

Attachment C – Summary of Submissions

Mixed Use Development, Residential Flat Development, Small Lot Housing and Torrens Title Subdivision

DA/1774/2013

The following tables provide an overview of the issues raised in response to the recent notification period (17 August 2015 to 1 September 2015). Issues previously raised have not been re-addressed as part of these tables, however some issues have been further expanded from Attachment C to the previous report on this matter. This information is to be considered in conjunction with Attachment C to the previous report. Issues have been summarised in to the main issues and grouped into the tables. To provide further detail common themes have been listed within each grouping.

Table 1 – General Issues and Concerns

| Issue / Concern | Planning Comment |
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| JRPP role / process The JRPP does not appear to have responded to all of the matters raised as part of the public addresses to the JRPP at the meeting of 23 July 2015 The Council and JRPP are not listening to the community | The JRPP is provided with copies of all submissions received during each notification period. Additionally the JRPP are provided with a summary of the submissions and planning comment relative to the matters considered in accordance with the relevant legislation. The role of the JRPP is not to respond specifically to all of the matters raised as part of the public addresses to the JRPP but to consider the verbal submissions when making their decision and to consider the merits of the application as reported by Council. Council officers have ensured the views of the community are considered throughout the assessment process of this development application. Four notification periods have been provided to enable the community to |

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| <p>The JRPP at the meeting did not address any concerns raised on ecology</p> <p>The applicant has not complied with the JRPP conditions / the JRPP should refuse the development due to the lack of changes / JRPP should uphold its previous decision</p> <p>JRPP conditions can be ignored by a developer as witnessed at West Wallsend</p> | <p>make written submissions regarding the development. Several of the submission periods have been extended. Council officer's reports consider all submissions whether received during a notification period or outside of such periods. Council officers' assessment considers the submissions of the community but is not required to agree with all matters raised. It is acknowledged the application has evolved since its earliest form resulting in significant changes to its layout, form and scale.</p> <p>The JRPP at its last meeting heard submissions from a representative of the community and Council ecologists. The JRPP in considering this report will consider further submissions from the community, Council's ecologists and a peer review expert representing the JRPP.</p> <p>The applicant in submitting amended plans has provided a justification for the amendments they have sought. The role of Council is to assess the merits of the changes proposed, and the JRPP role is to determine whether the development as a whole is appropriate having regard to the required legislation. It may approve the application subject to conditions or refuse the application on any ground the Panel consider is not adequately resolved.</p> <p>Conditions placed on a consent must meet the legal test of validity. This test is addressed as part of the Newbury Principles. The decision of the House of Lords in <i>Newbury District Council v Secretary of State for the Environment [1981] AC 578</i> espouses three basic tests for a valid condition:</p> <ol style="list-style-type: none"> 1. it must be for a planning purpose; 2. it must reasonably relate to the development to which consent is sought; and 3. it must be reasonable. |
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| <p>Council staff unable to answer questions regarding the development at the JRPP meeting</p> <p>Irresponsibility of council staff in recommending approval / Council should be speaking for the community</p> <p>Decision making and this process is undemocratic</p> | <p>Conditions applied to any consent must meet the above tests to be legally applied to a consent. When a consent is granted, the onus is on the person entitled to the benefit of the consent to comply with the conditions justly imposed. There are measures under the Environmental Planning and Assessment Act and associated legislation to enforce conditions of development consent.</p> <p>Council staff provided responses to the JRPP as requested by the Panel at the JRPP meeting of 23 July 2015.</p> <p>In determining whether to recommend to the JRPP approval of the development, Council officers have undertaken a detailed assessment as required by the Environmental Planning and Assessment Act 1979 (EPA Act). One of the considerations under section 79C of the EPA Act is the public interest. In considering public interest, Council officers have considered the broader impacts of the development as well as the site specific impacts. Council staff are legally bound to consider the merits of the application, which includes having regard to the details of the application and public interest.</p> <p>The role of Council assessing officers is to assess and provide recommendation to the JRPP on the development application before them. Council officers are required to undertake various statutory functions including, lodging the application, public notification, consultation and consideration of matters set out in the EPA Act including section 79C. The assessment is documented in an assessment report with recommendations, which is provided to the JRPP. The role of the JRPP is to determine the development application having regard to the required legislation. Both Council officers and the JRPP are bound by the legislation. To suggest the process is undemocratic is unfounded.</p> |
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| Reduced number of people on the Panel | The number of Panel members present at the meeting of 23 July 2015 was consistent with the “ <i>Regional Panels Operational Procedures</i> ” requirement for a quorum, that is, the majority of members of the Panel including the chair were present. |
| <p>Ecology</p> <p>The applicant has not been required to address concerns regarding the ecological zone / Illegitimate use of 7 zoned land / Council and the JRPP should be required to undertake a more thorough assessment of flora and fauna issues / The 7(2) zoned land cannot be rehabilitated if the area is also to be an APZ, for drainage and as a road</p> | <p>The development proposes the modification the E2 area of the site through the provision of infrastructure including retention basins, pathway, and revegetation works. The proposed uses are permitted with consent.</p> <p>The application would mitigate the loss of eight native trees and two shrubs through the provision of revegetation works surrounding infrastructure (basins and pathway) in the E2 zoned land. Council has identified the potential for increased planting in this area, whilst retaining compliance with NSW Rural Fire Service (RFS) General Terms of Approval (that is plantings, when mature, will not form a continuous canopy; will not touch or overhand buildings; and are not species that retain dead material or deposit excessive quantities of ground fuel). Eleven clumps, comprising three trees per clump, can be planted on the subject site within land zoned E2. This planting density allows for 5m of canopy separation at maturity, such that the clumps of trees, when mature, will not form a continuous canopy. Species may include scribbly gum <i>Eucalyptus racemosa</i> and red bloodwood <i>Corymbia gummifera</i> as they are appropriate squirrel glider feed tree species, are suitable for the subject site, attain a relatively small diameter mature canopy (allowing greater number of trees to be planted), and complement and consolidate the existing native vegetation along Lot 102 DP 843703, the Fernleigh Track. This provision of tree planting on the land zoned E2 would comply with the required 15% canopy cover permissible for inner protection areas under the RFS document “<i>Planning for Bush Fire Protection (2006)</i>”. The provision of tree planting on the site, particularly on the land zoned E2 will improve the existing state of habitat provided currently for squirrel glider. Currently this area is dominated by exotic grasses including kikuyu grass <i>Pennisetum clandestinum</i> and coolati grass</p> |

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| <p>Other local species such as Swamp Wallaby and Eastern Grey Kangaroo have already been made extinct from this area</p> <p>Trees at the end of Kopa Street should be retained</p> <p>The 7(2) zoned land is a fauna corridor</p> <p>Squirrel glider poles should not be an alternative for trees</p> | <p>report.</p> <p>Swamp Wallaby and Eastern Grey Kangaroo are protected native fauna under the National Parks and Wildlife Act, however are not listed in Schedule 1, 1A or 2 of the Threatened Species Conservation Act as endangered, critically endangered or vulnerable. If these species are indeed extinct from the area then the impact of the application on them will be minimal.</p> <p>The group of five trees at the end of Kopa Street occur within a residential zoning and road reserve. They form part of a corridor of native vegetation and their loss should be compensated through the provision of revegetation works to improve the overall strength and functioning of the corridor (as described above).</p> <p>The application complies with the zone objectives by improving the current state of the 7(2) zoned land and corridor through the provision of revegetation works. The issue of the 7(2) land forming part of a fauna corridor is addressed in detail in the independent peer review report undertaken by Mr Michael Murray.</p> <p>The provision of glider poles will immediately improve the functioning of the corridor whilst the revegetation works proposed will take several years to establish. Glider poles are not intended to replace trees, rather to facilitate movement of gliders while trees grow to a suitable height within areas identified for revegetation works. Poles are also recommended adjacent to Dudley Road where tree planting may not be appropriate or possible.</p> |
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| <p>Density</p> <p>The development is still possible with a lower number of lots / units</p> <p>Noise from the density of living</p> <p>Lack of infrastructure to support the density</p> <p>There are still too many units</p> <p>Planning documents do not specify a density for the site</p> <p>Scale of Development</p> | <p>The development is possible with a lower number of units. However, the land is zoned 2(2) Urban (Living) under LMLEP 2004. The density and number of dwelling proposed is considered consistent with the zone objectives.</p> <p>There will be an increase in noise created from the development. It is expected the noise generated will be commensurate with that of living within an urban area.</p> <p>The development site is located centrally to the Whitebridge commercial area and within close proximity to schools, pre-schools and other community facilities and infrastructure that will support the development. The increase in density in close proximity to existing infrastructure is a sound planning objective, together with providing any additional infrastructure as deemed necessary. Both the residential and non-residential components of the development will be levied Section 94 contributions. Section 94 Contributions are levied to ensure adequate community infrastructure is provided to meet the demands generated by the development such that the existing community is not burdened with the provision of community infrastructure required as a result of new development.</p> <p>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:</p> <ul style="list-style-type: none"> • 20 dwellings on the land zoned 3(1) – density approximately 111 dwellings per hectare (site density) |
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| | <ul style="list-style-type: none"> 69 dwellings on the land zoned 2(2) – density approximately 37 dwellings per hectare (site density) <p>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).</p> <p>Council's SEPP 65 Design Review Panel, that includes architects, landscape architects and planners, has considered the application, and has specifically commented on and 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.</p> <p>The SEPP 65 panel commented specifically regarding density on the site: <i>"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"</i>.</p> <p>This matter is addressed within greater detail in the previous Assessment Report to the JRPP meeting of 23 July 2015 and within the Supplementary Report to the JRPP.</p> |
| <p>Height</p> <p>Where is council's register of buildings that have exceeded the height requirement</p> <p>Height has been reduced in some areas but is still not appropriate / four storeys are too much</p> <p>Development does not comply with the height of building map</p> <p>The development does not comply with the LEP required height</p> | <p>The development does not comply with the height of building (HOB) map adopted for under LMLEP 2014. However, the development is being determined under the relevant planning control, that is LMLEP 2004.</p> <p>The overall height of the development has been reduced to address the concerns raised at the previous JRPP meeting.</p> <p>Council is not required to keep a register of buildings that have exceeded</p> |

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| <p>limit of 8m, no compatibility test has been undertaken</p> <p>Without an FSR over the site height limits are important for determining density</p> | <p>the height requirement under DCP 1.</p> <p>These matters are largely addressed within the previous report to the JRPP and additionally in the supplementary report.</p> |
| <p>Visual Impact</p> | <p>A Visual Impact Assessment prepared by Envisage Consulting Pty Ltd and dated 16 December 2014 has supported the application. The proposed amendments to the development further reduce the visual impact of the development.</p> |
| <p>Traffic / Parking</p> <p>There is too much congestion / the roads are at capacity / increase in congestion</p> | <p>The roads are within the acceptable limits for their status. The hierarchy of the surrounding roads are as follows:</p> <p style="padding-left: 40px;">Dudley Road – Sub-arterial</p> <p style="padding-left: 40px;">Waran Road – Collector</p> <p style="padding-left: 40px;">Bulls Garden Road – Collector</p> <p style="padding-left: 40px;">Lonus Avenue – Local</p> <p style="padding-left: 40px;">Kopa Street - Local</p> <p>The peak vehicle trips (that is, the trips typically generated by this type of development during the peak hours) has been calculated using the use and size of each component. There are 53 peak hour trips attributable to the residential component, which will utilise the Kopa Street access, and 12 trips that will utilise the service road access. These trips will be distributed throughout the road network depending on the origin or destination, and generate minimal additional congestion.</p> <p>The observed congestion would relate to the roundabout intersection of Dudley Road, Bulls Garden Road, Waran Road and Kopa Street. Council staff in addition to that detailed in the Traffic Impact Statement have undertaken surveys. The surveys focussed on observing the</p> |

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| <p>Several accidents have occurred in the last two weeks in this area</p> <p>There is no lighting over the pedestrian crossing</p> | <p>operation of the Dudley Road, Bulls Garden Road, Waran Road and Lonus Avenue roundabout, and the peak movements on Lonus Avenue.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>Vehicle crashes are generally the result of negligent driving or poor road conditions. Instances of observed crashes should be forward to Council for investigation so Council can determine if the infrastructure is failing and requires maintenance or upgrade. Due to the recent change in reportable accidents, Council is no longer informed by the RMS about minor crashes (that is, non-tow away and non-injury crashes) occurring on local roads.</p> <p>The lighting at the three existing pedestrian crossings on Dudley Road (and the service road) will be investigated by Councils Transportation</p> |
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| | <p>site utilising the proposed roads off Kopa Street, within the development site for parking, as this will be much closer to the residential component of the site. On the proposed roads, there is the ability to park between 25 and 30 vehicles on street, with this parking not being included in the overall parking calculation. This would leave the majority of additional parking spaces on the Dudley Road frontage for the use of the shopping area customers and staff.</p> <p>The applicant has offered to dedicate land to provide 90 degree angle parking on both sides of the service road, and fully construct, drain and landscape the parking area.</p> <p>Any existing parking deficiency as a result of other developments is not a matter for this developer to address, however this proposal will result in the maximum number of parking spaces available within the service road being formalised and provided at no cost to Council.</p> |
| <p>Design</p> <p>No overshadowing diagrams provided for Dudley Road</p> <p>Development does not represent future desired character of Whitebridge favoured by existing residents</p> | <p>Over shadowing diagrams have been submitted by the proponent and demonstrate the shadow cast over Dudley Road. The diagrams also provide the additional shadow cast by that part of the building, which exceeds 10m. 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.</p> <p>Whitebridge has an emerging character that will continue to develop over time with increasing density closer to the commercial precinct. The development proposes medium density development over the site in accordance with the zone objectives for land zoned 2(2) and 3(1) under LMLEP 2004. The development provides a contemporary development that integrates well with existing contemporary development in the area.</p> |

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| <p>Lack of green space / size of community land / open space is not appropriate / lack of space in Whitebridge Square / an urban park has not been provided</p> <p>Development an eyesore / Design quality is poor / streetscape inappropriate / the development should not look like SNL's recent development in Mount Hutton</p> | <p>The development is provided with appropriate areas of green space. Residents will have access to their own private open spaces, communal spaces within the development, and public spaces located within the locality, to satisfy their private and communal, social and recreational needs. Footpaving is proposed through the development with additional linkage provided from the Fernleigh Track to Dudley Road. Additionally, the development will be levied development contributions under Council's Section 94 Contribution Plan for the Charlestown Catchment. The contributions are levied to fund works and acquisitions for community infrastructure including local open space and recreation facilities.</p> <p>The development is of a contemporary nature that provides interesting uncomplicated architectural style that demonstrates appropriate fenestration and articulation. The massing of the development on the site has had due regard to the existing site constraints and adjoining development. Council's SEPP65 Panel supports the development in terms of its architectural merit. The additional variety of dwelling types in this areas and the architectural presentation of the dwellings, creates a more interesting visual context. The development provides appropriate layering of architectural language and form.</p> <p>The considerations of the development at Mount Hutton are not relevant to this proposal. The Whitebridge development proposal has been prepared by a registered architect and has been reviewed by the SEPP65 Panel, in accordance with the relevant legislation.</p> |
| <p>Cumulative Impact</p> <p>The height, density and traffic have not had regard to the cumulative impact of this type of development</p> | <p>The assessment has had regard to the cumulative impact of height, density and traffic. These matters are addressed throughout the previous report to the JRPP and the supplementary report.</p> |

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| <p>Other</p> <p>There should be a population limit</p> <p>Precedent</p> <p><i>“Urban Hot Island Effect”</i> – which could increase social tensions that result in anti-social behaviour, domestic violence, drug use and the like – a threat to community health / social issues / social impact / size of public and private open space is inadequate</p> | <p>It is not the role of Council or the JRPP to set or administer population limits.</p> <p>The development sets a precedent for the area for good development over a larger site.</p> <p>Research undertaken by the University of New South Wales into Housing Density and Health (August 2011) found that negative social impacts are often not the result of housing density itself, but rather the urban environment within which the higher density housing is situated. There is strong evidence that the role of economic status, in particular poverty, in an area has a stronger impact on determinants of health than the built environment. Research undertaken by the Heart Foundation (Increasing density in Australia, March 2012) also concluded that increasing housing density, if carefully planned, has the potential to produce numerous benefits to the environment and health of the community. The suburb of Whitebridge has very low levels of socio-economic disadvantage, with it being in the top 30% of most advantaged suburbs in Australia (Australian Bureau of Statistics, Socio Economic Indexes for Areas [SEIFA] 2011).</p> <p>The proposal will provide additional housing choice within the suburb, with different pricing levels, providing much-needed housing in a high-amenity area, close to services and facilities, and will not be a gated community. There is sufficient existing local community and recreation infrastructure to meet the needs of the proposal, or where deficiencies arise, these will be able to be catered for in Council’s future planning. Residents will have access to their own private open spaces, communal spaces within the development, and public spaces located adjacent, to satisfy their private and communal social and recreational needs. The open and communal spaces will encourage the residents of the development to interact with each other, which will assist with building a</p> |
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| <p>Community was not adequately notified if notified at all at rezoning stage of the potential development for the site</p> <p>Arrogance of developer / developer greed / the developer is known to ICAC / political status of the development</p> <p>Stormwater drainage / easement concerns</p> | <p>sense of community and contributing to increased social capital. The location of the proposed development to the commercial centre and recreational facilities such as the Fernleigh Track will also provide opportunity for the 'new' residents to interact with the established community.</p> <p>Notification of the rezoning occurred in accordance with Council's policies regarding notification for rezoning.</p> <p>Developer greed or motives of a developer are not matters for consideration under a development application.</p> <p>A stormwater drainage plan was submitted that identifies and sizes stormwater detention basins; re-use tanks and stormwater quality basins. The plan is satisfactory for the development application. Plans that are more detailed will be prepared for the Construction Certificate.</p> <p>The development site slopes away from Lonus Avenue and no stormwater from the development will impact on properties in Lonus Avenue. A stormwater connection point and drainage easement will be created for the existing properties in Lonus Avenue.</p> <p>Stormwater drainage from the site already flows towards Fernleigh Track. The stormwater drainage system proposed for the development site contains stormwater detention, stormwater re-use and water quality controls. There will be no increase in stormwater peak flows to Fernleigh Track.</p> <p>Most of the stormwater system for the development is located underground, including the stormwater basins/tanks and pipe system. The stormwater quality basins need to be located above ground to</p> |
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| <p>Lack of infrastructure such as hospitals, schools, child cares, bus routes and the like</p> | <p>ensure that they operate correctly. There is no practical alternative.</p> <p>The stormwater system is designed to cater for the site coverage and will ensure that there is no increase in peak stormwater flows for storms up to the 1 in 100 year storm.</p> <p>Council as part of the Charlestown developer contributions plan has assessed future road and parks upgrades. This plan is based on projected population increase within the Charlestown catchment, of which Whitebridge is a part. If any upgrades to infrastructure are required prior to 2025, it will be within this plan and funded by developers as development progresses. This development will be levied under this plan and will therefore contribute to the provision of these facilities.</p> <p>Provision of schools within the locality is a matter for state government. The site is within walking distance to Whitebridge High School, which has as its feeder schools Charlestown, Charlestown East, Charlestown South, Dudley, Kahibah and Redhead Public School. The site is within the intake area for Whitebridge High. Whitebridge High School, as per the 2014 Annual School Report, has generally steady student numbers of approximately 1000 students over the last seven years, there has been a slight increase in student numbers over the last three years. Notably the 2014 Report nominates there were over 15% out of area enrolments.</p> <p>The provision of child care facilities in an area is largely privately driven. The location of this facility in close proximity to existing child care facilities is beneficial for these facilities, and may, should the demand arise encourage the development of other child care facilities in the area.</p> <p>Public buses service the area on a regular basis along Dudley Road. The service is presently provided on a roughly hourly basis during daylight hours.</p> |
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| Rezoning should be changed back / land should not have been sold / rezoning required less dwellings than proposed | Amendment 53 to LMLEP 2004 rezoned the land from 5 (Infrastructure) to 2(2), 3(1) and 7(2). The land is not zoned to encourage low density development, as it is more appropriate to have land zoned medium to high density closer to commercial centres. The LEP amendment as gazetted did not nominate a maximum density for the site; however, the zone objectives reinforce opportunities for medium density housing. The fact that no specific density controls were adopted as a control for any future development of the site within either the LEP instrument or DCP controls, does not enable assessing officers to place weight on this statement. It is considered the density proposed is appropriate for the site considering the site constraints, LMLEP 2004, Lower Hunter Regional Strategy and LS 2030 and the East Lake Macquarie Intensification Corridor. The land was previously owned by the State Government and was sold to a private company. The sale of the land is not a matter for consideration under the development assessment undertaken by Council staff. |
| Proximity of development to the Fernleigh Track | The development is located adjoining the Fernleigh Track. Upon completion of the development access to the Fernleigh Track will be improved with additional pathways linking the Fernleigh Track to the Whitebridge shopping area, through the development. |
| Impact on trees on adjoining properties on Lonus Ave (H/No. 90) | The development will not impact the trees at H/No. 90 Lonus Avenue. An arborist report has been submitted and works will not impact the existing trees at 90 Lonus Avenue. The Tree Retention plan also shows the retention of these trees. |
| Noise from construction | Noise increases will be expected during the construction phase and the operational phase of the development. Recommended conditions of consent require the development of a Construction Environmental Management Plan (CEMP) and Noise Management Plan (NMP) to be |

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| <p>Waste collection for the development is not appropriate</p> <p>Mine Subsidence Board concerns – changed their minds</p> <p>Fewer submissions does not mean fewer people are against the development</p> <p>Development does not provide any public amenity</p> | <p>developed in consultation with neighbours to reduce the impact of construction works, this plan will address, but not be limited to safety, noise, dust, vibration, traffic routes, hours of work and the like. Construction will be required to be undertaken in accordance with Council approved construction management plans.</p> <p>Waste from the development will largely be collected via Council's kerbside collection. The commercial waste will be collected via a private contract service in the event the standard kerbside collection is inadequate for the purpose.</p> <p>MBS provided general terms of approval for the development and subdivision of the land in letters dated 20 March 2015 and 9 September 2015. The Mine Subsidence Board was provided additional studies and evidence to enable them to make a decision, which has resulted in the issuing of General Terms of Approval for the development.</p> <p>It is acknowledged that fewer submissions does not necessarily equate with fewer people being against the development. All submissions have been considered as part of the assessment of the application.</p> <p>The development provides public amenity. The development provides appropriate setbacks to roads; street tree planting; an architecturally designed and varied building form; open space areas and formalised pedestrian and cyclist linkages; bike racks; roads and other facilities that will contribute positively to the amenity of the area.</p> |
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| Corruption of Council staff | The claim of staff corruption is untrue, spurious, unsubstantiated, libellous and not a matter for consideration. However it is noted that an independent Parliamentary Inquiry found no negative findings against the Council or its staff. |
| Emergency egress | The site has access to Kopa Street via a 15 metre wide road reserve with an 8 metre wide constructed carriageway. In addition, there is alternate pedestrian access to Dudley Road. It is considered that this access arrangement is satisfactory for emergencies. It should be noted that the Rural Fire Service has issued General Terms of Approval for the development taking into consideration emergency egress. |
| Impact on property values | There is no evidence to support that this development will decrease property values. This development will provide an appropriate built form that will not detract from surrounding development but will provide a positive benchmark for future development of the area. Property values are not a consideration under section 79C of the Environmental Planning and Assessment Act. |
| All buildings should have been addressed under SEPP 65 | In considering the residential flat building component of the development, Council's SEPP 65 Panel considered the design of buildings over the whole site, and took into consideration those parts of the development that would not be generally considered under SEPP 65. |
| Loss of open space to Whitebridge | The development does not result in a loss of open space to Whitebridge. The development provides additional areas of open space provided in a range of formats including pedestrian/cycle routes from Fernleigh Track to the Whitebridge shopping strip, informal open space areas around the detention basins, paved open space areas in the Whitebridge Town |

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| | <p>Square and a communal open space area over that area marked as Lot 25. The matter of access to proposed Lot 25 as open space is addressed further in Table 2 below.</p> |
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Table 2 – Issues / Concerns Specific to the Amended Plans

| Issues / Concerns | Planning Comment |
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| <p>Lot 4 Dwellings</p> <p>Statement by the applicant that a separation distance on adjoining land would sterilise the adjoining land is “<i>crystal ball gazing</i>”</p> <p>Reference to the garage on the adjoining lot is spurious as this structure may be demolished</p> <p>The future pattern of development should not be determined by this developer</p> <p>The argument that the development creates a consistent rhythm and pattern are not sufficient to justify the proposal</p> | <p>Reference to separation distances on adjoining land for future development is relevant to this proposal and is not considered “<i>crystal ball gazing</i>”. The future development of land and its potential is a relevant planning consideration and should be taken into as part of the relationship to development on adjoining land.</p> <p>The issue of the existing garage on the adjoining lot to the west is raised as a note and not as a lone argument in the increase in setback from the western side boundary.</p> <p>Development on a large lot such as this will contribute to an area in transition. The architecture involved in this development responds to a broad range of internal and external amenity requirements. The development relies on effective building techniques minimising the impact of vehicular parking through the reduction in the number of driveways and minimising the impact of garaging on the streetscape. This results in positive integration of built form, vehicle access and open space provision.</p> <p>Arguments regarding rhythm and pattern are relevant to the development and assist in justifying the proposal. The rhythm and pattern created through this development on Lot 4 is of two storey townhouse style dwellings. The design of buildings fronting Kopa Street afford consistent setbacks and architectural interest that provides an efficient building form. The Kopa Street elevation of the development provides uniformity in heights and materials, that again reinforce an efficient building</p> |

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| <p>A 900mm setback is not adequate</p> <p>If plants are planted in this setback area they are likely to be removed by the applicant</p> <p>There is no other area in Newcastle that has a row of nine townhouses</p> | <p>objective.</p> <p>The amended plans show an increased setback to 1500mm as opposed to the previous 900mm setback. Development on the adjoining land could result in a zero lot boundary to the development site and up to a 1500mm setback for a two storey dwelling. Along this western elevation the building is two storey above the natural ground level. It is quite typical for two storey dwellings to be setback between 900mm and 1500mm. The increase in the setback from 900mm to 1500mm enables future development to the west to be afforded a greater setback.</p> <p>Landscaping placed within the setback area may be removed by the applicant or future tenants. Council may require the land owner to comply with the landscaping plan and replant vegetation as approved in any consent.</p> <p>Rows of townhouses in other areas is not relevant to this application. The application is required to be considered on its own merit.</p> |
| <p>Deletion of Fourth Storey</p> <p>Clause 76 (LMLEP 2004) or Clause 4.6 (LMLEP 2014) should apply</p> <p>The height is not compatible with the Whitebridge area and</p> | <p>Clause 76 of LMLEP 2004 is within Part 8 of LMLEP 2004, which is relevant only to the Middle Camp site. The site is not located at Middle Camp. Clause 4.6 of LMLEP 2014 is not specifically applicable to this development as clause 4.6 enables variations to development standards under this environmental planning instrument. The development does not seek (and is not required to seek) any variation under LMLEP 2014 as the application is to be determined under LMLEP 2004.</p> <p>The issue of height is considered within the previous Assessment Report</p> |

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| <p>applicable zones / the development even with the removal of some units exceeds the height limits / if the lift overrun is the only part of the building above the building heights the structure would not be as big or obvious as retaining the adjoining unit (B201)</p> <p>Building B will still present as four storey</p> <p>Reference to overshadowing should not override the deletion of this whole storey</p> | <p>and within the Supplementary Report to the JRPP, particularly the retention of unit B201.</p> <p>Development within this area is undergoing transition with developments of increasing density being undertaken. Existing low-density development within the immediate and broader locality already contains individual three storey dwellings. The development as proposed is for a medium density proposal, providing a range of housing typologies. In achieving the density proposed, the application has increased separation of buildings and unbuilt upon area but increased the height of several areas of the proposal.</p> <p>The VIS submitted with the application provides a detailed analysis of the development and considers the development in terms of its locality and the broader visual catchment. Further assessment of the scenic impact is discussed within the Assessment Report.</p> <p>Building B will present to Dudley Road as generally three storey. The fourth storey is enabled through the slope of the land, which has provided opportunity to include a unit at the lower level closer to the Fernleigh Track. Provision of this unit provides good casual surveillance of the public area adjoining the Fernleigh Track.</p> <p>Overshadowing is referenced as one of the impacts of height is overshadowing. The issue of overshadowing is discussed in detail in the Supplementary Report to the JRPP.</p> |
| <p>Redesign of Apartments</p> <p>3 to 4 hours solar access to the living rooms and private open space is not adequate</p> <p>The kitchen and bedrooms received no solar access to this</p> | <p>The SEPP 65 Panel has undertaken assessment of solar access to the apartments within the residential flat buildings. The Residential Flat Design Code (RFDC) provides “rules of thumb” for developments regarding solar access. The development is considered to have</p> |

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| <p>apartment</p> <p>These apartments are not liveable and should not be approved</p> | <p>appropriately addressed both SEPP 65 and the RFDC.</p> <p>The proposed apartments meet the relevant liveability criteria outlined in the relevant design and building codes.</p> |
| <p>Redesign of Roof Form</p> <p>The redesign does not provide any step down</p> | <p>The roof form provides interest, integrates roof plant and adds interest and articulation to the architectural reading of the development.</p> |
| <p>Lot 25</p> <p>The use of this area is unclear</p> <p>The developer has not provided details of how this area will be managed</p> <p>Who will be responsible for upkeep of the lawns and gardens</p> <p>Who will be responsible for playground equipment and picnic tables</p> <p>Who will pay Public Liability Insurance</p> <p>Will there be fencing of the lot</p> <p>This area is still too small</p> | <p>The amended and additional information has provided clarity in the ownership of this lot and how it will be managed. Proposed conditions of consent also address this issue. The area will be privately owned as part of the strata for Lot 3 within the development. The strata will maintain playground equipment, picnic tables, fencing, lawns and gardens within this area for Lot 3. The strata will have responsibility to pay appropriate public liability insurance.</p> <p>Recommended conditions of consent (Fencing) states Lot 25 is not to be fenced aside from that required for Lot 3 fencing.</p> <p>The provision of open space proposed within Lot 25 is not a specific demand created from the development as assessed against DCP 1. The provision of this open space area provides an appropriate entry to the development and assists in providing a break in building form whilst providing a useable communal open space area for all residents of the residential development.</p> |