowledges a variation to the setbacks on Date Street controls as required by the DCP, which together affect the height controls. These are further discussed in Section 6(a)(iii) below.

Clause 4.4 Floor Space Ratio

The objectives of this clause are to provide an appropriate density of development and to ensure building density, bulk and scale make positive contributions toward the desired built form.

The application site for the purposes of the FSR calculation includes the area for the proposed residential flat building. This site is on the same lot as the neighbouring Club, however the two development sites have different zonings, FSR and height allocations. Accordingly, it appears that the applicant's calculations for FSR have been assessed on the site area of the entire development lot for this residential flat building. The applicant has not included the basement car parking associated with the neighbouring Club in their calculations on the basis that the provision of this car park on the site is a requirement of Council's policy.

Accordingly, the FSR is stated to be 1.9:1 which complies with Council's Control - 2:1.

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

There are no draft environmental planning instruments considered in this application.

(a)(iii) any development control plans

The application was submitted prior to the adoption of the Newcastle Development Control Plan 2012 (NDCP 2012). Since lodgement of this application, the NDCP 2012 has been adopted. Savings provisions have been included in the NDCP 2012 that are relevant to the assessment of this application and require the application to be assessed against the Newcastle Development Control Plan 2005 (NDCP 2005) whilst taking into consideration the provisions of the relevant NDCP 2012 Section.

Generally, it is found that the application does not comply with a number of matters within the DCPs. Generally, the application fails to comply on matters such as building heights, built form, setbacks, landscaping, traffic, parking and pedestrian matters. These areas of non-compliance, in conjunction with matters raised under SEPP65 result in further deficiencies in the design, which together create additional impacts to the site, context, character and neighbouring amenity.

In summary, the application fails to comply with the following controls. A full assessment of these sections is included in the detail below, (for reference the word 'Element' refers to the DCP 2005 and 'Section' refers to the NDCP 2012.)

Element	Section	Non-compliance
6.13; 5.2	6.08; 3.05; 3.04; 7.01	Building form <ul style="list-style-type: none"> - Height exceeded - Setbacks exceeded - Building design elements (further consideration to SEPP65) - Pedestrian Amenity - Open Space - Inadequate - Landscaping - Inadequate - Solar Access – Inadequate - Views and Privacy – Additional amendments - Fences and Walls – No Details likely impacts not considered - Utilities and Servicing – Waste Management not acceptable; lack of storage
4.4	7.02	Landscaping – inadequate provision, poor design Open Space – poor location and design, lack of communal areas
4.1	7.03	Traffic – requires further amendments Parking – Not designed in compliance; does not integrate; does not consider cross utilisation adequately Access – requires significant amendments
4.6	7.08	Waste Management arrangements not acceptable; details of commercial units affected
	4.04	Safety and Security conclusions have not been adequately integrated or considered

Element 3.0 and Section 8.0 Public Participation

The proposal has been notified in accordance with these sections.

Submissions

Sixty five written submissions were received including a petition with 45 signatures, 1 letter of support, 1 request for mediation and 1 request for public voice. The submissions raised a number of objections. These are discussed below in Section 6(a)(iii)(v)(e).

Element 6.13 and Section 6.08 Adamstown Renewal Corridor; Element 5.2 Urban Housing, Section 3.05 Residential Flat Buildings; 3.04 Multi Dwelling Housing, Section 7.01 Building Design Criteria

Element 6.13 and Section 6.08 consider the development in regard to the identified renewal corridor and prevail in regard to any inconsistencies of other Elements and Sections acknowledging the aims and objectives of this identified renewal corridor.

The policy has been implemented in response to the Lower Hunter Regional Strategy identifying this as an opportunity for economic renewal and for housing renewal and intensification.

The application site is located within Character Precinct 2. Mixed use commercial and services are supported to Glebe Road with the precinct in general having a target of providing an additional 300 dwellings.

The policy limits the application of various clauses of Element 5.2 and Section 7.01 to consider the following matters: *Open Space, Views and Privacy, Solar Access, Fencing and Walls, Utilities and Services.*

Building form

Floor Space Ratios

The site benefits from a FSR of 2:1. The applicant has stated that the proposed development has an FSR of 1.9:1 and would therefore be compliant on this aspect.

The UDCG raised concern that providing the basement car park associated with the Club increases the built form of this development and by default increases the FSR calculations. However, the Club car park is a requirement of Council policy which by definition can not be included in the calculations for Gross Floor Area. The matter of FSR has been previously discussed in section 6(a)(i) above and was found to be acceptable.

Height

The site has been identified as having a maximum building height allowance of 20m. The site is immediately adjacent the commercial strip of Brunker Road with height limit of 11m and the 14m height limits of Date Street. The greater height limit has taken into consideration the fall of the site away from the ridge of Brunker Road and to allow for the constraint of maintaining a large under storey car park associated with the Club.

The height controls have been further amended by DCP2005 6.13 and DCP2012 6.08 that require further height reductions to sites on the edges of the corridor. The site is on the edge of the corridor to the western and southern boundary, bordered by Date Street and neighbouring residential properties. The applicant mounts the following discussion:

- *'The clause is unusual in that it alters the greater height control for the site.*
- *The reduced height required for the site is not the best way of achieving a transition to buildings outside the corridor.*
- *A small section of the site is affected by the policy and the design provides a better transition. (The reduced built form to the southern boundary)*
- *Existing neighbouring infrastructure and development has resulted in a 14.8m setback to the southern boundary and the impacts are adequately ameliorated by this setback and should not be required by the height reduction*
- *The proposed development to the southern boundary has been designed to a maximum height of not more than 15m.'*

In the first instance, the applicant argues that the reduced height controls should not apply to the entire site. Council is of the opinion that the application site is large and

the intention of the clause is not to be a blanket control. Accordingly, the height should be reduced on the southern and western boundaries of the site with the intent of achieving the objectives of the clause. It is noted that the applicant has only acknowledged the application of this control on the southern boundary, whereby the development site would also be affected to the western side, along Date Street.

In considering the comments raised by the UDCG within the SEPP65 review as detailed above in section 6(a)(i), and to other matters within this assessment on building design and setbacks, the building in its current form would be considered a large and bulky addition to the streetscape that is not conducive to the area now or to the future desired character. It is therefore considered that the height variations can not be supported as this has directly resulted in providing a large and bulky built form in the context of the site.

Setbacks

The applicant has acknowledged a variation to Council's controls on the required setbacks to this site. The site is affected by a specific policy clause requiring a setback of 8m to courtyards and 10m to the building façade. The proposed development significantly varies these controls, being proposed 5m to the building façade and 3m to the courtyards. The applicant acknowledges this clause as a contradiction. However, this clause is specific to Date Street and would over ride other generalised setback controls in the document.

It has been previously concluded that the current design, as considered with regard to the design principles of SEPP65, Would be excessively large and bulky. When applied to the setback controls, this section of Date Street is already identified as being a narrow roadway with limited pedestrian access and the reduced setbacks would result in a larger building mass closer to this boundary that would exacerbate the impact ON pedestrian scale and can not be supported.

Building Design Elements

The proposed design does not adequately reflect the general objectives OF this control. The application has been reviewed by the UDCG who could not support the application when applying the 10 principles of SEPP65. The UDCG summariseS the impacts of the development in regard to scale as *'ris(ing) six storey in a setting of predominately one storey construction...The narrow width of Date Street and the consistency of surrounding building height to the west and north further emphasise this disparity in scale'*. The UDCG further summarise on built form *'the overall assembly is considered to remain an exceptionally large element within the existing and likely future context.'*

This has been considered in detail in section 6(a)(i) above.

Public Domain

Traffic and Transport

The main objectives of the clause in this section are to provide sufficient off-street parking and to minimise impacts from car parking on the streetscape.

Whilst the site provides a large number of off-street parking spaces, it is acknowledged that the provision of a secondary car park on a somewhat segregated site to land adjacent would not achieve the objectives of this section. The car park is not logically linked with the development and does not comply with Australian Standards with regard to layout and access. It is considered that the car park has been a last minute addition to provide additional parking numbers rather than incorporated intelligently into the design. The provision of a separate access

immediately adjacent the main car park access point for the development site is poor practice.

There is additional concern raised to the layout and functioning of the proposed basement car park. The layout and segregation of the car park in serving two land uses is not clear and how these would adequately operate has not been addressed.

The proposed basement car park has not been designed to allow for future adaptation. This is an important aspect, as the development incorporates a large car park for a neighbouring site that can not be guaranteed to be maintained linked with this neighbouring use. The sale of the adjacent site would leave a large vacant car park with no alternative use.

No details have been provided with regard to the legal right of way to the Veterinary Centre on Brunner Road or to the potential impacts the one-way system may have on the operations of this building.

The proposal would not comply with the objectives of this policy.

Further comments are included in traffic section later in the report.

Pedestrian Amenity

The development restricts pedestrian amenity along the developments frontage to Date Street. The existing limited pedestrian footpath and reduced development setbacks in conjunction with raised building levels and street infrastructure such as electricity poles, electricity substation, raised stairs to the courtyard accesses and proposed street tree planting by the applicant would further reduce pedestrian amenity along Date Street.

The links between the car parks, proposed internal lighting and location of the existing alley way have not been considered in providing adequate pedestrian access in and around the development. It is likely that the development will result in a confusing layout to the neighbouring Club.

The submitted CPTED report on security and design raises security issues associated with shared use and open access between the club uses and the private residences.

The development proposal does not adequately comply with this section.

Open Space and Landscaping

Open space

Each unit has been provided with a level of private open space in the form of individual balconies. An additional shared roof top garden has been provided. The UDCG considered this in the SEPP 65 review and commented that '*the roof top gardens (should) include a small enclosed area to create a more usable communal space*'. In addition to the UDCG's comments, the location of the roof top garden is to the south and is largely overshadowed by the higher floors of the proposed building.

No details have been provided in regard to overlooking issues to the neighbouring residential gardens from this area or from the south facing balconies, where it appears that the sight lines would affect the residential properties to the south.

The majority of the balconies are east or west facing. The east are offered views onto the rear of the commercial property and the Club, the west are afforded views

over the residential areas to west but are impacted by the strong westerly sun. The Northerly aspect available to the site has been further utilised in the latest design amendments in orientating 14 of the 93 apartments to this aspect, however, solar access has not been adequately incorporated into the orientation of the units.

Landscaping

The development is required to be supported by a Category 3 landscape plan which requires a site survey and analysis, a landscape master plan and a landscape design report. The application was not supported by the latter.

The Statement of Environmental Effects reports that 33.4% of the site is landscaped totalling some 1329sqm. 598sqm of this will be deep soil zones. For the purposes of landscaping calculations, the applicant has taken advantage of the allowances in this policy for a reduction in site landscaping through the provision of green walls and roof top gardens.

Whilst stating an oversupply of landscaping on this site, no specific details or reports have been provided that have provided a break-down of these areas. Accordingly, when assessed by Council, calculations have concluded a landscaping deficiency.

Areas included in Council's calculations are greater than 3m x 3m, the landscaped areas of the roof top garden and the strip of green wall to the west elevation.

The site area did not include the Club or the existing car park adjacent the Club. Council calculated a total landscaping of approximately 935sqm. Of this, 65sqm would be wall gardens, 240sqm rooftop and the remaining 630sqm being deep soil zones. The total landscape area would represent 16.7%.

The UDCG considered the matter of landscaping and were critical in the lack of provided vegetation stating that the site *'provided little opportunity for large scale tree planting that may be utilised for screening for views from Date Street and for residents facing eastward to the rear of commercial properties.'* The UDCG also questioned the survival of a green wall to the western façade.

Overall, the provided landscaping is considered inadequate. In addition to having an overall shortfall of landscaping, the areas provided are small, segregated and lack substance, with the only potentially useable areas being restricted to the front courtyards of the terraces and the roof top garden. Whilst the applicant offered additional landscaping as a screening option to reduce the visual impact of this development to Date Street, it is difficult to understand where such large scale screen planting may occur given the limited remaining site area available.

Solar Access

The objectives of this clause are to provide adequate sunlight to habitable rooms and private open spaces. The development units are designed to each have access from their living rooms to a private balcony. The majority of the units are east and/or west facing and the latest amendments included additional north facing balconies. The applicant has prepared a SEPP65 compliance report with regard to sunlight access and concludes the majority of the units (70%) receive adequate daylight access (3 hours). The UDCG was of the opinion that the majority of the units would have limited daylight access. This is exacerbated predominately by the applicant's choice of building orientation which would require significant balcony screening of the western units from the strong afternoon sun limiting daylight access to these properties.

It is additionally noted that the level 1 units of the western elevation have deep and narrow balconies with overhead pergola structures that further over-shadow these units.

The applicant has acknowledged the purchasing of the adjacent residential property (No. 59 Date Street) to ameliorate the affects of overshadowing. The development will not impact upon the neighbouring properties with regard to overshadowing.

The proposed open space on the roof top garden is south facing and is overshadowed by the building mass to the north. It is unlikely this area will have adequate solar access. The proposal does not comply with all elements of solar access.

Views and Privacy

The objectives of this section are to encourage the sharing of views and to ensure adequate visual and acoustic privacy for dwellings.

The development is located on a corner site that slopes away from the rear of a number of commercial buildings. The site has the benefit of unrestricted views to the west which are capitalised on in the design. There is limited impact in this regard.

Limited information has been provided with regard to the impact of the development upon the views from street levels of the lower built form of Brunker Road. However, given the large setback, it is unlikely this will have an impact.

The proposal is in the vicinity of two heritage items. The application was supported by a heritage impact assessment which concluded the development would have limited impact on these buildings. The matter of heritage impact is discussed in more detail later in the report.

The east facing units are located adjacent the rear elevations of the commercial units of Brunker Road, including the plant and associated equipment of these units as well as a new service lane for the residential unit complex, the existing retained Club and the Veterinary Centre. Whilst supported by an acoustic assessment offering various treatment to these units, these will be adversely affected should balcony windows be opened. It is additionally noted that the majority of these east facing units will have a direct line of sight into the Club dining rooms which consist of large glass viewing panes. As noted previously, there is little room to provide landscaping to visually screen these two elements. Whilst these matters of visual and acoustic privacy are likely to result in a level of substandard accommodation for these units, the proposal generally complies with this policy in that they achieve the minimum levels of acoustic privacy when attenuation measures are applied and the sight distances from the units to the club are in excess of 12m.

The proposal includes a small number of south facing units that have single aspect balconies over to residential properties to the south. The setback from the boundary, the service accessway, the alley way and the adjacent proposed car park result in a combined setback of some 25m to the nearest residential property. Although there will be additional impacts as identified in the submitted Social Impact Assessment, the separation of the units exceeds the minimum requirement in Council's policy of 12m. The applicant has also limited the number of units to this elevation to five units and a shared open space area. Additional screening would need to be implemented to the shared zone due to the likely number of people that could congregate to this area and some consideration would need to be given to treatment of the balconies of the south facing units.

The proposal generally complies with this section, although some amendments and consideration of landscaping treatment to increase views for the east facing units would need to be considered.

Fencing and Walls

The seven terraces proposed to Date Street have included private courtyards. Plans indicate a 1.8m high wall with some transparency sections included in the expanse. It has been previously identified that the provision of these courtyards would be in excess of the minimum setbacks for this section of Date Street. The raised floor levels of the terraces due to flooding constraints would together result in raised courtyards in close proximity to a limited width of public footway. Together, the large walls would be out of context and scale of the area and would not be an acceptable addition to this development.

Utilities and Services

The development has more than adequate servicing area for waste and recycling, however, the location of the bin enclosure is largely impractical for the majority of the building being located to the southern lobby only. This is discussed in more detail in section Waste Management below.

No specific clothes drying area has been provided, although each unit has access to a private balcony and laundry, presumably relying on electric dryers.

Limited details have been provided on lighting other than through the CPTED report. This has been considered further in Safety and Security below.

Various storage areas have been provided in the development complex reported to totalling some 255m³. The applicant has provided additional details in the SEPP5 compliance report which states the total storage capacity for the building being 1524m³ which includes bicycle storage. It is unclear where the additional storage is located and it is noted the submission is contradictory. Council's policy requires a minimum of 6m³ per dwelling of which the proposed development is reported to be compliant. Additional details would be required to ensure the development has adequate storage provision.

Two mailboxes are proposed, one to each frontage. These areas are secure and at the main pedestrian entry and are generally acceptable.

The site has adequate access to electricity, telecoms and water supply. The sewerage is likely to require upgrading.

Element 4.4 Landscaping, Section 7.02 Landscape, Open Space and Visual Amenity

See comments made above.

Element 4.1 Parking and Access Section 7.03 – Traffic, Parking and Access

The application has been reviewed by Council's traffic engineer and the Roads and Maritime Services were consulted on the application. The application in its original form was presented to both parties. Whilst no objections were raised in principle to the development various concerns were raised which resulted in a request for additional information and potential amendments to the design. The amended submission included a revised Traffic Impact Assessment and included additional information provided to address the concerns of the parties.

The RMS raised no objection to the proposal in that the development is not likely to impact upon the State Road Network. Additional comments were provided by the RMS for the attention of Council to suggest further consideration. In summary, this included the current narrow alignment of Date Street in this location; the poor functioning intersection of Date Street / Glebe Road and Victoria Street / Brunker Road; Ministerial Direction 3.4 (*Integrating Land Use Development and Transport*) under Section 117 of the EP&A Act 1979 –

specifically the provision of adequate access to public transport for the elderly; Consideration to a Construction Traffic Management Plan; internal traffic arrangements and; noise attenuation from road traffic.

Council's traffic engineer reviewed the additional and amended application with consideration to the advice received of the RMS and concluded that the development could not be supported in its current form for the reasons detailed below.

Limited Road Width of Date Street

This matter was raised during the original submission and has been a matter of concern to local residents. The revised traffic assessment considered the impact of widening this section of Date Street, however, concluded that the limited width acts as a natural traffic regulator and should it be widened it would most likely exacerbate the traffic impacts to the nearby intersections. Council's engineer agreed with the reports findings and further identified that this was unlikely to be able to be continued along the road up to the Glebe Road intersection and was supportive of maintaining the limited width.

Limited footway width of Date Street

Whilst Council's engineers could support the retention of the limited road width, the restricted width of the public footway in this location was acknowledged in the referral as being substandard and would need to be widened in order to support the development. Specifically, the existing footpath is in parts 1.5m in width which is further restricted by existing electricity power poles making pedestrian thoroughfare very difficult. Council would require a footpath to be provided to 3.5m in width. As there is inadequate Council land available in order to pursue this, Council would require land to be dedicated from the development site. This would require the relocation of the existing electricity power poles and other associated infrastructure as well as reducing the front set back of the terraces.

The applicant further states in the planning application that discussions will be made with Council to provide for the addition of a number of large street trees to be planted to ameliorate the visual impact of the development, however, given the limited width of Council land in this location this would not be able to occur. The application further proposes a limited setback to this road frontage and with a raised floor level of the terraces to this elevation, stepped access to the front courtyards in this setback would further limit any adequate pedestrian movement.

The conclusions of the engineer consultation requested the footway be widened to at least 3.5m. Generally, this would result in a reduced setback of the development from Date Street and is very likely to result in additional major amendments to the design. This matter is considered further in Element 6.13 and 5.02 above.

Headlight Glare

The proposal will result in the relocation of the existing driveway access and in the creation of a further driveway access to the proposed neighbouring car park. The applicant has not considered and therefore has not adequately ameliorated the impact of head light glare to neighbouring properties.

Sight Lines

The accesses to and from the development do not maintain adequate lines of sight as required by the DCPs and the Australian Standard and pose a road safety hazard.

Location of power poles

There are electricity power poles in close proximity to the proposed car parking access ways that are likely to require repositioning. This has not been adequately

considered in the application. Whilst achievable, Council is concerned that the associated costs have not been factored in.

Rights of Way

Property number 278 Brunner Road, operating currently as a Veterinary Centre presently maintains a right of carriageway over the existing Adamstown Club car park to access the rear of their property from Victoria Street. This has not been incorporated into the plan as there is inadequate access through the car park to Date Street. The development of this site has not adequately considered the right of carriageway for this property.

Operational Logistics

There is concern as to how the unit development, the Club and the adjacent car parks will operate sufficiently.

General concern is raised with regard to the location of the Club car park in the basement of the unit development. The secured design of the residential car park is likely to create confusion with Club users with the design representing a residential car park. Limited information has been provided with regard to the operation of the car park that would adequately cater for the use of the club component.

The location of the existing club car park (to be retained and reshuffled) is located off the dog leg of the new internal access road. It is unclear as to the location of the traffic split from two-way to one-way.

The new proposed secondary car park on Date Street has not been designed to Australian Standards and vehicles would be unable to manoeuvre internally to be able to exit in a forward direction. Consequently, the parking layout would require redesigning that would ultimately result in less parking provision.

The secondary car park has proposed pedestrian access to the first quarter length of the public alley way. No further linkage has been provided and pedestrians are left in the middle of the alley.

Additional pedestrian safety measures are strongly recommended to be incorporated to increase the safety of the foot crossing between the development car park and the Club.

It is additionally noted that the basement car park as identified on the current plans, specifically with regard to the location and directions chosen for the access ramps, have been incorrectly annotated and can not function under the current layout without some car park redesign and potential relocation.

Green Travel Plan

The development is of a size and use that would warrant the requirement for a Green Travel Plan to be submitted. This is a requirement of the recent adopted policies which are required to be considered in the determination of this application. The applicant has not had the benefit of being advised of providing such a document. Nevertheless, it is noted that the current design has various other shortfalls in regard to traffic matters and should the development be supported, it would be subject to the applicant providing a Green Travel Plan.

Element 4.2 Contaminated Land Management, Section 5.01 Soil Management; Section 5.02 Land Contamination

The matter of contaminated land is considered in detail under SEPP 55 in Section 6(a)(i) above. Generally the applicant has not adequately considered the aspect of land contamination with respect to all land uses proposed on this site, however, Council has

reviewed the proposal in terms of known site history and is satisfied that the site is unlikely to be contaminated and should consent be granted, adequate conditions could be imposed to ensure the development proposal can comply with Council's policies in this regard.

The proposal is likely to result in some 5000m³ of soils to be removed from the site. A Detailed waste management plan has been provided and has been considered in conjunction with the provided erosion and sediment control plan. In general, this would be acceptable.

Element 4.3 and Section 4.01 Flood Management

The application site is affected by flooding to the lower, most western section of the site. The flood level affects the development. The latest amendments have taken into consideration the flood levels resulting in a higher finished floor level for the terraced units fronting Date Street and the units have an adequate flood refuge. Council's engineers have reviewed the development and are satisfied that the current design would comply with Council's policies with regard flooding subject to various relevant conditions to be imposed on any consent that may be issued.

Element 4.5 Water Management, Section 7.06 Stormwater, Section 7.07 Water Efficiency

The application was supported with a Stormwater Management Plan and an Erosion and Sediment Control Plan. These plans have been reviewed by Council engineers and found to be satisfactory in regard to applying relevant policies.

The applicant provided a BASIX report for the amended development achieving the target pass rates.

Element 4.6 and Section 7.08 Waste Management

Operational Waste

A waste management plan has been provided with the application which considers the provision of waste management associated with unit development.

Plans indicate two garbage rooms at the ground floor of the southern part of the building, each with individual vehicle access for servicing by a private contractor. The waste quantities allocated in the waste management plan indicate waste generation levels some 3 and 5 times more than those provided by the '*Better practice guide for Waste Management in Multi Unit Developments*', (Dept Environmental and Climate Change) proposing to generate 20m³ per week of recyclable waste, 15m³ of general waste and 2m³ of green waste per week. Whilst well in excess, the bin store areas would be of adequate size and are likely to cater for the units needs for temporary storage of larger items.

It is noted that the location of the bin store is impractical in its location for half of the unit development being located off the ground floor foyer of the southern access. It is likely the current proposal would require additional caretaker measures to adequately manage waste collection in the development.

The terraced apartments have the ability to maintain their own bins with access to Date Street, however, the rear access direct to the car park would indicate they would also be entitled to the use of the bulk bin store.

Waste treatment associated with the existing Club will not be altered from the current arrangement other than the collection arrangements. No details have been provided for the

assessment of the application, however, it is indicated in the traffic report that the proposed truck access has been designed for a Heavy Rigid Vehicle which would allow for adequate waste collection services to access.

Section 4.04 – Safety and Security

The development proposal includes a number of elements that required additional consideration in the design of the scheme. The proposal involves a new multi-unit residential apartment development that has a very individual character in that it is directly associated with the adjoining Club by incorporating the car park within the lower basement levels of the secure residential use. The site is also constrained by the location of a substandard alley way linking through from Date Street to Brunner Road and considers two external, open air car parks, one that is segregated from the development site.

The applicant provided a Social Impact Assessment which recommended the development adopt CPTED principles. These principles are broad in that they refer to a number of recommendations to reduce the potential for crime. However, a CPTED report was undertaken for the development proposal that outlined measures previously considered in the design of the development and subsequently obtained a low risk category. The report concluded that through the use of additional measures, which are outlined in both the CPTED report and the Social Impact Statement, that this would further reduce crime related impacts.

The report identifies the alley way to the south of the development as a potential crime risk and recommends this be upgraded with lighting. No details have been provided on this (specifically liaison with Council departments, costs, maintenance and lux impacts) although in principle would be an acceptable upgrade.

The report identifies lighting to be installed at main entries and car entrances. Whilst recommended, the impacts of the lighting, especially the lighting of the secondary car park adjacent to the residential property 61 Date Street has not been adequately considered. Whilst supported in principle on the basis of increased security and safety, the report or development has not taken into consideration the potential for other impacts.

The report provides concerns to the internal alcoves of the individual rear doors of the seven terraces. Whilst offering an alternative layout, this area of the car parking is mainly related to the terraces and is secured from the general public access resulting in less impacts.

The report has acknowledged the potential for crime related activities occurring due to the confusing allocation of parking between the Club and the residents. No further definitive detail has been provided. When considered with comments raised in regard to traffic impacts, this may need additional information at Development Application stage.

There is a weakness with the interface between the private and public areas, there is the potential that club patrons could easily wonder into and utilise the garden areas at ground level of the apartment building. The report concluded that additional fencing and segregation is required. This has not been incorporated into the design.

The report acknowledged that the unit layout is generally acceptable, however Unit 1 is easily accessed from the street level.

The findings of the report are noted and generally concurred with, however, it is clear that these have not been considered in the current design. It is recommended that additional amendments would be required in line with the report, however, given comments made

elsewhere in this assessment with specific regard to traffic policy, it is clear that further design amendments would be required to implement the recommended changes.

Section 4.05 – Social Impact

The application was supported by a Social Impact Assessment. The SIA concluded that the development was likely to have a positive social and economic impact to the area. The conclusion were based on the facts that the proposed unit yield was suited to a varied range of potential occupants of a varying demographic level (focused for singles, retirees, empty nesters, new home buyers and investors). The demographic level reflected the current trends of Adamstown. It was further noted that the likely occupants would retain existing employment given the site's ease of access to outer areas and would not negatively impact upon existing employment or likely to raise the cost of living in the area.

The proposed development would increase population to the area benefiting the local economy and would contribute to a diversity of housing.

The SIA did acknowledge the development to have a social impact on the residents to the immediate south due to overlooking of the south facing units.

The SIA has been reviewed by Council and found to be generally acceptable. The matter of overlooking has been considered in section 6(a)(iii) above.

Section 5.05 – Heritage Items

The proposal is in the vicinity of heritage items. The most affected item is likely to be the former RSL Memorial Hall which is now a veterinary centre. The application was supported by a heritage impact study which indicated the locally listed item as having historical importance to the streetscape of Brunker Road. The report concluded that the proposed development, being setback from the development and located on lower ground would not be visually seen from Brunker Road. The application is unlikely to have a detrimental impact upon this heritage item.

There is a further locally listed heritage item in the vicinity located on the corner of Victoria and Brunker Roads - the Nag's Head Hotel. This item has not been considered in the application. Nevertheless, the building is a two storey development that increases in height as it falls away from Brunker Road. The significance of the building is to Brunker Road. The proposed development will no doubt stand tall in the backdrop of this building as viewed from the north east side of Brunker Road. However, this impact is considered to be limited in visual corridors and given the development location and distance from the item, is unlikely to have a detrimental impact to its heritage setting.

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

There are no planning agreements which apply to this development.

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

Not applicable.

(a)(v) the provisions of any coastal management plan.

Not applicable.

(b) the likely impacts of the development

- Visual Impact

This section of Brunner Road generally follows a high point in the surrounding geography represented by a ridgeline. A line of commercial properties ranging in single and two storey design are built along its frontage. As the development site falls to the west, existing development is representative of a similar built form consistent with older style single storey housing developments with individual sites being recently developed into single storey villa type developments. Some examples of a larger built form exist in various locations. Consequently, the proposal of introducing a 6 storey residential apartment block, constructed to some 20m in height, in this current low-density residential setting would no doubt create a visual impact. The comments of the UDCG state that the development has '*a built form that provides a continuous volume disparate with the low scale surrounds.*'

The UDCG continue in reporting that '*the location above a two storey car park exacerbates this impact which appears to be far greater than any other foreseeable future development within the immediate visual catchment*'.

The applicant conversely argues that the proposal responds to current planning controls, specifically the Adamstown Renewal Corridor arguing that the proposal is consistent with the height controls of the DCP (and NLEP 2012) which generally allows for a 20m height limit and suggests the provision of the Club car park at the lower levels. The development is also consistent with the maximum FSR controls for the site.

The applicant additionally argues that '*this area has been identified by Council as being an area which will undergo substantial transformation over the coming years. As such, the context of the area cannot simply be measured against what is on site at this point in time*'.

It is clear that the applicant is arguing the context of the development in light of the desired future character, and the UDCG have not disputed that the applicant has considered current policy guidelines, however, in doing so they have undertaken to utilise Council's controls of height and FSR calculations to be site allowances or desired development envelopes rather than maximum controls to be built within. In applying this approach, the applicant has failed to take into consideration other policies and controls that may further guide development on this site including the 10 design principles of SEPP 65 and Council's DCP controls. Ultimately, the proposed development has been designed with a proposed unit yield that pushes the extremes of the sites permissible building envelopes rather than giving adequate consideration to the contextual setting. As outlined in the UDCG comments '*the limited illustration of the development in relation to the established setting leaves a distinct impression that the building will be of greater impact than suggested in the application*'.

- Parking and access

The erection of a residential flat building in this location is acceptable in principle. The development has been considered by the RMS and is not considered to impact the state road network. Council additionally raises no impact to the principle of the development with regard to traffic parking and access, however, there are a number of design considerations that have not been adequately considered in the design that would be likely to result in significant alterations to the building design should amendments be made to comply with requirements of the site.

These matters are considered in detail in the assessment above under section 6(a)(iii), however, in general terms, these matters include:

- Additional setbacks are required to the Date Street frontage to allow adequate pedestrian access.

- Further detailed management plans or amendments are required to consider the cross utilisation of the two proposed land uses
- Internal and cross property pedestrian accesses require further design amendments
- The secondary car park requires alterations in the design and further consideration to its location
- A Green Travel Plan is required
- Further design amendments are required to comply with sight lines
- A Right of Way is required to be provided for the Veterinary Centre
- Consideration and details are required regarding the removing of existing infrastructure

- Noise and Vibration

The application was supported by an acoustic assessment which identified the need for attenuation measures to be incorporated into all the units with additional measures to the north and west.

The assessment identified the site is affected by current traffic on nearby roads, commercial activity and mechanical plant. Commercial activity included a function held at the neighbouring Club facility. The report concludes that the site is affected by nearby activities and equipment. The report considers that windows can be closed to attenuate the noise exceedance although additional attenuation measures are required to be implemented to all units. Specifically, the report concludes that a noise level of 35dB(A)_{Leq} should apply to living areas in all apartments and 30dB(A)_{Leq} should apply to bedrooms for all apartments.

To achieve this glazing to the living and bedrooms must be acoustically modified. The report recommends all units to achieve Type C and Bedrooms to specific units to the north and west elevation being Type D (Type A representing no acoustic treatment and Type D representing the highest treatment).

Impacts to neighbouring properties are likely to result from the individual air conditioning units required to each unit balcony. This could be attenuated through the implementation of solid 900mm high balustrades.

Acoustic impacts resulting from traffic associated with this development are likely to impact upon the group of dwellings on the west side of Date Street and the residential flat building to the north of Victoria Street. The impact is limited and likely during the evening period only. The report concludes that the use of signs to remind patrons and residents to consider the amenity of the nearby residents would be acceptable.

Further consideration was given to the acoustic impacts of the secondary car park to neighbouring residents. The report concluded that there was likely to be some impacts to the southern properties, but only during a worst case scenario. The report recommends the implementation of a 2.1m high acoustic fence to these properties.

- Social and Economical

The application was supported by a Social Impact Assessment. The SIA concluded that the indicative selling prices were within the growing median pricing trends for this area and the unit focus, being for singles, retirees, empty nesters, new home buyers and investors would suit the demographics of the area.

The SIA concluded that the proposal will have positive social and economic impacts upon the area as it will provide additional population to support the local economy whilst not affecting the local employment market or adversely affect the income levels across the community. The proposal is not likely to raise the general cost of living and will contribute to the diversity of housing.

The report acknowledged that the development is likely to have social impacts to the neighbours to the south. The report concluded that the adverse impacts should be discussed with these residents to ameliorate any concerns. The report comments that these solutions include a reduced built form and removal of southern balconies.

It is noted that the majority of the south facing units are single aspect and offer little amelioration features to protect the privacy of the neighbouring properties. It is considered that this aspect should be given further consideration by the applicant.

- **Safety and security**

The applicant submitted a CPTED assessment of the proposal. Whilst many of the principles of Secure by Design have been implemented, additional measures are required to be implemented and incorporated into the design for a number of areas of concern. These changes are generally minor in nature, but some may have additional impacts that require further consideration to the amenity of neighbours, such as the lighting to secondary car park; require additional consultation with Council with regard to the lighting of the public access way; require further design changes regarding the integration between the two adjoining land uses of the Club and the Residential use.

(c) the suitability of the site for development

The site is currently utilised as car park and is zoned for the proposed use. The site is suitable in principle for a development of this nature.

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

Objection	Council Response
Traffic impacts to the surrounding road network and Date Street during construction and operation	<p>The matter has been discussed in detail in traffic and transport in section 6(a)(iii) above. The surrounding road network would have adequate capacity to service the proposed development. The narrow width of Date Street was considered to result in a 'natural' traffic calming device and would assist the situation. Additional information and amendments would be required with regard to cross utilisation of the two land uses. A green travel plan would be required to assist in reducing traffic movements.</p> <p>During construction a CTMP would be required as part of a Construction Certificate.</p>
The building is large and bulky and does not fit in with the character of the area	This matter has been assessed in detail throughout this report and is considered in the context of existing policy requirements and the surrounding area. Generally it was found to be an unacceptable form of development.
Proposal not within the policy context	The proposal is acceptable in principle as it would aim to achieve the general objectives of the policy in supplying additional dwellings in close proximity to Adamstown centre. Many objections were concerned that this development provided 'more than its share of the required 300 dwellings as identified in this policy'. The proposal is in response to this policy. The number of 300 dwellings, as offered by this policy is a guide number as to the precinct's estimated yield. This is not a site restriction or maximum.
Impact on neighbouring amenity	The development has considered the impact to neighbouring amenity. Some dwellings to the south are likely to be affected by increased overlooking, however, this is within the

	Council policy controls albeit subject to some additional screening measures. The properties to the north and the west are likely to be slightly affected by acoustic issues associated with the increased traffic. This impact is considered minor. The development will not have an overshadowing impact.
The development provides for the wrong demographic	The application was supported with a Social Impact Assessment which identified the development would provide for the current trends for this area.
Infrastructure impacts	The applicant has considered infrastructure in their proposal. The development is likely to require upgrade to the local sewerage network. This would be undertaken in conjunction with Hunter Water requirements.
Flooding impacts	The site has adequately addressed flooding matters.
Social impacts	The submitted social impact assessment has adequately considered this development and is likely to have positive impacts.
The financial position of the Club should not be the driving force	This has not been a consideration in the assessment of the proposal.

(e) the public interest

The principle of a large scale residential building in this location is likely to result in a number of positive social and economic impacts to this area of Adamstown to the benefit of the public. However, the proposed building, in its current form is likely to result in a large and overbearing development that is unlikely to fit into the context of the existing or future character and context of the area. The development, in acknowledging various exceptions to the relevant development codes and in the lack of compliance on fundamental design matters would result in a substandard development that would not be in the public interest.

7. Conclusion

Council policy clearly indicates the benefits and supports the need for additional housing provision in this location of Adamstown. The provision of a residential flat building on this site, to incorporate an underground car park associated with the adjacent site has been identified in site specific policies. Accordingly, the development, in principle is an acceptable prospect.

Nevertheless, after careful consideration of all matters put forward in the assessment of this application, the development proposal, in its current form, can not be supported. The development does not comply with a number of significant development controls for the site and if amended to comply, is likely to result in a significantly different development. The development additionally pushes the boundaries of a number of other controls which, when combined, results in an unacceptable built form and design to the detriment of the current and future character and context of the area, with impacts affecting existing and future residents in this immediate surrounds.

Furthermore, the development has been assessed as failing the requirements of the 10 design principles of SEPP 65.

8. Recommendations

That the development proposal for the erection of a six level, 93 unit residential development with associated parking facilities be refused for the following reasons:

- 1) Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development does not comply with objectives (a) and (b) of the 2(b) Urban Core Zone under Newcastle Local Environmental Plan 2003 in that it does not respect the amenity, scale or character of surrounding development and quality of the residential environment.
- 2) Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the design of the development is not considered to adequately address the design quality principles of State Environmental Planning Policy No 65 (Design Quality of Residential Flat Development), as evidenced in advice received from the Newcastle Urban Design Consultative Group.
- 3) Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979, the design and layout of the proposed car parking areas are inconsistent with Element 4.1 'Parking and Access' of Council's Development Control Plan 2005 and Section 7.03 – 'Traffic, Parking and Access' of Council Development Control Plan 2012.
- 4) Pursuant to Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, the development is considered to be an overdevelopment of the site based on inadequate setbacks to the western boundary, building heights being exceeded, lack of functional landscaped and community open space areas contrary to Elements 6.13 – 'Adamstown Renewal Corridor'; 5.2 'Urban Housing' and; 4.4 – 'Landscaping' of the Newcastle Development Control Plan 2005 and Sections 6.08 – 'Adamstown Renewal Corridor'; 3.05 – 'Residential Flat Buildings'; 3.04 – 'Multi Dwelling Housing'; 7.01 - 'Building Design Criteria' and; 7.02 – 'Landscape, Open Space and Visual Amenity of the Newcastle Development Control Plan 2012.
- 5) Pursuant to Section 79C(1)(b) and (c) of the Environmental Planning and Assessment Act 1979, the proposed development will have a unacceptable impact on the privacy and amenity of the neighbouring dwellings and their associated private open spaces.
- 6) Pursuant to Section 79C(1)(b) of the Environmental Planning and Assessment Act, 1979, inadequate information was provided with the application to enable an accurate assessment of the development to be undertaken with regard to visual, security, lighting and acoustic impacts of the development.
- 7) Pursuant to Section 79C(1)(b) of the Environmental Planning and Assessment Act, 1979, limited information was provided with the application to enable an accurate assessment of the development to be undertaken with regard to the management and operation of the site in respect to the Adamstown Club and the Veterinary Centre.
- 8) Pursuant to Section 79C(1)(e) Environmental Planning and Assessment Act, 1979, the proposed development is not in keeping with the character of the surrounding area with regard to bulk, mass and design and fails to comply with Council's policies. It is therefore considered to be contrary to the public interest.

APPENDIX A – Plans, Elevations and Associated Reports

APPENDIX B – UDCG minutes from meeting 1 and 2

APPENDIX C – Applicant response to SEPP 65 meeting 1 and 2