

JRPP No.	2015HCC015DA
DA No.	DA 2015/0508
Proposal	Staged development for demolition of buildings, erection of ninety five dwellings, concept approval of a child care centre, associated site works and four lot into six lot subdivision
Property	Lot A, DP 350420; Lot 1. DP725264; and Lots A & B, DP 394165 known as 150 - 156 Lake Road, Elernmore Vale
Applicant	SNL Building Constructions
Report By	Newcastle City Council
Checked by	Newcastle City Council

Assessment Report and Recommendation

Executive Summary

An application has been submitted seeking development consent for the demolition of a number of existing structures on the site, subdivision of the existing four lots into six new lots to facilitate the construction of 95 dwellings, associated roads and site works, and a concept approval for a childcare centre.

The 95 dwellings are proposed as groups of attached, three and four bed, two-storey dwellings laid out in an irregular format within the site. The new dwellings are to be accessed via a new road network off Lake Road and will be constructed over five separate stages. A sixth stage will see the construction of a childcare centre on new Lot 101. The proposal for the childcare centre is for concept approval only within this application. No indication has been made by the developer regarding future intentions for the subdivision of the proposed new dwellings.

The proposal is permissible in principle within the R2 – Low Density zone with development consent.

The proposal is referred to the Joint Regional Planning Panel as the development has a capital investment value nominated as \$24.5 million.

The proposal is classified as '*Nominated Integrated development*' and requires approval from the following Government Agencies:

- Mine Subsidence Board (requires approval under *Section 15, Mine Subsidence Compensation Act 1961*).
- Roads & Maritime Services (requires approval under *Section 138, Roads Act 1993*).
- NSW Rural Fire Service (requires approval under *Section 100(b), Rural Fires Act 1997*).
- NSW Office of Water (requires approval under the *Water Management Act 2000*).

The above agencies have provided their approval and all recommended conditions have been included in the draft schedule of conditions (APPENDIX C).

OFFICER'S RECOMMENDATION

That the JRPP approve DA 2015/0508 (Ref 2015HCC015DA) for staged development involving the demolition of existing buildings, erection of ninety-five (95) new dwellings, the concept approval of a childcare centre, associated site works and a four (4) lot into six (6) lot subdivision subject to the nominated draft conditions of consent as detailed in Appendix C.

BACKGROUND

The site has been largely constrained in the past due to its previous rural and environmental zonings. Following Council's Lands Review undertaken in 2012, the site was rezoned to *R2 - Low Density Residential* under the provisions of *Newcastle Local Environmental Plan 2012*. Since then, a number of applications have been lodged for development on these larger lots.

The site adjacent to the south-west was the subject to a recent approval under DA 2004/673 for development comprising seventy (70) Senior Living Self-contained Dwellings and a Community Centre. Most recently, an application has also been lodged with Council for a Childcare Centre on one of the lots proposed to be created in this development (proposed Lot 101) and which is the subject of the 'concept approval' identified above.

SITE DESCRIPTION

The subject site is identified as 150 -156 Lake Road, Elmore Vale and comprises four (4) large lots, including:

- Lot A & B, DP 394165
- Lot 1 DP, 725264
- Lot A DP 350420

The subject site is rectangular in shape with an overall area of approximately 4.5 hectares.

Each of the four existing lots currently contains an established residential dwelling with ancillary structures, including stables and sheds. The lots are largely cleared of all significant vegetation although remnant stands of trees have been retained along the northern sections of the land.

The topography of the land falls gradually from the south eastern boundary of Lake Road towards the rear northwest boundary, with a steeper decline occurring at the far northwest of the site.

A significant public bicycle pathway exists adjacent to the rear boundary of the site which follows the line of a locally heritage listed former tram line.

PROPOSAL

The application proposes the demolition of the existing structures on the site, the staged construction of 95 dwellings, construction of associated roads and infrastructure, four into six lot subdivision and concept approval for a child care centre. The development is to be carried out in six separate stages.

Stage 1 will involve the subdivision of the land from the existing four lots into six new lots referenced as Lots 100-105 and is described as follows:

- Lot 100 will be the largest lot of approximately 3.8ha and will facilitate the erection of 94 new dwellings and associated works and infrastructure.

- Lot 101 is to be 3,459sqm in area and will facilitate a future childcare centre
- Lot 102 is to be 597sqm in area and will support the existing single dwelling
- Lot 103 is to be 1186sqm in area and will support the existing dwelling
- Lot 104 is to be 585sqm in area and will support a new two storey dwelling
- Lot 105 is to be 537sqm in area and will support the existing dwelling.

The development stages are further detailed:

Stage 1 will comprise:

- Subdivision of land as detailed above;
- Construction of units 17 to 24, 39 to 48 within new Lot 100;
- Construction of all roads, pathways, and landscaping associated with this stage.

Stage 2 will comprise:

- Construction of units 71 to 81 and 87 to 95.
- Construction of all roads, pathways, and landscaping associated with this stage.

Stage 3 will comprise:

- Construction of units 1 to 10, 11 to 16 and 25 to 30 within new Lot 100 and Lot 104.
- Construction of all roads, pathways, and landscaping associated with this stage.

Stage 4 will comprise:

- Construction of units 31 to 38, 49 to 57.
- Construction of all roads, pathways, and landscaping associated with this stage.

Stage 5 will comprise:

- Construction of units 58 to 70 and 82 to 86.
- Construction of all roads, pathways, and landscaping associated with this stage.

Stage 6 will comprise:

- Concept approval of Childcare Centre - subject to a separate development application.

It is noted that DA2016-00055 for the Childcare Centre has been recently lodged with Council for proposed lot 101. The application was publicly notified from 29 January until 12 February 2016 and is currently under assessment. It is anticipated that most of the significant issues associated with the child care centre have been resolved under this concept approval.

The full development plans are provided as an attachment to this report in **APPENDIX A**.

PLANNING ASSESSMENT

Section 79C(1)(a)(i) provisions of any environmental planning instrument

Local Environmental Plan 2012

The subject site is zoned *R2 Low Density Residential* pursuant to Newcastle Local Environmental Plan 2012. The proposal is categorised as '*multi dwelling housing*' and '*Childcare Centre*' and both uses are permissible within the zone subject to development

consent. The application is considered to be consistent with the zone objectives, which are as follows:

- a) *'To provide for the housing needs of the community within a low density residential environment.*
- b) *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- c) *To accommodate a diversity of housing forms that respects the amenity, heritage and character of surrounding development and the quality of the environment'.*

The development is also considered to be compatible with the future character of the area.

Clause 4.1 Minimum subdivision lot size

The application proposes to subdivide the current large four lots into six lots with the following site areas:

Proposed Lots:

- Lot 100 (38,794m²) - proposed 94 residential units
- Lot 101 (3458.9m²) - proposed childcare centre
- Lot 102 (597.8m²) - existing dwelling
- Lot 103 (1186.3m²) - proposed dwelling
- Lot 104 (584 m²) - existing dwelling
- Lot 105 (537.46m²) - existing dwelling.

The minimum permissible lot size under this clause is 450sqm. The proposed Torrens title subdivision exceeds the minimum lot area requirement by the above clause.

Clause 4.3 Height of Buildings

The site has a maximum height limit of 8.5metres. All proposed buildings remain below this limit. The proposal complies with this requirement.

Clause 4.4 Floor Space Ratio (FSR)

The site has a maximum FSR limit of 0.6:1. The application proposes a maximum FSR of approximately 0.3:1 and complies with this requirement.

Clause 5.9 Preservation of trees or vegetation

The proposal includes the removal of a number of trees. As discussed in the assessment, the proposal is considered to be acceptable (refer to Section 5.03 Tree Management).

Clause 5.10 Heritage provisions

Land adjacent to the rear is an old tramline listed in the Newcastle Local Environmental Plan as an item of local significance (I112) and has been readapted as a bicycle and pedestrian pathway. The proposal retains a significant setback from the track and is not considered to impact upon the heritage listing of this item.

STATE ENVIRONMENTAL PLANNING POLICIES

The following State Environmental Planning Policies apply to this application

- SEPP (Major Development) 2005

- SEPP (Infrastructure) 2007
- SEPP (BASIX) 2004
- SEPP No 55 Remediation of land.

SEPP (Major Development) 2005

Pursuant to the requirements of State Environmental Planning Policy (Major Development) 2005, the application is referred to the Joint Regional Planning Panel as the development has a capital investment value of more than \$20million. The application submitted to Council nominates the value of the project as \$24.5 million.

SEPP (Infrastructure) 2007

The site is located adjacent to Lake Road, which is defined as a classified road. Clauses 101 and 102 of the SEPP are relevant to this application and have been taken into consideration as part of the assessment.

'101 Development with frontage to classified road

(1) *The objectives of this clause are:*

- (a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- (b) *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

(2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*

- (a) *where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road'.*

Comment

A Traffic Impact Statement was prepared by SCEA Solutions and submitted in support of the application. The report states that the traffic generated from the proposed development, including the future childcare centre, would have minimal impact upon the local road network. The report was reviewed by Council's Senior Traffic Engineer who concluded that the proposed development is acceptable, subject to a number of relevant conditions.

The application was also referred to RMS for concurrence given that Lake Road is a classified road. The RMS has issued the General Terms of Approval for this development which requires additional road works to Lake Road. Specifically, the RMS has required the creation of a new deceleration lane to enter the property. This requirement and other design aspects to the driveway entry from Lake Road for the 95 new dwellings have been confirmed and addressed by the applicant in accordance with RMS requirements.

The retention of the existing three accesses onto Lake Road for the retained three dwellings and a new crossing for the proposed new dwelling has been proposed. The RMS has raised no objections with regard to these existing access points.

Given the scale of the proposal, the applicant was requested to prepare a public domain plan for associated works on Lake Road. The public domain plan is considered acceptable and has been included as a condition of consent.

'Clause 102 of the SEPP relates to the impact of the road noise on the development, which is as follows:

- (1) *This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RTA) and that the consent authority considers is likely to be adversely affected by road noise or vibration:*
 - (a) *a building for residential use,*
 - (b) *a place of public worship,*
 - (c) *a hospital,*
 - (d) *an educational establishment or child care centre.*
- (2) *Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.*
- (3) *If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*
 - (a) *in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,*
 - (b) *anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*
- (4) *In this clause, freeway, tollway and transitway have the same meanings as they have in the Roads Act 1993.*

Comment

The applicant has submitted an Acoustic Assessment prepared by Spectrum Acoustics which assesses the potential noise impacts on future properties. Council's Regulatory Services Unit has reviewed the assessment and concurs with the recommendation to include acoustic attenuation measures in a number of dwellings to minimise potential noise impact. Council's Environmental Protection Officer has advised as follows:

'The proposed development is located adjacent to an arterial road, Lake Road, and traffic noise may potentially affect the amenity of the proposed residential dwellings. To protect the amenity of future residents compliance with internal noise levels outlined in the Department of Planning's 'Development near rail corridors and busy roads – Interim Guideline' and Australian Standard 'AS 2107 – 2000 Acoustics – Recommended design sound levels and reverberation times for building interiors' is required.

The Noise Assessment prepared by Spectrum Acoustics dated 28 April 2015 notes proposed residential dwellings 1-13 are most exposed to potential traffic noise impacts. The Noise Assessment prepared by Spectrum Acoustics dated 28 April 2015 has calculated the noise impact from the arterial road at the external façade of the proposed residential dwellings. Due to the calculated received noise level the Noise Assessment prepared by Spectrum Acoustics dated 28 April 2015 determined acoustic measures will be required to ensure compliance with recommended internal levels for residential dwellings 1-9.

The Noise Assessment prepared by Spectrum Acoustics dated 28 April 2015 has utilised the methodology outlined in the Department of Planning's 'Development near rail corridors and busy roads - Interim Guideline' to determine the recommended acoustic

treatment of the windows to ensure internal noise levels are satisfactory. The recommended acoustic measures are required to be incorporated into the design of the proposed development and a sign-off from the acoustical consultant is needed. The implementation of the acoustic measures will be addressed by an appropriate condition of consent'.

The likely acoustic impacts of the proposal have been assessed by Council's Regulatory Service Unit and are considered to be satisfactory subject to recommended conditions of consent in **APPENDIX C**.

SEPP (BASIX) 2004

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

SEPP No 55 Remediation of land

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

Council's Regulatory Services Unit requested additional information in accordance with this Policy. The officer indicated that:

'The Preliminary Contamination Assessment prepared by JM Environments dated 14 October 2015 has undertaken an investigation of the landuse history of the proposed development site. The landuse history investigation has revealed the proposed development site was primarily utilised for low intensity poultry farming prior to 1970 and rural/residential uses including horse stables and paddocks after 1970. The Preliminary Contamination Investigation prepared by JM Environments dated 14 October 2015 noted the previous poultry farming practices, potential fill material and use of pesticides/herbicides may have resulted in potential contamination at the proposed development site.

The Detailed Contamination Assessment prepared by JM Environments dated 9 December 2015 has undertaken soil sampling at the proposed development site targeting potential areas of contamination concern. Soil sampling revealed no elevated levels of contaminants and the site is considered suitable for the proposed development in accordance with the objectives of Section 5.02 of the Newcastle Development Control Plan (DCP) 2012. The existing residential dwellings located at the proposed development site are currently serviced by on-site sewage management systems.

The Detailed Contamination Assessment prepared by JM Environments dated 9 December 2015 notes the on-site sewage management systems are required to be appropriately decommissioned to ensure pathogens in the soil do not impact on the construction of the proposed development. The decommissioning of the on-site sewage management systems are to be undertaken in accordance with Advisory Note 3 - Destruction, Removal or Reuse of Septic Tanks, Collection Wells, Aerated Wastewater Treatment Systems and other Sewage Management Facility Vessels prepared by NSW Health dated May 2006. The requirement for decommissioning of the existing on-site sewage management systems will be addressed by an appropriate condition of consent'.

Based on the preliminary contamination report, Council's Regulatory Services Unit is satisfied that the contamination issues identified can be addressed by way of conditions recommended in **APPENDIX C**.

Section 79C Considerations

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

There are no draft environmental planning instruments relevant for the assessment of this application.

(a)(iii) any development control plans

The following sections of the Newcastle Development Control Plan apply to this application:

- Section 3.04 Attached Dwellings and Multi Dwelling Housing
- Section 4.02 Bush Fire Protection
- Section 4.03 Mine Subsidence
- Section 4.04 Safety and Security
- Section 4.05 Social Impacts
- Section 5.01 Soil Management
- Section 5.02 Land Contamination
- Section 5.03 Tree Management
- Section 5.04 and Section 5.06 Aboriginal Heritage and Archaeological Management
- Section 7.01 Building Design Criteria
- Section 7.02 Landscape Open Space and Visual Amenity
- Section 7.03 Traffic, Parking and Access and Section 7.04 Movement Networks
- Section 7.06 Stormwater
- Section 7.08 Waste Management
- Section 8.00 Public Participation.

Section 3.04 Attached Dwellings and Multi Dwelling Housing

The proposed development is considered to be consistent with the aims of this section, including:

- *to encourage redevelopment that allows for more compact and sustainable urban form.*
- *to support the efficient use of residential land and expand the variety of housing options.*

There are no specific controls under this section. The section otherwise identifies relevant sections of the DCP that need to be addressed and these are discussed below.

Section 4.02 Bush Fire Protection

The development is classified as integrated development under Section 91 of the Environmental Planning and Assessment Act 1979, requiring the issue of a bushfire safety authority under Section 100B of the Rural Fire Act 1997.

The application was supported by a bushfire report which was referred to the NSW Rural Fire Service (RFS). The RFS has issued the bushfire safety authority with conditions.

It is noteworthy to include comment that the concept approval for the childcare centre is to be located on future Lot 101, which is to be built on land that is not bushfire prone and hence detailed assessment of the childcare centre has not been included in the bushfire threat assessment.

Section 4.03 Mine Subsidence

The site is within a Proclaimed Mine Subsidence District. The Mine Subsidence Board has assessed the proposal and has issued their General Terms of Approval subject to conditions of consent.

Section 4.04 Safety and Security

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

Section 4.05 Social Impacts

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

Section 5.01 Soil Management

The applicant's design has effectively re-contoured the overall development site so as to ensure that minimal retaining walls are required to the site boundaries. The required erosion and sediment control details have been provided and will be a condition of consent.

Section 5.02 Land Contamination

The applicant submitted a Phase 1 and Phase 2 Environmental Site Assessment. This was reviewed by Council's Compliance Services Unit and is discussed in detail under State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55) section of this report.

Section 5.03 Tree Management

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

'The sites contain 131 trees with 28 of these trees identified as high retention value. The proposed development will require the removal of a number of these trees'.

Concerns were raised with the applicant regarding the amount of trees to be removed, given the number of trees identified as high retention value. The applicant submitted amended landscape plans which increased the number of trees to be retained. The updated landscape plan has identified areas available for compensatory planting. The proposed development is considered acceptable in relation to the NDCP guidelines on tree management.

A copy of the Landscape Concept Plan, including the tree retention plan and compensatory planting, has been included in **APPENDIX B**.

Section 5.04 and Section 5.06 Aboriginal Heritage and Archaeological Management

A search of the Aboriginal Heritage Information Management System (AHIMS) - NSW Department of Environment and Heritage, was carried out and no Aboriginal sites or places were identified. There was no physical evidence on site, such as rocky outcrops or the like, to suggest Aboriginal relics.

The proposed development is considered acceptable in relation to the relevant provisions of the Newcastle DCP 2012.

Section 7.01 Building Design Criteria

- Height – The DCP refers to the height controls under the Newcastle LEP 2012. The proposed development has a maximum height of 7.5m which complies with the 8.5m height limit.
- FSR – The DCP refers to the FSR controls under the Newcastle LEP 2012. The proposal has an FSR of approximately 0.3:1, well under the maximum FSR of 0.6:1.
- Streetscape and front setbacks – The development provides for a 5m minimum setback for the new dwelling fronting Lake Road. The other buildings have been orientated across the site with direct pedestrian entrances to each dwelling and windows overlooking the public areas. The design is considered acceptable from a streetscape perspective and is compatible with the future character of the area.
- Side and rear setbacks – The dwellings are setback approximately 3m at the side boundaries and approximately 30m at the rear boundary which complies with the required side boundary setbacks.
- Open space - The DCP requires that each dwelling has a minimum of 35m² private open space located behind the building line. All dwellings have at least 35m² of private open space, with a principal area of 4m x 4m located off living areas and located behind the building line. Some of the dwellings have access to additional private open space in the form of decks on the first level.

Building design and appearance

- The proposal incorporates two-storey dwellings that are consistent with the scale, character and massing of development in the area. The appearance of the development is considered to be compatible with the future desired character of the area.

Solar access

- Dwellings are orientated with the main indoor and outdoor living spaces and major window areas facing towards the north and east.
- The dwellings are generally orientated with courtyards and living areas to the north and north east.
- Overshadowing of adjoining properties is considered acceptable with minimal impact.

- Views and privacy - The proposal does not impact upon views and the two-storey dwellings are separated from adjoining properties, thereby maintaining reasonable levels of privacy.
- Utilities and services – The development provides for adequate general storage within garages and has adequate storage for waste bins within the private courtyards.

The proposed development is considered acceptable in relation to the NDCP guidelines on building form. The development is of a scale and form appropriate for the residential precinct. The proposal achieves appropriate building depth and bulk and also provides for quality landscaping.

Section 7.02 Landscape Open Space and Visual Amenity

As required under this section, the application has been supported by a comprehensive Landscape Concept Plan and design report prepared by a landscape architect.

The landscape concept plan demonstrates that the site will be suitably landscaped to compensate for the loss of tree canopy cover. The planting schedule provides for additional planting on site. The landscaping plan is consistent with the above section. The area available for deep soil landscaping is 6580m² which equates to just over 25%.

A copy of the Landscape Concept Plan has been included in **APPENDIX B**.

Section 7.03 Traffic, Parking and Access and Section 7.04 Movement Networks

The proposed development complies with Section 7.03 - Parking, Traffic & Access in terms of parking as follows:

- 104 resident spaces (most dwellings have access to one parking space per dwelling although nine dwellings have access to a double garage)
- 40 visitor spaces (20 additional visitors parking above the DCP rates)
- 2 parking spaces for people with a disability.

Council's Senior Development Officer (Engineering) has considered the proposal to be acceptable and provided the following comments:

'Internal road network is provided for the 95 dwellings with provision of two way traffic, streetscape and pedestrian footpath. The proposed Childcare will also be accessed for the internal road network with proposed 90 degrees on-street parking for the childcare along Road 2. The Traffic consultants have reviewed the vehicular movement impact from the Childcare on the internal roads and have stated that the impact will be minimal.

The internal road network has been designed to Rural Fire Service requirements with the widths of the roads on the northern ends being widened to accommodate for RFS services. Provision for services such as water, gas, electricity and street lighting

The overall design of the proposed new internal roads are generally compliant with the Australian Standards and manoeuvring, circulation of vehicles and pedestrian facilities are generally acceptable.

The traffic assessment has undertaken a parking assessment for on-street parking. The report notes that there is generally ample on-street parking available along the parking lane on Lake Rd. The parking spaces are distributed across the site and seem to be at accessible locations close to the footpath locations.

The development also provides 20 additional visitors parking above the DCP rates, that is, 40 in total. Two Disabled spaces are provided at the northern visitors parking location.

5 Motorbike parking is proposed which is compliant with the DCP. Each proposed dwelling has a min. 1 garaged car parking space per dwelling.

Pedestrian access from the existing residential houses along Lake Rd and future need for the area has been considered. A new pedestrian path will need to be provided within the frontage of the Lake Rd dwellings that will start from the eastern most property and connects to the existing bus stop on Lake Rd south of the development'

In summary, the access and parking areas are well integrated into the development and streetscape and are considered acceptable in relation to the NDCP guidelines.

Section 7.06 Stormwater

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

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

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

Conditions are recommended to ensure that the submitted Concept Drainage Plan is implemented as part of the site development works.

Section 7.08 Waste Management

As required under this element, a Waste Management Plan has been provided with the application. The proposal provides for individual bin storage for each dwelling. The applicant has demonstrated that a heavy ridged vehicle (HRV) can access the site and leave in a forward direction.

Based on the submitted information, the proposal is considered to be acceptable.

Section 8.00 Public Participation

The application was notified in accordance with the above section and three public submissions were received in response. The issues raised have been addressed below (refer to section (d) *any submissions made in accordance with this Act or the Regulations*).

Section 94 Contributions

The site is located within the area covered by Newcastle City Council Section 94 Plan for the Western Corridor Section 94 Contribution Plan 2013. The draft conditions of consent have included the relevant conditions and Section 94 contributions for each of the five stages.

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

The proposal is considered to be satisfactory in this regard.

(b) the likely impacts of the development

Ecology

The applicant has submitted an Ecological Assessment prepared by RPS Australia. The report concluded that the proposed development 'is not considered to have a significant impact on any threatened flora or fauna in the local area'. Council's Regulatory Services Unit has reviewed the assessment and concurs with this recommendation.

Council's Environmental Protection Officer has provided a detailed assessment as follows:

'The vegetation community at the proposed development site has been highly modified due to past farming practices and use of the site for horse paddocks. The vegetation at the site consists of remnant native species in the canopy layer and a highly modified understorey dominated by invasive species such as lantana (Lantana camara). The native canopy species include Smooth-barked Apple (Angophora costata), Red Bloodwood (Corymbia gummifera) and Brown Stringybark (Eucalyptus capitellata) and forms a remnant of the Coastal Plains Smooth-barked Apple Woodland community. The Ecological Assessment prepared by RPS Australia East Pty Ltd dated April 2015 has undertaken flora and fauna surveying within the proposed development site and was conducted in accordance with the Lower Hunter Central Coast Regional Environment Management Strategy 'Flora and Fauna Survey Guidelines'. Surveying identified one species listed under the Threatened Species Conservation Act 1995 within the proposed development site, the Little Bentwing-bat (Miniopterus australis). The Ecological Assessment prepared by RPS Australia East Pty Ltd dated April 2015 has also undertaken seven-part tests for species listed under the Threatened Species Conservation Act 1995 that may potentially inhabit the proposed development site. The Ecological Assessment prepared by RPS Australia East Pty Ltd dated April 2015 has concluded the proposed development will not result in a significant impact upon these species due to the highly modified nature of the vegetation at the proposed development site providing low quality habitat'.

(c) the suitability of the site for development

The site is within a proclaimed mine subsidence district and conditional approval for the proposed development has been granted by the Mine Subsidence Board.

The development will involve works on waterfront land, as defined under the Water Management Act 2000. As such, a controlled activity approval is required from NSW Office of Water before any works can commence. The Office of Water has granted General Terms of Approval (GTA) under the Water Management Act 2000 for the proposed development. This will be addressed by an appropriate condition of consent.

The site is affected by bushfire threat and requires approval from the NSW Rural Fire Service. Approval (bushfire safety authority) has been issued by the NSW Rural Fire Service with conditions.

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

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

The proposal was advertised in the media and to neighbouring properties for 28 days in accordance with the Act. During the public exhibition period three submissions were received. The issues raised in the submissions are addressed as follows:

The first submission raised the following issues: urbanisation and rural views; privacy; geotechnical information and acoustic amenity.

Comment

The proposal is consistent with the zoning identified by the Local Environmental Plan 2012. The area is undergoing a transition from rural land to a more urbanised land use.

The proposal does not have a significant impact upon views. The two-storey dwellings are well separated from adjoining properties, thereby maintaining acceptable levels of privacy. Main living areas for the units are located on ground floors. The first floor contains bedrooms and bathrooms which are not expected to have any privacy implications given the limited use of these rooms.

The development will lead to an increase in noise levels compared to the existing dwellings. However, the noise expected to be generated from residential use of the dwellings is not likely to adversely impact surrounding properties.

A condition has been included in the draft schedule of condition for a dilapidation report to be submitted prior to the release of the construction certificate.

The second submission raised concerns about increased traffic noise and potential impacts from vehicle headlight glare. A concern was also raised about the density of the proposal given that land is zoned R2 under the LEP 2012.

Comment

The proposed works will not result in a significant rise in the number of vehicle utilising the Lake Road. The increase in noise level from the proposed development is not expected to be significant with minimal impact on adjoining neighbours.

The function of the classified road will not be adversely affected by the proposed development and was supported by the RMS, subject to a number of conditions.

In terms of potential problems with headlight glare from vehicles exiting the site, there is a solid concrete barrier in the median and the floor level of the dwelling directly opposite the site is below the existing road. The proposal is therefore unlikely to have any significant impact on residents in terms of headlight glare.

The third public submission indicated that all 95 houses look the same and lack sufficient private open space. The person also raised concerns about the potential safety hazards associated with increased traffic using Lake Road.

Comment

The proposed development is a typical urban housing development and is generally consistent with the future desired character of the area. The proposed development complies with Council's planning controls in terms of FSR, height and access to private open space. The proposal also provides for adequate areas of communal open space within the proposed sites and is deemed appropriate under Council's planning controls.

In terms of road safety the traffic report indicated that *'the additional traffic flows associated with the development of the subject site will have a relatively low impact on traffic safety. The site access point for the development is located on a straight section of Lake Road allowing for good visibility for drivers approaching the site as well as driver exiting the site'*.

This statement was supported by Council's Senior Traffic Engineer and by the RMS. As such, the proposed development is not expected to have any significant impact on Lake Road.

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

The responses from all government agencies, including RMS, RFS and Office of Water have been received and their comments have been incorporated into the draft schedule of conditions (**APPENDIX C**).

A copy of the responses from the government agencies has been included in **APPENDIX D**.

(e) *the public interest*

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

CONCLUSION

Subject to a number of relevant conditions recommended in the attached draft condition schedule, the proposal is considered to be acceptable against the relevant heads of considerations under section 79C of the Environmental Planning and Assessment Act 1979.

RECOMMENDATION

That the Joint Regional Planning Panel grant development application consent to DA 2015/0508 (JRPP REF: 2015HCC015DA) (DA2015/0508), subject to the impositions of the conditions contained as contained in **APPENDIX C**.

APPENDIX A - Proposed Plans

APPENDIX B - Landscape Plan

APPENDIX C - Draft Conditions

APENDIX D - External Referrals

Comments from External Agencies

Agency	Comments
Transport Roads and Maritime Services (RMS)	Refer to attached letter dated 6 November 2015
Rural Fire Service (RFS)	Refer to attached letter dated 27 October 2015
Mine Subsidence Board (MSB)	Refer to attached letter dated 17 December 2015
Department of Primary Industries Water	Refer to attached letter dated 9 November 2015

Comments from Internal Departments

Department	Comments
Council's Environmental Officer	Refer to attached letter dated 12 February 2016
Council's Traffic and Stormwater Officer	Refer to attached letter dated 12 February 2016