

JOINT REGIONAL PLANNING PANEL

Hunter and Central Coast

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| JRPP No | 2013HCC021 |
| DA Number | DA/1774/2013 |
| Local Government Area | Lake Macquarie |
| Proposed Development | Mixed Use Development, Residential Flat Buildings, Small Lot Housing, Stormwater Management Facility, Roads and Subdivision |
| Street Address | 142, 144 and 146 Dudley Road Whitebridge and 2, 2A and 4 Kopa Street Whitebridge |
| Applicant | SNL Building Constructions Pty Ltd |
| Owner | SIMHIL Living Pty Ltd |
| Number of Submissions | 134 submissions to revised plans (at time of writing) |
| Regional Development Criteria | General development that has a capital investment value of more than \$20 million. |
| List all documents submitted with this report | Attachment A: Recommended draft conditions of consent Attachment B: Amended Plans of development Attachment C: Summary of submissions Attachment D: Concurrence from Department of Planning Attachment E: Mine Subsidence Board GTAs Attachment F: NSW Rural Fire Service GTAs Attachment G: Council's Ecology Assessment Attachment H: Squirrel Glider Peer Review Attachment I: Submissions by Dr Clulow Attachment J: Report to HCCJRPP dated 23 July 2015 |
| Recommendation | Approval subject to conditions |
| Report by | Elizabeth J Lambert, Senior Development Planner, Lake Macquarie City Council |
| Report Date | 12 November 2015 |

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Executive Summary

This report is a supplementary report to the Hunter and Central Coast Joint Regional Planning Panel (HCCJRPP) for item number 2013HCC021 being development application for Mixed Use Development, Residential Flat Buildings, Small Lot Housing, Stormwater Management Facility, Roads and Subdivision at 142, 144 and 146 Dudley Road Whitebridge and 2, 2A and 4 Kopa Street Whitebridge, DA/1774/2013.

This report shall be read in conjunction with the report to the HCCJRPP meeting of 23 July 2015.

Date Lodged: Original Plans: 21 November 2013
Latest Amended Plans 10 August 2015

Submission Period: Notification: 17 August 2015 to 1 September 2015

Zoning: 2(2) Residential (Urban Living) - LMLEP 2004
3(1) Urban Centre (Core) - LMLEP 2004
7(2) Conservation (Secondary) - LMLEP 2004

Approval Bodies: Mine Subsidence Board
NSW Rural Fire Service

Concurrence Body: Department of Planning and Environment (SEPP 1)

CIV: \$23 million

Background:

The HCCJRPP at the meeting of 23 July 2015 decided to defer determination of the application pending the submission of additional plans and details. *The applicant is requested to provide the following in relation to the redesign of the proposal, incorporating:*

1. *Deletion of dwellings 401 & 410 on Lot 4 to provide greater building separation between the development and adjoining land. Additional landscape screening is to be provided in this setback.*
2. *Deletion of the fourth storey dwellings on Lot 1 (A301, A302 and B201).*

3. *Redesign of apartments A101, A102, A201 and A202 to create a minimum setback of 7 metres from the rear of the maisonette apartments, resulting in the deletion of one dwelling on each floor in this location.*
4. *Redesign of the roof form of the building on Lot 1 (incorporating the changes in 3 above) to maintain the roofscape form of the current design.*
5. *Additional details being provided regarding the proposed mechanism to deliver and manage the proposed open space on Lot 25 as publically accessible open space.*

This above information is to be submitted to the Council for assessment within 6 weeks from the date of today's meeting.

Revised plans and documentation were submitted to Council on 10 August 2015. The application was notified for a period of 14 days ceasing 1 September 2015. 134 submissions were received in response to the notification, including one petition with 114 signatures. A summary of the issues raised in the submissions is contained in Attachment C.

Integrated referrals were sent to the Mine Subsidence Board (MSB) and NSW Rural Fire Service (RFS). General Terms of Approval, dated 9 September 2015, were provided by MSB and are attached as Attachment E. General Terms of Approval, dated 15 September 2015, were provided by RFS and are attached as Attachment F.

After further ecological assessment, undertaken by Council staff and contained in Attachment G, a "Squirrel Glider Peer Review" was commissioned and undertaken by Mr Michael Murray, provided in Attachment H.

As a result of the proposed changes to the development and further assessment several conditions of consent previously recommended to be included in any consent are proposed to be amended. The main changes to conditions are detailed below:

- **Condition 1 – Staging of Works**

Amended to remove construction of dwellings on proposed Lots 21 – 24 from Stage 1 to Stage 6 and reflect parking construction in the relevant stages.

- **Condition 4 – Approved Documentation**

Amended to reflect inclusion of amended plans.

- **Condition 10 – Contribution to Provision of Public Amenities and Services (Sec.94)**

Amended to reference the new Development Contributions Plan Charlestown Contributions Catchment – 2015.

- **Condition 13 – Arboriculture Impact Assessment and Tree Protection Plan**

Amended to ensure vegetation on proposed Lots 21 – 24 is not removed, pruned or otherwise tampered with until enhancement works have been completed, including glider poles and infill plantings.

- **Condition 14 – Vegetation Management Plan and Implementation**

Amended to have regard to further ecological assessment by Council staff and the Squirrel Glider Peer Review, provide greater certainty in outcomes regarding ecological impact and to enhance and improve connectivity for squirrel gliders in the locality.

- **Condition 23 – Acoustic Design Considerations / Certification**

Amended to provide greater detail in acoustic design and certification for the development.

- **Condition 29 – Acoustic Certification (deleted)**

Previous condition 29 deleted and combined with Condition 23 as the two conditions duplicated each other.

- **Condition 47 – Works on a Road**

An additional standard condition is recommended requiring approval for works within the roads and providing construction requirements for works in the roads.

- **Condition 48 – Category 3 Landscape**

Amended condition to include additional witness / hold points and certification for public domain works.

- **Condition 53 – Concrete Footpath**

Condition amended to require footpaving in locations in accordance with the approved plans. The previous condition required footpaving along each street frontage, which was not necessary and added to hard stand areas unnecessarily.

- **Condition 54 – Car Parking and Allocation of Spaces**

Amended to reflect changes in arrangement of spaces and deletion of some units particularly in Lot 1.

- **Condition 76 – Interallotment Drainage**

Amended to require interallotment drainage easements to be one metre wide as opposed to the previous two metre wide easement. This amendment is in accordance with the approved engineering plans.

Should the Panel seek clarification as to the original proposed wording of conditions, these are provided in Attachment J, the previous report to the HCCJRPP of 23 July 2015.

Amendments Requested from JRPP Meeting 23 July 2015

1. Deletion of Lot 4 Dwellings

The Panel resolved that Units 401 and 410 on Lot 4, adjacent to the Kopa Street frontage be deleted to provide greater building separation between the development and adjoining land to the north west. Additional landscape screening is to be provided in this setback.

The amended design supports the retention of dwellings 401 and 410 with design modifications. The development has been amended to provide a setback of 1.5m to the north western boundary for the full height of the building and the incorporation of a landscape screen using *Syzygium "Resilience"* that achieves a mature height of four metres, to soften the external appearance.

Council's Landscape Architect has reviewed the landscape response for this area and advises the provision of narrow canopied shrub planting along the western boundary of the units fronting Kopa Street will provide a softening to the building form and soften this elevation without impacting the existing neighbour or future development to the neighbouring site. Other species that would complement this planting and provide height graded and textural interest to the edge planting are *Pittosporum 'Green Pillar'*, *P. 'Irene Patterson'*, *Callistemon 'Slim'*, and *Syzygium 'Pinnacle'*.

The revised plan supports the objective to achieve an efficient use of Lot 4, without compromising the future potential yield on the adjoining parcel to the northwest. The proposed design change incorporates a 1.5m setback consisting of future townhouse built form (with glazing to front and rear elevations) on the adjacent parcel, would support dwellings on both lots having a high level of amenity, and would generate a consistent and desirable streetscape character.

2. Deletion of the fourth storey dwellings on Lot 1

The Panel resolved that the fourth storey dwellings on Lot 1 (Units A301, A302 and B201) be deleted.

Merit case for retaining the fourth level

From an urban design viewpoint there is a strong merit case for retention of the fourth level for part of the Lot 1 Building.

The Dudley Road reserve width coupled with the carpark setback indicates that a higher building is appropriate achieving some sense of overall 'street' enclosure and to generate a comfortable sense of place for pedestrians.

The shorter elevation of the fourth level adds modulation and interest, and avoids a longer unrelieved roofline for the western building on Lot 1 as shown in the recommended amendments.

The fourth level is setback from Dudley Road and provides for further articulation and interest at the 'central' part of the overall shopping strip. This form would potentially be complemented by future development of the western section of the shopping strip.

Removal of fourth level

The Panel requested the deletion of the fourth storey dwellings on Lot 1 being dwellings numbered A301, A302 and B201. The applicant has deleted dwellings A301 and A302, the fourth storey element on the western building.

The removal of A301 and A302 to create a three storey elevation effectively addresses the variation above the DCP1 height of 10m.

Unfortunately, a height of 10m does not adequately allow for appropriate floor to ceiling heights as set out in SEPP65 Residential Flat Design Code (RFDC), and the more recent Apartment Design Guide, and as reflected in current best practice. The remaining small variation for the modified proposal is attributable to this shortcoming of the 10m limit in DCP1.

SEPP65 RFDC and the more recent Apartment Design Guide also support architectural roof forms as part of street character and as a means to integrate roof plant. In these circumstances, the revised proposal with the architectural roof form and appropriate floor to ceiling heights would justify the small encroachment beyond the 10m height.

Retention of B201

The revised proposal includes retention of B201 at the south eastern end of Lot 1.

The design for this small residential flat building takes advantage of the ground slope towards the Fernleigh Track such that the ground floor level is largely screened from viewers on Dudley Road and only apparent when approaching from the Fernleigh track.

The floor levels have been lowered to reduce the overall height of the eastern building by approximately 1.1m. The highest point of the building is set by the lift overrun at 109.725AHD. Removal of dwellings B201 does not remove the requirement for the lift overrun. Below are three depictions of this building showing the previously submitted proposal; proposal complying with the JRPP request and the submitted amended proposal.

From an urban design viewpoint it is also appropriate to generate a higher roof form that will express the corner element at the end of Lot 1 and overlooking the Fernleigh Track. Retention of apartment B201 results in a minor variation to height to accommodate the roof and to integrate the lift overrun into the roof form. Retention of the fourth storeys is considered acceptable in light of the comments above on floor to ceiling heights and roof forms. The roof form provides interest, integrates roof plant and adds interest and articulation to the street elevation.



Figure 1: Original proposal with no changes and retention of fourth storey element.



Figure 2: Removal of Unit B201, as recommended by JRPP, lift shaft and overrun retained.



Figure 3: Amended design incorporating, lowering of finished floor levels for Building B reduces overall height.

Figure 2 shows the impact of deleting unit B201 with the lift over-run dominating the elevation, whereas Figure 3 below provides more visual interest with the retention of unit B201 but lowering the overall height of the building. The height of the lift overrun is lower than the previous proposal.

Figure 1 above shows the RL at the top of the building, as originally proposed, is 110.826. The RL at the upper most point of the building as proposed through this amendment that is with the lowering of finished floor levels is RL109.725, resulting in a height reduction of 1.101m compared to the previous proposal (see Figure 1 above). The strengths in this proposal is the reduction in height whilst maintaining unit numbers and providing an appropriate built form to Dudley Road and other areas as evidenced in the elevations shown in Figures 4, 5, 6 and 7 below.



Figure 4: Southern elevation of Building B on Lot 1



Figure 5: Northern elevation of Building B on Lot 1



Figure 6: Eastern elevation of Building B on Lot 1

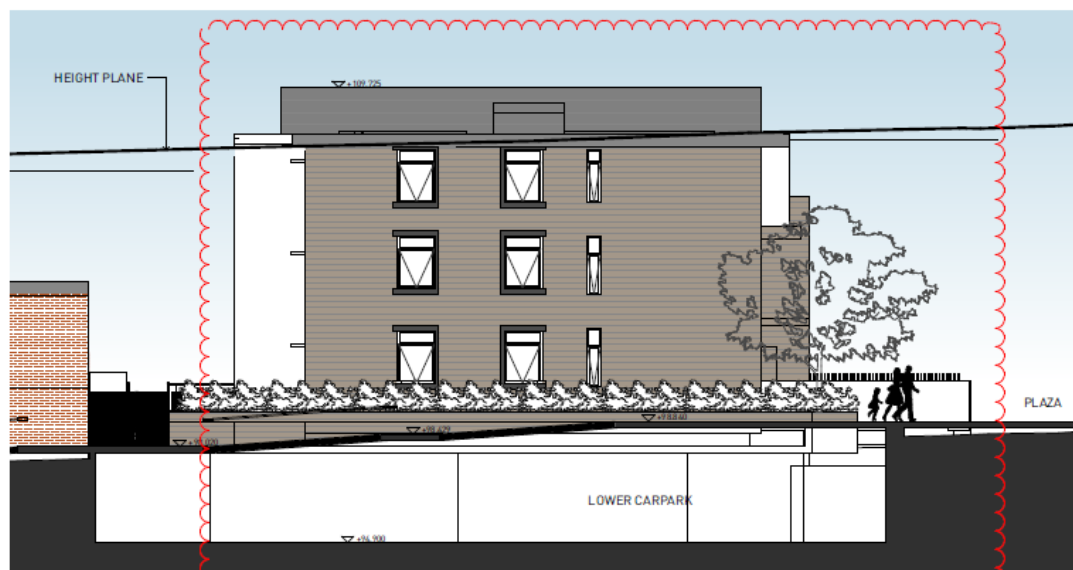


Figure 7: Western elevation of Building B on Lot 1

Shadow diagrams have been provided demonstrating the shadow cast to Dudley Road; refer to Figures 8 to 11 below. The shadows from the development extend approximately to the middle of the road and do not extend to the kerb on the southern side of Dudley Road. The shadow diagrams provide in RED the additional shadow cast from the buildings above the 10m height plane. The shadow cast at 9:00am in mid-winter is also shown in plan view in Figure 11 below.



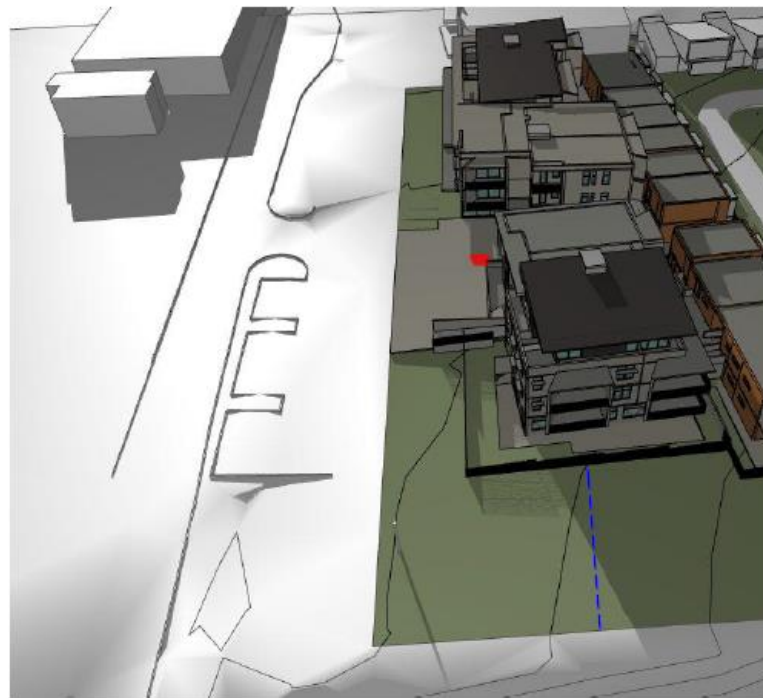
JUNE 21 9AM

Figure 8: Shadow cast by development at 9am on 21 June, with the red showing the additional shadow cast by that part of the building above the 10m height plane.



JUNE 21 12PM

Figure 9: Shadow cast by development at 12noon on 21 June, with the red showing the additional shadow cast by that part of the building above the 10m height plane.



JUNE 21 3PM

Figure 10: Shadow cast by development at 3pm on 21 June, with the red showing the additional shadow cast by that part of the building above the 10m height plane.



Figure 11: Overall shadow diagram of proposed development on Lot 1 at 9am in mid winter

Proposed street tree planting on the landscape documentation nominates tree species with a mature height spatially proportional to the proposed building height.

3. Redesign of apartments A101, A102, A201 and A202

The Panel resolved the redesign of apartments A101, A102, A201 and A202 to create a minimum setback of seven metres from the rear of the maisonette apartments, resulting in the deletion of one dwelling on each floor in this location.

Apartments A101, A102, A201 and A202 have not been redesigned as the applicant has considered the apartments have a high level of amenity with north facing balconies. The level 1 apartments are positioned such that they will overlook the top of the maisonette apartments. Positioning these apartments further away from the rear of the maisonette apartments would result in privacy impacts from apartments A101 and A102 directly supporting viewing down into the bathrooms of the maisonette apartments.

The amenity of the ground floor apartment A001 has been improved through a redesign, as shown in Figure 12 below. Redesign has allowed greater solar penetration into the living areas and private outdoor open space. The common open space between the maisonettes and the apartment building also receives improved solar access.

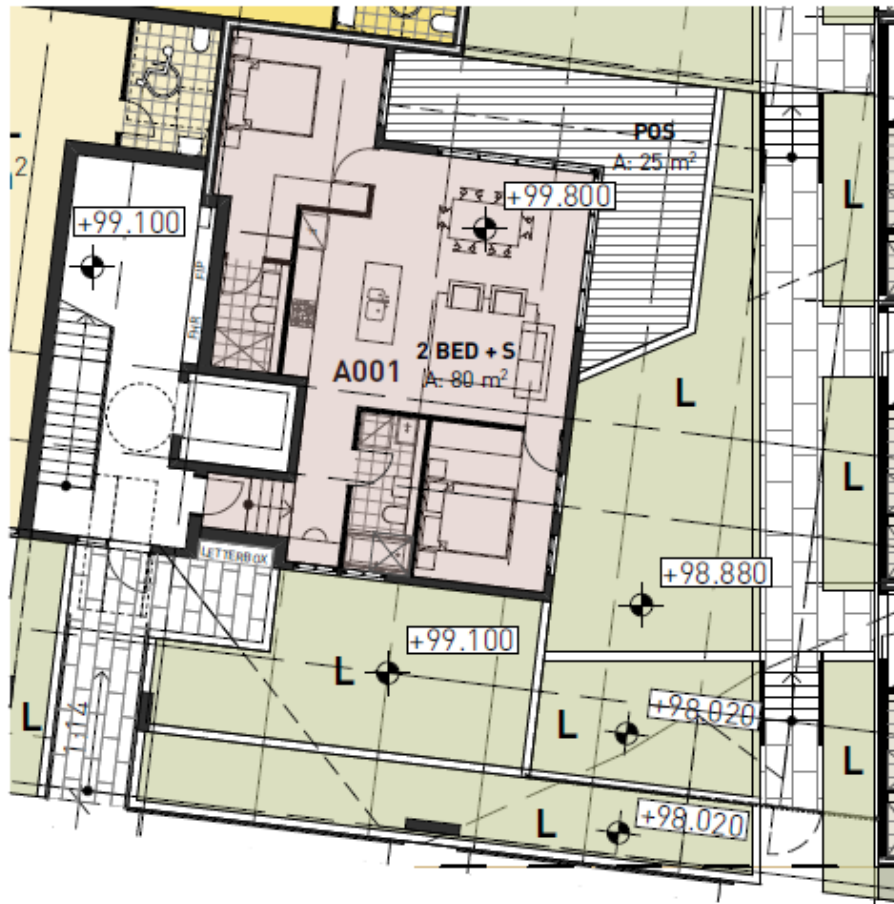


Figure 12: Amended interior layout of apartment A001

4. Redesign of the roof form of the building on Lot 1

The Panel resolved the roof form of the building on Lot 1 (incorporating the changes in point three above to maintain the roofscape form of the current design.

The applicant has stated the previous design of the roof has been retained with room elements being lower in height. The roof form does result in exceedences of the height plane. The roof form is considered to provide greater benefit to the streetscape and urban character than strict compliance with the height limit. The non-compliance created by dwellings A301 and A302 has been removed.

5. Open space on Lot 25

The Panel resolved to require additional details be provided regarding the proposed mechanism to deliver and manage the proposed open space on Lot 25 as publically accessible open space.

The applicant has agreed to the following condition of consent, previously proposed by Council, regarding the use, management and maintenance of this open space area.

Management of the Open Space Lot 25

The person entitled to the benefit of this consent shall incorporate proposed Lot 25, which contains the "Open Space", into the Strata Plan for Lot 3. An easement for access shall be created over the "Open Space" in favour of all proposed lots in the development. The Strata Plan documents will specify the maintenance requirements for Lot 25 and identify, which lots are responsible for the maintenance of the land and facilities. The maintenance requirements shall be approved by Council prior to the issue of the Subdivision Certificate for Lot 3.

Alternatively, the person entitled to the benefit of this consent shall make alternate arrangements for the ownership and on-going maintenance of proposed Lot 25 to the satisfaction of Council. These arrangements shall be approved by Council prior to the issue of a Subdivision Certificate for Lot 3 and 25. The arrangements shall then be registered on the title of the relevant lots by an 88B Instrument.

Summary of Main Issues Raised in Submissions

Ecology

Council officers have undertaken a further assessment regarding impacts on the ecological zone and impacts to squirrel glider.

The development proposal modifies the E2 (7(2)) zoned area of the site through the provision of infrastructure including retention basins, a pathway, and revegetation works. All existing trees on the site in the E2 zoned land will be retained. One native shrub, prickly-leaved tea tree *Melaleuca styphelioides*, will be cleared from the E2 zoned land.

The application proposes to mitigate the loss of eight native trees and two shrubs through the provision of revegetation works including the provision of squirrel glider feed tree species, that complement and consolidate the existing native vegetation along Lot 102 DP 843703, the Fernleigh Track.

Further assessment undertaken by Council staff included an Assessment of Significance dated 24 September 2015 and contained within Attachment G. The Assessment of Significance considers the specific impact of DA/1774/2013 on *Petaurus norfolcensis* (Squirrel Glider) a threatened species listed on Schedule 2 as vulnerable on the NSW *Threatened Species Conservation Act 1995*.

An independent peer review was sought regarding the impact of the development on squirrel gliders and specifically to consider submissions from Dr Clulow who recommended the proposed development would have a significant impact on the threatened species *Petaurus norfolcensis* (Squirrel Glider) and therefore the proposed development should be supported by a Species Impact Statement.

Council staff subsequently undertook a Seven Part Test and determined a Species Impact Statement is not required.

Mr Michael Murray of Forest Fauna Surveys Pty Ltd was commissioned and undertook the Squirrel Glider Peer Review and completed a report dated 11 November 2015, provided in Attachment H.

The findings of the Peer Review confirm:

1. The preparation of a Species Impact Statement is not required.
2. Subject to the implementation of the following ameliorative actions the proposed development may proceed.

Vegetation Management Plan and Implementation

The person entitled to the benefit of the consent shall engage a person qualified in natural vegetation management, ecology or bush regeneration to prepare a Vegetation Management Plan (VMP) in consultation with Council's Development Planner – Flora and Fauna. The VMP shall be submitted and approved by Council prior to the issue of the first construction certificate.

The VMP shall address and identify:

- *Compensatory planting within land zoned RE1, E2 and the Kopa Street Road reserve of native groundcover, shrubs (including *Allocasuarina torulosa* and a mix of *Acacia* sp. and *Banksia* sp.), and trees (including *Eucalyptus globoidea*, *Corymbia gummifera*, *Eucalyptus racemosa*, *Eucalyptus haemastoma*, *Eucalyptus piperita* and *Angophora costata*) Compensatory planting will occur in the south and eastern areas of the subject site including surrounding the proposed stormwater basins, on adjacent*

Council land within and adjacent to the Fernleigh Track, and within Council land adjacent to the Fernleigh Track at Hudson Street, Dudley Road and Station Street as shown in Figure 13 below.

- Weed removal and rehabilitation of native vegetation on land indicated above and shown in Figure 13 below.
- Ecological Corridor Landscape Rev D, Dwg No DA-EC-01 and DA-EC-02 Mansfield Urban 20 February 2015 shall be amended to include the provision of 11 clumps comprising three trees per clump of plantings (allowing for 5 m canopy separation when mature) on the subject site within land zoned E2. Species shall be scribbly gum *Eucalyptus racemosa* and red bloodwood *Corymbia gummifera*.
- Measures to establish a functioning corridor to enable fauna movement, in particular squirrel gliders. Structures (glider poles) shall be installed on land zoned E2 at the south eastern boundary of the subject site with the intent to facilitate movement of squirrel gliders between patches of native vegetation along the south eastern boundary of the subject site (a minimum of two is required). Glider poles shall be installed south of the Dudley Road/Station Street intersection and north of the Dudley Road/Station Street intersection on Council land with the intent to facilitate movement of squirrel gliders across this intersection (a minimum of three is required). Input from a squirrel glider expert shall be obtained and included in the design, placement and to confirm the number of these structures. They must be designed with consideration to site constraints including power lines and traffic/public safety requirements and have regard to any requirement of the Roads and Maritime Services, and be certified by a practicing structural engineer.
- The batters of the proposed stormwater basins shall be planted with native groundcover, trees and shrubs (as detailed above). Land between the proposed stormwater basins and the Fernleigh Track shall be mulched, excluded from mowing (to allow for natural regeneration) and planted with native groundcover, trees and shrubs (as detailed above), in compliance with the required density for bushfire asset protection zones.
- Clear depiction on plans and on the ground, areas that are not to be mown by maintenance staff and are to be maintained with native species.
- A suitable mechanism for continued maintenance and management in perpetuity of the native vegetation corridor and Asset Protection zone that is to be established on the E2 land.
- At least five years maintenance of rehabilitation and weeding on Council land, and at least 10 years maintenance, revegetation and rehabilitation of E2 zoned land.

Implementation of the VMP shall be carried out in accordance with the VMP approved schedule of works. Annual Monitoring statements shall be provided to Council's Development Planner Flora and Fauna verifying compliance with the VMP. The VMP shall be implemented and rehabilitation works maintained to the satisfaction of Council's Development Planner – Flora and Fauna.

Keeping of Pets – Section 88B Restriction

The registered Proprietor of the land shall provide an instrument under Section 88B of the Conveyancing Act requiring that cats shall be only kept as indoor pets. Cats shall not be permitted unless on a lead outside, on public roads or in private or public open space areas. Pets including dogs may be permitted within the outdoor private open space of the dwellings, but shall not be permitted off lead outside private open space areas.

The above restriction shall be placed on all lots including Torrens title and strata lots within the subdivision.

The Section 88B restriction shall be registered on the title of the lot prior to the issue of the first occupation certificate for that stage of the development.

Council shall be the party empowered to release, vary or modify this restriction.

The construction of dwellings Lots 21-24 be delayed until later stages in the proposed development. Development of proposed Lots 21-24 will result in removal of three mature trees in the north-eastern corner of the site. These trees are situated approximately 16 metres to the west (upslope) from Tree 15, which will be the only retained mature tree on site under the current proposed staging of works. Retention of trees 18 – 20 is recommended to retain the current Fernleigh Corridor linkage until habitat enhancement works have been completed, such as installation of glider poles and in-fill plantings. In response to these findings the construction of dwellings (lots 21 – 24) is proposed to be delayed until Stage 6 to ensure enhancement works are completed, including the installation of glider poles and infill plantings, this is reflected in modification to proposed condition 1 – Staging of Works. Additionally, it is proposed to amend condition 13 – Aboricultural Impact Assessment and Tree Protection Plan to state (in part):

“The vegetation on proposed Lots 21 – 24 shall not be removed, pruned or otherwise damaged until enhancement works have been completed, including the installation of glider poles and infill plantings as described in condition 14 of this Notice of Determination. Tree protection measures shall be installed for the trees on Lot 21 – 24 for the duration of works and in accordance with best practice and AS 4970-2009.”

This will ensure greater protection of these trees during construction of surrounding stages of development and until the glider poles and infill planting has occurred.

The recommendations contained within the Peer Review are supported and are reflected within the proposed draft conditions of consent, namely amended conditions 1, 13 and 14 as detailed above and provided in Attachment A.



Figure 13: Recommended areas for revegetation and weed suppression within land zoned RE1, E2 and the Kopa Street Road reserve (red polygon), and indicative locations for glider poles (red dots).

Vehicle Parking

The reduction in number of units results in a change to the parking requirements.

Following the JRPP meeting, revised plans were submitted detailing the deletion of Units A301 and A302, which were a one bedroom and a three bedroom unit within the 3(1) zoned part of Lot 1. The amended parking required is detailed below.

Lot 1 – Retail / Commercial

The development proposes 131m² of retail floor space. Using the retail parking rate of 1 space per 25m², a total of 5.24 parking spaces are required. The development also proposes 194m² of commercial floor space. Using the commercial parking rate of 1 space per 40m², a total of 4.85 parking spaces are required. A total of 10 car parking spaces are required for the non-residential component of the development. 11 parking spaces (including 2 disabled spaces) are proposed as angle parking at the front of the site, providing a surplus of one space in this area as shown in Figure 14 below.

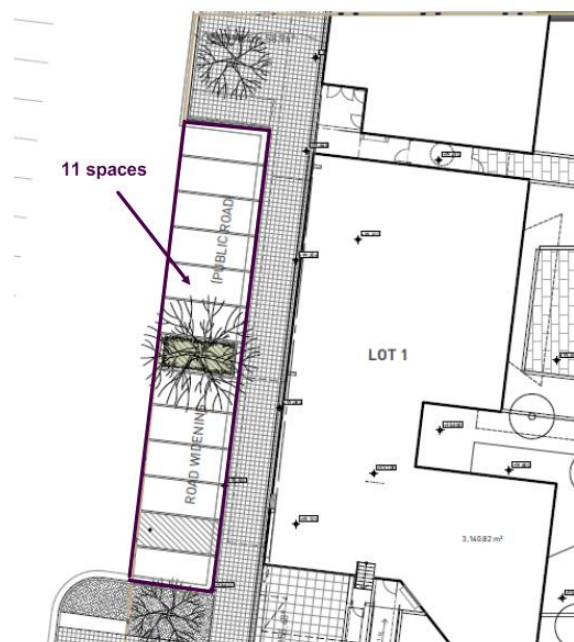


Figure 14: Car parking spaces (11) located at the front of Lot 1 provided for the commercial / retail component of the development

There are an additional 18 parking spaces located within the Dudley Road road reserve fronting Building B and shown, as the areas outlined by purple, in Figure 15, which creates a 19 space surplus (including the additional parking space from the 11 spaces shown in Figure 14 above).

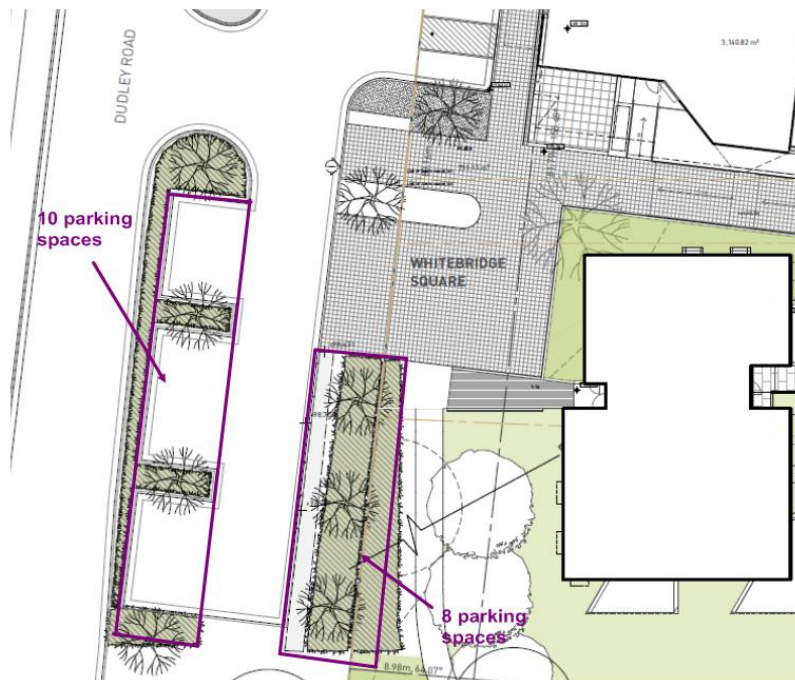


Figure 15: Plan of Dudley Road area showing 18 parking spaces

Lot 1 – Residential - Land Zoned 3(1)

| Dwellings | Vehicle Rate / Unit | Spaces Required | Spaces Provided | Complies |
|------------------|---------------------|-----------------|-----------------|----------|
| Two bedroom x 20 | 0.75 | 15 | 23* | Yes |
| Visitors x 20 | 0.25 | 5 | 0 | No |
| | | | | |
| | TOTAL | 20 | 23 | |

*NOTE - The *three* parking spaces for the two deleted units (two for A301 and one accessible space for A302) remain unallocated in the basement. These spaces can be redistributed to other units within the same Lot.

The two units removed from the proposal are from within Lot 1 on the land zoned 3(1).

Lot 1 – Residential - Land Zoned 2(2)

| Dwellings | Vehicle Rate / Unit | Spaces Required | Spaces Provided | Complies |
|-------------------|---------------------|-----------------|-----------------|----------|
| One bedroom x 1 | 0.75 | 0.75 | 1 | Yes |
| Two bedroom x 9 | 1.0 | 9.0 | 9 | Yes |
| Three bedroom x 3 | 1.5 | 4.5 | 4 | No |
| Visitors x 13 | 0.25 | 3.25 | 0 | No |
| | | | | |
| | TOTAL | 17.5 | 14 | |

The basement for Lot 1 provides parking for 37 vehicles including nine disabled spaces, and one car wash bay making this basement compliant in residential car parking spaces. All parking is specifically allocated to units. No separate visitor parking spaces are provided. There are 37.5 residential spaces required (including visitor spaces); this building is deficient 0.5 spaces. However, the basement does not provide any visitor parking spaces resulting in an overall deficiency of 8.25 spaces.

It is proposed to use some of the remaining 19 spaces shown in the area on Dudley Road outlined in purple on Figure 12 above as well as the additional space within the area in Figure 11 above, to accommodate the 8.25 deficiency; leaving a surplus on Dudley Road of 10.75 spaces.

Lot 2

| Dwellings | Vehicle Rate / Unit | Spaces Required | Spaces Provided | Complies |
|-------------------|---------------------|-----------------|-----------------|----------|
| Three bedroom x 8 | 1.5 | 12 | 15 | Yes |
| Visitors x 8 | 0.25 | 2 | 0 | No |
| | | | | |
| | TOTAL | 14 | 15 | |

Allocated resident parking for Lot 2 is in surplus by three spaces, however deficient in visitor parking spaces by two spaces, as all spaces within the basement are allocated to units. The two visitor spaces are provided within the road reserve on Dudley Road, leaving a surplus of 8.75 spaces in the Dudley Road area.

Lot 3

| Dwellings | Vehicle Rate / Unit | Spaces Required | Spaces Provided | Complies |
|-------------------|---------------------|-----------------|-----------------|----------|
| Two bedroom x 1 | 1.0 | 1 | 1 | Yes |
| Three bedroom x 9 | 1.5 | 13.5 | 18 | Yes |
| Visitors x 10 | 0.25 | 2.5 | 0 | No |
| | | | | |
| | TOTAL | 17 | 19 | |

Allocated resident parking for Lot 3 is in surplus by 4.5 spaces. In order to provide greater security to the basements of the development, the allocated visitor parking spaces within Lot 3 shall be removed or allocated to a unit, providing a shortfall in visitor parking of 2.5 spaces and surplus of allocated resident parking of 4.5 spaces. The 2.5 visitor spaces are provided within the road reserve on Dudley Road, leaving a surplus of 6.25 spaces.

Lot 4

| Dwellings | Vehicle Rate / Unit | Spaces Required | Spaces Provided | Complies |
|--------------------|---------------------|-----------------|-----------------|----------|
| Three bedroom x 18 | 1.5 | 27 | 36 | Yes |
| Visitors x 18 | 0.25 | 4.5 | 0 | No |
| | | | | |
| | TOTAL | 31.5 | 36 | |

Allocated resident parking for Lot 4 is in surplus with nine spaces, however deficient in visitor parking spaces by 4.5 spaces. The 4.5 visitor spaces are provided within the road reserve on Dudley Road, leaving a surplus of 1.75 spaces.

The total visitor parking deficiency is 17.25 spaces. These 18 parking spaces are provided at the southern end of the Dudley Road service road. To accommodate visitor parking the development proposes the construction and dedication to Council of the parking areas outlined in purple shown in Figure 12 and those spaces showing in Figure 11.

Relevant to this proposal is the removal of two existing dwellings on Kopa Street, resulting in the removal of two driveway crossovers that will provide additional parking on Kopa Street that will support visitor parking demand.

Lots 5 to 23

There has been no change to this area under the amended plans. Small lot housing under DCP 1 requires a minimum of one undercover and one stacked parking space, however a double garage providing two undercover spaces per lot also meets this requirement. Lots 5 to 23 all provide the required number of parking spaces, in a number of arrangements, including double garaging and single garaging with stack parking.

No separate visitor parking is required under DCP 1 for small lot housing.

Parking conclusion:

Parking for the residential units are provided in surplus overall within each basement of the residential flat buildings (Lots 1 to 4, in total 100 spaces required, with 109 spaces proposed). The visitor parking spaces will be provided on the Dudley Road frontage, increasing the available sealed parking for the commercial area and resulting in a surplus of 1.75 spaces.

The public roads provided off Kopa Street will provide an additional 25 to 30 spaces on street. These spaces have not been included in the calculations above and are provided as additional on-street parking.

Traffic

Surveys have been undertaken by Council staff in addition to that detailed in the Traffic Impact Statement. The surveys focussed on observing the operation of the Dudley Road, Bulls Garden Road, Waran Road and Lonus Avenue roundabout, and the peak movements on Lonus Avenue. The observations indicated a critical peak in the PM period with the longest queues and delays occurring on Lonus Avenue at the roundabout. This peak coincided with the completion of the school day, when traffic associated with parents and students leaving the school travelled along Lonus Avenue. This peak continued for approximately 15 minutes, with queues extending around 20 vehicles and an observed delay of approximately 70 seconds. After this critical peak, the queues and delay at the roundabout lessened significantly as the traffic volume decreased.

When investigating an intersection for an upgrade, the average queue and delay over the peak hour is evaluated. A discrete peak of congestion occurring over a 15 minute period will not warrant significant funds to resolve unless a safety issue is identified. A roundabout at this intersection is considered the optimal form to control traffic.

Overall, the modelling of the roundabout and actual observations taken at various periods over several days showed that during the majority of the surveyed time, the intersection continued to operate well.

Density

The development proposes a medium density housing development that accords with the 2(2) and 3(1) zone objectives to provide for medium to high density housing that is of good quality design, which has good access to a range of urban services and facilities. The density of the development is as follows:

- 20 dwellings on the land zoned 3(1) – density approximately 111 dwellings per hectare (site density)
- 69 dwellings on the land zoned 2(2) – density approximately 37 dwellings per hectare (site density)

Gross density of the development includes half width of roads fronting the development and 7(2) zoned land is 34.8 dwellings per hectare (i.e. 25,566m² for 89 dwellings).

Council's SEPP 65 Design Review Panel supports the density of the development. The Panel specifically noted the four-storey element fronting Dudley Road that exceeds the height controls under the DCP, however, accepted this is a reasonable response in this part of the site.

The SEPP 65 panel commented specifically regarding density on the site: *“the key controls regarding density are achieved through a combination of height and site coverage. Generally having regard to the extent of landscape space, breaks between building forms and the scale of building the panel is of the view that the density of the development is consistent with Council’s policy framework for a small Commercial centre surrounded by medium density development and is appropriate for the site”*.

Lot sizes proposed for the small lot housing development are in accordance with LMLEP 2004 for land zoned 2(2).

Whitebridge has an emerging character that will continue to be developed over time with increasing density closer to the commercial precinct.

Height

LMLEP 2004 does not provide a height limit of 8m. Clause 29 of LMLEP 2004 provides matters to be considered when assessing a development application for the erection of a building the whole or part of which exceeds 8m. The clause requires the assessment to consider whether the height is compatible with the heights of other buildings in the immediate vicinity or locality and is compatible with:

- (a) the site attributes, and existing or proposed uses of the land to which the application relates, and*
- (b) the other requirements of this plan and the provisions of any relevant development control plan.*

An assessment of the height of buildings proposed against this clause including the DCP occurred under the previous assessment. It is important to note buildings do not have to be the same height to be compatible. Buildings in the immediate vicinity consist, predominately of single and two storey developments in low scale density settings. The broader locality consists of buildings, which are three storey or consist of three storey elements, it is noted many of these are located some distance from the commercial centre.

In *Veloshin v Randwick Council [2007] NSWLEC 428* Roseth discusses the planning principle regarding assessment of height and bulk. Roseth’s judgement states:

“The appropriateness of a proposal’s height and bulk is most usefully assessed against planning controls related to these attributes, such as maximum height, floor space ratio, site coverage and setbacks. The questions to be asked are:

Are the impacts consistent with impacts that may be reasonably expected under the controls? (For complying proposals this question relates to whether the massing has been distributed so as to reduce impacts, rather than to increase them. For non-complying proposals the question cannot be answered unless the difference between the impacts of a complying and a non-complying development is quantified.)

How does the proposal’s height and bulk relate to the height and bulk desired under the relevant controls?

Where the planning controls are aimed at preserving the existing character of an area, additional questions to be asked are:

Does the area have a predominant existing character and are the planning controls likely to maintain it?

Does the proposal fit into the existing character of the area?

Where the planning controls are aimed at creating a new character, the existing character is of less relevance. The controls then indicate the nature of the new character desired. The question to be asked is:

Is the proposal consistent with the bulk and character intended by the planning controls?

Where there is an absence of planning controls related to bulk and character, the assessment of a proposal should be based on whether the planning intent for the area appears to be the preservation of the existing character or the creation of a new one. In cases where even this question cannot be answered, reliance on subjective opinion cannot be avoided. The question then is:

Does the proposal look appropriate in its context?

Having regard to the above, and in response to the development proposal:

- (1) Are the impacts consistent with impacts that may be reasonably expected under the controls? (For complying proposals this question relates to whether the massing has been distributed so as to reduce impacts, rather than to increase them. For non-complying proposals the question cannot be answered unless the difference between the impacts of a complying and a non-complying development is quantified.)*
- (2) How does the proposal's height and bulk relate to the height and bulk desired under the relevant controls?*

Given the applicant has not deleted Unit B201 and in this regard the proposal is non-compliant with the JRPP recommendation, the applicant has provided shadow diagrams that demonstrate the overshadowing of a compliant proposal compared with the additional impact cast from that part of the building which exceeds 10m. It is considered the impact of this additional shadow is minimal; the shadow falls to approximately the middle of Dudley Road and falls across the open space area to the east of building B as shown in earlier Figures 8, 9, 10 and 11.

Overall, the massing of the buildings has been appropriately apportioned across the Dudley Road frontage. The break between the buildings and the roof form is considered to provide greater benefit to the streetscape and urban character than strict compliance with the height limit.

- (3) Does the area have a predominant existing character and are the planning controls likely to maintain it?*
- (4) Does the proposal fit into the existing character of the area?*

It is not considered the planning controls are aimed at preserving an existing character of this area. The area is under transition with the introduction of more medium density development, the expansion of the existing shopping strip and the reduction in lower density development in close proximity to the commercial centre. To maintain the existing low scale nature of development that is currently evident in the areas immediately surrounding the commercial centre would hinder the attainment of the aims and objectives of the 2(2) zone. The existing low scale character of Whitebridge will alter over time; a detailed character statement for the Whitebridge area has not been prepared. In this regard, points (3) and (4) above are not relevant to the development given the changing character of the Whitebridge area.

- (5) Is the proposal consistent with the bulk and character intended by the planning controls?*

As stated above, clear guidelines and character statements have not been prepared for the Whitebridge area. However, the proposed amendments have reduced the height of the

building presenting to Dudley Road through deleting Units A301 and A302. Unit B201 has been retained through lowering floor heights of the building.

The retention of Unit B201 will sit below the established tree line for trees on the adjoining site, the Fernleigh Track. Additional plantings within the development site in proximity to the building will further soften this elevation when the trees reach maturity. The placement of this unit also adds to the rhythm of the streetscape. The wide gap between the development site and dwellings on Station Street to the east removes the need to transition in height along this elevation. Without a future character statement for the area, the application is assessed on its merits having regard to the architecture, the unique nature of the site; including the separation distance from the site to residential development on Station Street, the slope and the size; and the zone objectives. It is considered the encroachment above the 10m height plane does not impact adversely on adjoining properties and has careful regard to existing development. Critically, the existing shopping centre development will overtime undergo transformation that is likely to increase heights within this area having regard to the views afforded to development at higher levels. As adjoining development undergoes change, the height of this development will sit more comfortably within the streetscape.

(6) Does the proposal look appropriate in its context?

Being an area in transition and considering the standard of architecture proposed the development is considered appropriate in its context. In this regard, the development has been designed to respond to the site constraints and surrounds. The development is of a high architectural standard. The additional height at the Dudley Road frontage provides no significant offsite impacts, or establish a character / context that would undermine the existing / future planning controls.

Overall, the height is appropriate for the site and its context.

Section 94 Contributions

The *Lake Macquarie City Council Development Contributions Plan – Charlestown Contributions Catchment* came into effect on 14 October 2015. Contributions are required to be levied for this development in accordance with this plan. Previously the development was subject to the *Lake Macquarie Section 94 Contributions Plan No. 1 – City Wide – Charlestown Catchment 2004*, which did not levy for the non-residential component of this development.

The *Lake Macquarie City Council Development Contributions Plan – Charlestown Contributions Catchment* levies for residential and non-residential development to ensure adequate community infrastructure is provided to meet the demands generated by any new development and that the existing community is not burdened with the provision of community infrastructure required as a result of new development. The Charlestown Plan also provides an administrative framework under which specific community infrastructure strategies are to be implemented and coordinated. Contributions are levied to fund works and acquisitions for community infrastructure being:

- Local roads: including road and footpath infrastructure and traffic management facilities;
- Local public transport facilities including bus stop improvements;
- Public car parking facilities;
- Local open space and recreation facilities; and
- Local community facilities, including library buildings and resource materials, community centres and halls and children's services.

A condition of consent is proposed in accordance with the new plan, which levies for the residential component of the development as well as the non-residential component, which includes the retail, and business premises floor spaces.

The following contributions apply on and from 15 November 2015 and are valid until the close of business on 14 February 2016, and as subsequently indexed in accordance with the Plan.

Stage 1 - \$191,680.71

Stage 2 - \$272,165.79

Stage 3 - \$431,337.33

Stage 4 - \$213,132.61

Stage 5 - \$181,410.83

Stage 6 - \$ 62,807.49

TOTAL - \$1,352,534.76

CONCLUSION

Based on the above assessment, and having regard to the submissions received regarding the development, it is concluded that the design and operation of the proposed mixed use and residential development will establish a positive addition to Whitebridge Town Centre and its immediate environs.

Approval of the development, subject to conditions of consent, is recommended.

RECOMMENDATION

It is recommended that the application be approved, subject to the conditions contained in Attachment A, as amended and discussed in this report.

ENDORSEMENT

The staff responsible for the preparation of the report, recommendation or advice to any person with delegated authority to deal with the application has no pecuniary interest to disclose in respect of the application.

The staff responsible authorised to assess and review the application have no pecuniary interest to disclose in respect of the application. The report is enclosed and the recommendation therein adopted.

Elizabeth J Lambert
Senior Development Planner
Lake Macquarie City Council

I have reviewed this report and concur with the recommendation.

John Andrews
Chief Development Planner
Development Assessment and Compliance

LIST OF ATTACHMENTS

Attachment A: Recommended draft conditions of consent

Attachment B: Amended Plans of development

Attachment C: Summary of submissions

Attachment D: Concurrence from Department of Planning

Attachment E: Mine Subsidence Board GTAs

Attachment F: NSW Rural Fire Service GTAs

Attachment G: Council's Ecology Assessment

Attachment H: Squirrel Glider Peer Review

Attachment I: Submissions by Dr Clulow

Attachment J: Report to HCCJRPP dated 23 July 2015