

APPENDIX C - Draft Conditions

Application No:	DA2015/0508
Land:	Part Lot A DP 350420 Lot 1 DP 725264 Part Lot A DP 394165 Part Lot B DP 394165
Property Address:	150, 152, 154 and 156 Lake Road Elmore Vale NSW 2287
Proposed Development:	Staged development for demolition of buildings, erection of ninety five dwellings, concept approval of child care centre, associated site works and four lot into six lot subdivision

SCHEDULE 1

REASONS FOR CONDITIONS

1. The conditions of this consent have been imposed in accordance with Section 80A of the *Environmental Planning and Assessment Act 1979* (NSW). The conditions relate to any matter referred to in Section 79C(1) of relevance to the development the subject of the consent and are imposed to ensure that the development is undertaken in an orderly manner, with acceptable impacts on the natural and built environment.

APPROVED DOCUMENTATION

2. The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No / Supporting Document	Reference / Version	Prepared by	Dated
Site Survey	Sheet 2 Issue 18	Kim Gerrish Design	1/12/15
Subdivision Plan	Sheet 3 Issue 18	RPS Australia	1/12/15
Staging Plan	Sheet 4 Issue 19	Kim Gerrish Design	14/01/15
Overall site layout plan	Sheet 5 Issue 19	Kim Gerrish Design	1/12/15
Landscape Calculations	Sheet 6 Issue 19	Kim Gerrish Design	14/01/15
Overall Site Lower Floor Plans	Sheet 7 Issue 19	Kim Gerrish Design	14/01/15
Overall Upper Floor Plans	Sheet 8 Issue 19	Kim Gerrish Design	14/01/15
Proposed Floor Plans and Elevations Units 1 to 10	Sheet 9 Issue 18	Kim Gerrish Design	1/12/15
Proposed Floor Plans and Elevations Units 11 to 20	Sheet 10 Issue 18	Kim Gerrish Design	1/12/15
Proposed Floor Plans and Elevations Units 21 to 30	Sheet 11 Issue 18	Kim Gerrish Design	1/12/15
Proposed Floor Plans and Elevations Units 31 to 38 and 55	Sheet 12 Issue 18	Kim Gerrish Design	1/12/15
Proposed Floor Plans and Elevations Units 39 to 48	Sheet 13 Issue 18	Kim Gerrish Design	1/12/15

Proposed Floor Plans and Elevations Units 39 to 59	Sheet 14 Issue 18	Kim Gerrish Design	1/12/15
Proposed Floor Plans and Elevations Units 60 to 70	Sheet 15 Issue 18	Kim Gerrish Design	1/12/15
Proposed Floor Plans and Elevations Units 71 to 81	Sheet 16 Issue 18	Kim Gerrish Design	1/12/15
Proposed Floor Plans and Elevations Units 82 to 91	Sheet 17 Issue 18	Kim Gerrish Design	1/12/15
Proposed Floor Plans and Elevations Units 92 to 95	Sheet 18 Issue 18	Kim Gerrish Design	1/12/15
and concept childcare			
Proposed Street Elevations and Site Sections	Sheet 19 Issue 18	Kim Gerrish Design	1/12/15
Proposed Site Sections and Overall Calculations	Sheet 20 Issue 18	Kim Gerrish Design	1/12/15
Shadow Diagrams 9.0 am	Sheet 21 Issue 18	Kim Gerrish Design	1/12/15
Shadow Diagram 10.00 am	Sheet 22 Issue 18	Kim Gerrish Design	1/12/15
Shadow Diagram 11.00 am	Sheet 23 Issue 18	Kim Gerrish Design	1/12/15
Shadow Diagram 12 Noon	Sheet 24 Issue 18	Kim Gerrish Design	1/12/15
Shadow Diagram 1 pm	Sheet 25 Issue 18	Kim Gerrish Design	1/12/15
Shadow Diagram 2 pm	Sheet 26 Issue 18	Kim Gerrish Design	1/12/15
Landscape Plan	Sheet 1 to 5	Forum Urban Sanctum	May 2015
Acoustic Assessment Report	Ref: 151005/5642_II	Spectrum Acoustic	28/4/2015
Bushfire Threat Assessment		RPS Australia East	29/04/15
Crime Assessment Report		SLN Building	Undated
Detailed Contamination Assessment	JME15117 -Lake Road	JM Environments	9/12/15
Ecological Assessment	PR118414-1	RPS Australia	29/04/15
Geotechnical Investigation	Ref: Q2014_31 –	Valley Civilab	13/11/2014
Aboriginal Due Diligence Assessment and Statement of Heritage Impact	PR118414-4	RPS Australia	April 2015
Preliminary Arboriculture Report	Ref No: 06-0814	Treeology Pty	Nov 2014
Social Impact Assessment		SNL Building	18/5/2015
Statement of Environmental Effects		SNL Building	21/5/2015
Stormwater Management Strategy	NL140429 Rev:C	Northrop Engineers	02/10/2015
Traffic Impact Assessment	Issue: Ver 03/18052015 Reference: P0290	SECA solutions	May 2015

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

3. Each stage of the development complying with all conditions within Schedule 2 and the specific conditions within the respective stages as detailed below. The Stages are required to be undertaken in numerical order.

- Stage 1 – Schedule A
- Stage 2 – Schedule B
- Stage 3 - Schedule C
- Stage 4 - Schedule D
- Stage 5 - Schedule E

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

4. On-site visitor parking accommodation is to be provided for a minimum of 40 vehicle spaces and 5 motorcycles spaces and such be set out generally in accordance with the minimum parking layout standards indicated in Element 7.03 'Traffic, Parking and Access' of Council's adopted Newcastle DCP 2012. Full details are to be included in documentation for a Construction Certificate application.
5. The proposed garage door openings are to be a minimum width of 2.4m clear for single garages and 4.8m clear for double garages. Full details are to be included in documentation for a Construction Certificate application.
6. The car park is to be designed to comply with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking and AS/NZS 2890.6:2009 - Parking facilities - Off-street parking for people with disabilities. Full details are to be included in documentation for a Construction Certificate application.
7. Opposing traffic flows on Road 1 at the intersection of Road 2 and Road 4 to be separated by the provision of a continuous median island extending from the driveway entry at Lake Road to the Roundabout on Road 1. Full details are to be included in documentation for a Construction Certificate application.
8. All proposed driveways, parking bays, loading bays and vehicular turning areas are to be constructed with a basecourse of adequate depth to suit design traffic, being sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers and being properly maintained. Full details are to be included in documentation for a Construction Certificate application.
9. The visitor parking bays are to be constructed in paving bricks or in a suitable alternative visually unobtrusive paving material which contrasts in colour and texture with that used in the construction of the driveway. Full details are to be included in documentation for a Construction Certificate application.
10. Kerbing or dwarf walls having a minimum height of 100mm are to be constructed along the edge of all garden or lawn areas adjacent to driveways and parking bays sufficient to discourage the encroachment of vehicles thereon. Full details are to be included in documentation for a Construction Certificate application.
11. Letterboxes, landscaping and any other obstructions to visibility are to be kept clear of or limited in height to 1.2m in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance in accordance with AS/NZS 2890.1:2004
12. Parking facilities - Off-street car parking. Full details are to be included in documentation for a Construction Certificate application.
13. Roof water from the proposed new work is to be directed to the proposed water tank and being reticulated there from to any new toilet cisterns and cold water washing

machine taps, with a mains water top up being installed to maintain between 10% and 15% of the tank capacity. Alternatively, an electronically activated mechanical valve device is to be installed to switch any new toilet cisterns and laundry taps to mains water when the tank falls below 10% capacity. The water tank and plumbing is to be installed in accordance with Australian Standard AS 3500, the relevant plumbing regulations and the requirements of the Hunter Water Corporation. Full details are to be included in documentation for a Construction Certificate application.

14. Overflows from the On Site Detention (OSD - Minimum 980m³ storage volume) tank and the Biofiltration basin (Minimum 155m³ storage volume) and any additional discharge controls (if required) are to be directed to Council's drainage system by means of an energy dissipation rock scour pad drainage structure over the Council table drain. Full details are to be provided with the Construction Certificate application.
15. All stormwater runoff from the proposed development being managed in accordance with the requirements of Section 7.06 'Stormwater' of Newcastle Development Control Plan 2012, as indicated on the stormwater management concept plans and stormwater management report prepared by Northrop Consulting Engineers Job No. NL140429, Drawings numbers as listed in the approved drawing list. Full details are to be included in documentation for a Construction Certificate application.
16. All new impervious surfaces, including driveways and paved areas are to be drained to the nominated discharge controls, full details are to be included in documentation for a Construction Certificate application.
17. The easement to drain water within the site is to be shaped to contain any overland stormwater flow along the course of the easement and is to be kept clear of obstruction at all times. Full details are to be included in documentation for a Construction Certificate application.
18. Fences are to be constructed in a high quality presentation style of attractive appearance and of sufficient height to afford adequate privacy to residents in accordance with the performance criteria and provisions of Newcastle Development Control Plan 2012. Full details are to be included in the documentation for a Construction Certificate application.
19. The proposal shall comply with the recommendations contained within the Bushfire Safety Authority prepared by Rural Fire Service (letter dated 27 October 2015). Full details are to be included in the documentation for a Construction Certificate application.
20. The proposal shall comply with the general term of approval/recommendations from Ausgrid (letter dated 22 June 2015). Full details are to be included in the documentation for a Construction Certificate application.
21. The proposal shall comply with the general terms of approval issued by the Department of Primary Industries Water (letter dated 9 November 2015). Full details are to be included in the documentation for a Construction Certificate application.
22. Working drawings and specifications of the proposed building are to be submitted to the NSW Mine Subsidence Board for approval prior to an application for a Construction Certificate and any requirements of the Board are to be included in the documentation for a Construction Certificate application (refer to mine subsidence letter dated 17 December 2015).
23. All proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required under the conditions of this consent are required to be detailed on a comprehensive landscape design plan and specification. The required comprehensive landscape design plan and specifications is to be in accordance with the provisions of Newcastle Development Control Plan 2012 and is to

include details of the following:

- a) cross sections through the site where appropriate
- b) proposed contours or spot levels
- c) botanical names
- d) quantities and container size of all proposed trees
- e) shrubs and ground cover
- f) details of proposed soil preparation
- g) mulching and staking
- h) treatment of external surfaces and retaining walls where proposed
- i) drainage, location of taps and
- j) appropriate maintenance periods.

The plan is to be prepared by a qualified landscape designer and be included in documentation for a Construction Certificate application.

- 24. The applicant is to comply with all requirements of the Hunter Water Corporation regarding the connection of water supply and sewerage services, including the payment of any required cash contribution towards necessary amplification of service mains in the locality as a result of the increased intensity of land use proposed. A copy of the Corporation's compliance certificate (refer s50 Hunter Water Act 1991) is to be included in documentation for a Construction Certificate application.
- 25. Adequate facilities are to be provided within the proposed individual private courtyards, or in another adequately screened location, for the storage of garbage. Full details are to be included in documentation for a Construction Certificate application.
- 26. A group type mailbox is to be provided at the street frontage in accordance with the requirements of Australia Post, clearly displaying individual unit numbers and the required house number. Full details are to be included in the documentation for a Construction Certificate application.
- 27. Erosion and sediment control measures are to be implemented prior to the commencement of works and be maintained during the period of construction in accordance with the details set out on an Erosion and Sediment Control Plan that is to be submitted for approval with the Construction Certificate application. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
- 28. The proposed street lighting for the new road network within the site is to be minimum P4 pedestrian lighting category including car park lighting of the premises and is to be designed, positioned, and installed, including appropriate shielding and orientation of the lighting fixture, as to not give rise to obtrusive light, interfere with traffic safety or detract from the amenity of surrounding properties in accordance with Australian Standard AS 4282: 1997 *Control of the obtrusive effects of outdoor lighting*. Full details are to be included in the documentation for a Construction Certificate application.
- 29. A dilapidation report prepared by a suitably qualified person shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate. The dilapidation report shall document and photograph the current structural condition of the adjoining buildings, infrastructure and roads.
- 30. The developer is to design and construct the following works within Lakes Road frontage (based on the Concept Public Domain Plan prepared by Northrop Consulting Engineers Project No. 140429 Dwg No. C4 DA Rev C dated 07/12/2015) adjacent to the site at no cost to Council and in accordance with Council's guidelines, design specification and City Centre Public Domain Technical Manual:

a) Public Domain Works

- i. Construct new footpath, retain/install stone kerb and gutter. The scope of footpath works to extend 5m beyond the property boundary.
- ii. Install new (5) street trees and grass verge as indicated on the plans in accordance with Council requirements.
- iii. Upgrade/install street lighting within 10m-20m of the vicinity of the development to Ausgrid requirements and P2 lighting category.
- iv. Upgrade kerb ramps to nearest intersections at both ends which provide direct access to the site to Council and Australian Standards.
- v. Remove all redundant driveways, install new kerb and gutter and repair any road works.
- vi. Install any required parking and mandatory signage's to ensure that the footpath widths are made available for access.
- vii. Repair any damages caused during construction.

Detailed public domain plan is to be provided to Council for review and approval as part of the S138 Road Act Type 2 application.

In this regard the separate approval from Council must be obtained for all works within the public road reserve, pursuant to Section 138 of the Roads Act 1993, prior to the release of the Construction Certificate. Engineering design plans and specifications for the works being undertaken in the public road reserve are required to be prepared by a suitably qualified practising civil engineer with experience and competence in the related field and submitted to Council for approval with the Section 138 application.

Note: An additional fee will be required by Council for the assessment of engineering plans submitted for the public road works. In this regard the developer is advised to confer with Council's Development & Building Services Section in order to confirm this fee.

These works are not approved until consent under Section 138 of the *Roads Act 1993 (NSW)* has been granted by Council. An application under Section 138 must be applied for and approved before the issue of a Construction Certificate.

31. A separate application must be lodged and consent obtained from Council for all works within the road reserve pursuant to Section 138 of the *Roads Act 1993 (NSW)*, before the issue of a Construction Certificate.
32. Prior to the issue of a Construction Certificate, the proponent preparing and submitting to the Principal Certifying Authority and Council an Environmental Management Plan (EMP) for construction/demolition works on the site, such to be kept on site and made available to authorised Council Officers upon request. The EMP is to include but not be limited to:
 - a) A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.
 - b) A water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water, groundwater. Procedures should also be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment.
 - c) A dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions.

- d) A noise and vibration management program, detailing measures to minimise the impact of the development on local amenity. Provision for noise and vibration monitoring during works should be incorporated into the program.
33. The RMS requirements for the road works associated with the driveway entry at Lake Road as set in the RMS Letter dated 06/11/2015 Ref. No. CR2015/004453, SF2015/109378 is to be addressed prior to issue of any construction certificate. The applicants are to enter into a Works Authorisation Deed (WAD) agreement with RMS and all associated road works, driveway works including sign posting, line marking, kerb and gutter and footpath works associated with the construction of the new driveway entry is to be completed prior to RMS standards and satisfaction prior to the issue of any construction certificate.
34. All new internal roads and associated structures including kerb and gutter, drainage are to be designed by an appropriately qualified and experienced civil/structural/hydraulic/geotechnical engineer. The road pavement design, drainage and associated civil works are to be designed for a minimum of 50 year life. Full details including geotechnical investigation for road pavement design (consideration to be given or staging and construction vehicles) to be provide to the Principle certifying Authority prior to issue of any construction certificate.
35. All downpipes discharging to the rainwater tanks are to have pre-storage insect, debris and vermin control (e.g. a rainwater head being leaf screened and vermin and insect proof) to minimise the contamination of captured roof water. A first flush device is to be provided for the inlet to the tank and a backflow prevention device is to be installed in the tank overflow outlet before connecting to the stormwater drainage system. If the roof downpipes are charged to the rainwater tank, all pipes are to be chemically welded and the stormwater system is to be designed such that the system is capable of being flushed in the event of pipe blockage (e.g. capped relief access points at the lowest level of stormwater drainage).
36. A Maintenance Manual for all water quality devices is be prepared in accordance with Council's Stormwater and Water Efficiency for Development Technical Manual (Updated 2013). The Maintenance Manual is to address maintenance issues concerning the water quality devices including routine monitoring and regular maintenance and be kept on site at all times. Establishment and maintenance of the water quality devices in accordance with the Maintenance Manual prepared by the applicant is to be completed prior to occupation of this site for the intended use.
37. All onsite stormwater detention and water quality treatment systems are to be individually identified and sign posted in accordance with Council's Stormwater and Water Efficiency for Development Technical Manual (Updated 2013). Full details are to be included in documentation for a Construction Certificate application.
38. The Applicant being required to pipe the development site discharge through Newcastle City Council's (NCC's) land (Lot 3054 DP 1202601) to connect to the existing watercourse and piped culvert under the cycleway.
39. The design will need to satisfy the requirements of Council's Technical Manual for Stormwater and Water Efficiency and Standard Drawings and the following specific requirements.
- a) Direct connection of stormwater overflow to Council's stormwater assets at the natural watercourse (an earth swale drain is not considered to be an acceptable conveyance method).
 - b) Construction of private pit and pipe infrastructure to connect the development with the natural watercourse.
 - c) Level of the outlet pipe of private stormwater to be as such it can be fully integrated with the natural water course.

- d) Construction of an integrated rock headwall at the natural watercourse to ensure flows from the development enter the watercourse and do not impact on the stability of the natural watercourse and existing cycleway infrastructure.
- e) Works need to be contained within Council's land with minimum impact on existing vegetation and slope stability of the cycleway. Expert arborist and geotechnical reports will be required to confirm this requirement.
- f) A drainage easement over the route being established prior to Occupation of the development with all costs borne by the applicant.

Full construction drawings being submitted to the land owner, Newcastle City Council, for review and approval prior to the issuing of any Construction Certificates for the development.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

40. Toilet facilities are to be available or provided at the work site before works begin and be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet is to:

- a) Be a standard flushing toilet connected to a public sewer, or
- b) Have an on-site effluent disposal system approved under the *Local Government Act 1993* (NSW), or
- c) Be a temporary chemical closet approved under the *Local Government Act 1993* (NSW).

41. Building demolition is to be planned and carried out in accordance with Australian Standard 2601:2001 - The Demolition of Structures.

42. A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with Australian Standard 2601:2001 - The Demolition of Structures. A copy of the Hazardous Substances Management Plan is to be provided to Council (marked to Attention: Compliance Services) and the demolisher prior to commencement of work.

43. The demolition works are to be undertaken in accordance with Australian Standard 2601:2001 - The Demolition of Structures and the following requirements:

- a) Demolition works shall be conducted in accordance with the submitted Hazardous Substances Management Plan and a copy of the Hazardous Substances Management Plan shall be kept on-site for the duration of the proposed development
- b) The removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by the WorkCover Authority of NSW
- c) A copy of all waste disposal receipts are to be kept on-site for the duration of the proposed development and made available to authorised Council Officers upon request
- d) Seven working days' notice in writing is to be given to Council and the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor. Notification to owners/occupiers of

neighbouring premises shall also include Council's contact telephone number (49742000) and the Workcover Authority of NSW telephone number (49212900) and;

- e) On sites where asbestos materials are to be removed, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent position during asbestos removal works.
- 44. The demolisher is to ensure that all services (ie water, telecommunications, gas, electricity, sewerage etc), are disconnected in accordance with the relevant authority's requirements prior to demolition.
 - 45. Any waste containers used in association with the proposed demolition are to be located on the site where possible.

Note: Where this is not feasible, application must be made for Council's approval to position the container on the adjacent public road in accordance with Council's adopted Building Waste Container Policy.

- 46. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.
- 47. Any demolition/waste building materials that are not suitable for recycling are to be disposed of at Council's Summerhill Waste Management Facility or other approved site.
- 48. Waste management shall be implemented in accordance with the approved Waste Management Plan. At a minimum, the following measures shall be implemented during the construction phase:
 - a) A waste container of at least one cubic metre capacity shall be provided, maintained and regularly serviced from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste
 - b) The waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets
 - c) Appropriate provision is to be made to prevent windblown rubbish leaving the site and
 - d) Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the *Protection of the Environment Operations Act 1997* (NSW).

- 49. A rigid and durable sign is to be erected on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:
 - a) showing the name, address and telephone number of the Principal Certifying Authority for building work and subdivision work, and
 - b) showing the name, address and telephone number of the Principal Contractor for any building work and also including a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and

- c) stating that unauthorised entry to the work site is prohibited, and
- d) being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- 50. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 51. In the case of residential building work for which the *Home Building Act 1989* (NSW) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract of insurance is to be in force before any building work authorised to be carried out by this consent commences.
- 52. All excavations and backfilling are to be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.
- 53. If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided and adequate provision must be made for drainage.
- 54. All building materials, plant and equipment is to be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves including the road reserve is not permitted.
- 55. A Registered Surveyor's certificate detailing the setting out of the proposed building on the site, including the relationship of the set out building to property boundaries, is to be submitted to the Principal Certifying Authority before construction is commenced.
- 56. A separate application must be lodged and consent obtained from Council for all works within the road reserve pursuant to Section 138 Roads Act 1993 (NSW), before the commencement of works.
- 57. Commercial/industrial type vehicular crossings is to be constructed across the public footway at Lake Road entrance/exits at no cost to Council and in accordance with Council's A17 Series design specifications and City Centre Public Domain Manual and such crossing being properly maintained.

Note: A separate approval from Council must be obtained for all works within the public road reserve pursuant to Section 138 of the Roads Act 1993. For further information contact Council's Works Depot on 4974 6000 to request a Road Opening Approval. A fee will be payable in this regard.

- 58. Any proposed paving works within the public footway are to be in accordance with the requirements of Council's specifications and Public Domain Manual.

Note: It will be necessary for the Developer to notify water, telecommunications, gas and electricity authorities of the proposed paving works in order to enable the various authorities to carry out and complete any necessary repairs and/or amplification to their respective services before such works are commenced.

- 59. Prior to commencement of site works the developer is to submit to Council for approval a Construction Traffic Management Plan addressing traffic control measures to be utilised in the public road reserve during the construction phase.
- 60. The Construction Traffic Management Plan is to be prepared by a Roads & Maritime

Services accredited person with a Design and Audit Traffic Control Plans Certificate in accordance with Australian Standard 1742.3:2009 - Manual of uniform traffic devices - traffic control for works on roads. The plan is to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve.

61. Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.
62. On-site car parking accommodation is to be provided for a minimum of 40 vehicles and such being set out generally in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of consent.
63. All parking bays are to be permanently marked out on the pavement surface.
64. The proposed visitor parking bays are to be clearly indicated by means of signs and/or pavement markings.
65. The vehicular entrance and exit driveways and the direction of traffic movement within the site are to be clearly indicated by means of reflectorised signs and pavement markings.
66. Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:
 - Monday to Friday, 7:00 am to 6:00 pm and
 - Saturday, 8:00 am to 1:00 pm.

No noise from construction/demolition work is to be generated on Sundays or public holidays.

67. Council's 'PREVENT POLLUTION' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary so it is clearly visible to the public or at other locations on the site as otherwise directed by Council for the duration of demolition and construction work.

Note: Council's 'PREVENT POLLUTION' sign can be obtained by presenting your development application receipt at Council's Customer Enquiry Counter at 282 King Street Newcastle.

68. Any excavated material to be removed from the site is to be assessed, classified, transported and disposed of in accordance with the Department of Environment and Climate Change's (DECC) 'Waste Classification Guidelines Part 1: Classifying Waste'.
69. Any fill material imported into the site is to be Virgin Excavated Natural Material or material subject to a Resource Recovery Order that is permitted to be used as a fill material under the conditions of the associated Resource Recovery Exemption, in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment (Waste) Regulation 2014*.
70. Documentation demonstrating the compliance with the conditions of the appropriate Resource Recovery Order and Resource Recovery Exemption must be maintained for any material received at the site and subsequently applied to land under the conditions of the Resource Recovery Order and Exemption. This documentation must be provided to Council officers or the Principal Certifying Authority on request.
71. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or

construction in accordance with the requirements of Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the 'Blue Book') published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.

72. Prior to the commencement of work, a 3m wide all weather vehicle access is to be provided from the kerb and gutter to the building under construction, to reduce the potential for soil erosion. Sand shall not be stockpiled on the all-weather vehicle access.
73. All necessary measures are to be undertaken to control dust pollution from the site. These measures must include, but not are limited to:
 - a) Restricting topsoil removal
 - b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion)
 - c) Alter or cease construction work during periods of high wind and
 - d) Erect green or black shade cloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.
74. Where the proposed development involves the destruction or disturbance of any existing survey monuments, those monuments affected are to be relocated at no cost to Council by a Surveyor registered under the *Surveying and Spatial Information Act 2002* (NSW).
75. All public trees that are required to be retained must be physically protected in accordance with the City of Newcastle Urban Forest Technical Manual 'Section 8.0 Protection Measures'.

The tree protection fencing must remain in place and maintained until all works have been completed, with no waste materials, washouts, equipment or machinery to be stored within the fenced area.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE, A SUBDIVISION CERTIFICATE OR A STRATA CERTIFICATE

76. All commitments listed in the relevant BASIX certificate for the development are to be satisfactorily completed prior to the issue of an Occupation Certificate. Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to Council within fourteen days of receipt.
77. All public footways, foot paving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a satisfactory state that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to Council's satisfaction prior to the completion of demolition work or prior to the issue of any occupation certificate in respect of development involving building work.
78. The developer is to design and construct the following works within Lakes Road frontage (based on the Concept Public Domain Plan prepared by Northrop Consulting Engineers Project No. 140429 Dwg No. C4 DA Rev C dated 07/12/2015) adjacent to the site at no cost to Council and in accordance with Council's guidelines, design specification and City Centre Public Domain Technical Manual:
 - a) Public Domain Works

- i. Construct new footpath, retain/install stone kerb and gutter. The scope of footpath works to extend 5m beyond the property boundary.
- ii. Install new (5) street trees and grass verge as indicated on the plans in accordance with Council requirements.
- iii. Upgrade/install street lighting within 10m-20m of the vicinity of the development to Ausgrid requirements and P2 lighting category.
- iv. Upgrade kerb ramps to nearest intersections at both ends which provide direct access to the site to Council and Australian Standards.
- v. Remove all redundant driveways, install new kerb and gutter and repair any road works.
- vi. Install any required parking and mandatory signage's to ensure that the footpath widths are made available for access.
- vii. Repair any damages caused during construction.

Detailed public domain plan is to be provided to Council for review and approval as part of the S138 Road Act Type 2 application.

Such works are to be implemented prior to the issuing of an Occupation Certificate for the proposed development.

In this regard the separate approval from Council must be obtained for all works within the public road reserve, pursuant to Section 138 of the Roads Act 1993, prior to commencement. Engineering design plans and specifications for the works being undertaken in the public road reserve are required to be prepared by a suitably qualified practising civil engineer with experience and competence in the related field and submitted to Council for approval with the Section 138 application.

Note: An additional fee will be required by Council for the assessment of engineering plans submitted for the public road works. In this regard the developer is advised to confer with Council's Development & Building Services Section in order to confirm this fee.

79. Any redundant existing vehicular crossing is to be removed at no cost to Council. The road reserve and kerb being restored to, Council's satisfaction, to match the existing infrastructure. Works are to be completed prior to the issuing of a Final Occupation Certificate for the proposed development.
80. A copy of the stormwater drainage design plans approved with the Construction Certificate with 'work as executed' levels indicated, shall be submitted to the Principal Certifying Authority and to The City of Newcastle prior to the issue of an Occupation Certificate. The plans shall be prepared by a Practising Professional Engineer or Registered Surveyor experienced in the design of stormwater drainage systems.
81. The water management measures as indicated on the submitted plans and Statement of Environmental Effects and/or as modified under the terms of this consent are to be implemented and the nominated fixtures and appliances are to be installed and operational prior to issue of an Occupation Certificate.
82. A Landscape Practical Completion Report is to be submitted to the Principal Certifying Authority prior to the issue of the Final Occupation Certificate. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were required to be included in documentation for a Construction Certificate application and is to verify that an effective maintenance program has been commenced.
83. The premises are to be identified by the provision of house and street numbers on the building exterior and mailbox, respectively, such that they are clearly visible from the road frontage.

The minimum numeral heights shall be:

- a) Exterior of the building = 75mm and
- b) Group mailbox - street number = 150mm
- house number = 50mm

- 84. The decommissioning and removal of the on-site sewage management systems is to be carried out 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.
- 85. Appropriate acoustic treatment for proposed residential dwellings 1-9, as outlined in the Overall Site Layout prepared by Kim Gerrish Building Design Pty Ltd dated 21 May 2015, is to be implemented in accordance with the recommendations set out in the Noise Assessment prepared by Spectrum Acoustics dated 28 April 2015. Written final certification confirming the recommended acoustic treatment has been implemented in accordance with the requirements of the Noise Assessment prepared by Spectrum Acoustics dated 28 April 2015 is to be submitted to the Principal Certifying Authority and Council prior to the issue of an Occupation Certificate
- 86. A suitably qualified ecologist to be on-site during tree clearing to manage the identification, management and protection of flora and in particular, fauna, which are located on the site.
- 87. An application is to be made for a Subdivision Certificate. The application is to be supported by a survey plan of subdivision, seven copies thereof and a Section 50 Certificate from the Hunter Water Corporation.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

- 88. The landscaped areas are to be kept free of parked vehicles, stored goods, garbage or waste material and being permanently maintained.
- 89. The driveway crossing, parking areas and stormwater management system are to be properly maintained for the life of the development.
- 90. Proposed parking areas, vehicle bays, driveways and turning areas are to be maintained clear of obstruction and be used exclusively for purposes of car parking, loading and unloading, and vehicle access, respectively. Under no circumstances are such areas to be used for the storage of goods or waste materials.
- 91. Any washing, degreasing or steam cleaning of vehicles, plant, engines, mechanical equipment or parts is to be carried out within a wash bay or dedicated cleaning unit connected to the sewers of the Hunter Water Corporation in accordance with an approved Trade Waste Agreement or to a waste collection system for disposal by a licensed waste transport contractor in accordance with the Department of Environment and Climate Change 'Waste Classification Guidelines Part 1: Classifying Waste'. Under no circumstances are such activities to be carried out elsewhere on site.
- 92. The premises are to be identified by the provision of house and street numbers on the building exterior and mailbox, respectively, such that they are clearly visible from the road frontage.

The minimum numeral heights shall be:

- a) Exterior of the building = 75mm and
- b) Group mailbox - street number = 150mm
- house number = 50mm

93. A Maintenance Manual for all water quality devices is to be prepared in accordance with Council's Stormwater and Water Efficiency for Development Technical Manual (Updated 2013). The Maintenance Manual is to address maintenance issues concerning the water quality devices including routine monitoring and regular maintenance and be kept on site at all times. Establishment and maintenance of the water quality devices in accordance with the Maintenance

ADVISORY MATTERS

94. Retaining walls not clearly noted on the approved plans or outside of the parameters of 'exempt development' as specified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (NSW) are to be subject to a separate development application. An application in this regard is to be approved prior to any works relating to the retaining wall taking place.
95. An application is to be submitted to Council for the removal or pruning of any trees located more than three metres from the dwelling, wall measured from the centre of the trunk to the footings of the dwelling, excluding carports and pergolas.
96. It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.
97. Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of both Council and any other relevant authorities. Council and other service authorities should be contacted for specific requirements prior to the commencement of any works.
98. Any approval for fences on side boundaries, common to other private properties, is independent of any consent or agreement which may be required of any adjoining owner under the provisions of the *Dividing Fences Act 1991* (NSW).
99. Prior to commencing any construction works, the following provisions of the *Environmental Planning and Assessment Act 1979* (NSW) (the 'Act') are to be complied with:
- a) A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act
 - b) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act and
 - c) Council is to be given at least two days' notice of the date intended for commencement of building works, in accordance with Section 81A(2)(c) of the Act.
100. Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Clause 149 of the *Environmental Planning and Assessment Regulation 2000* (NSW).
101. It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* (NSW) to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ('on-the-spot

fine') or prosecution.

102. Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979* (NSW), which may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.
103. Future application for the proposed childcare centre shall include a 1800mm high acoustic fence around the outdoor play area fronting Lake Road as recommended in the Noise Assessment Letter prepared by Spectrum Acoustics dated 18 January 2016. Details of the recommended acoustic fence shall be included in the future application.
104. Future application for the proposed childcare centre shall include details of the acoustic window treatment as recommended in the Noise Assessment Letter prepared by Spectrum Acoustics dated 17 November 2015.

END OF CONDITIONS

Schedule A

- A1 A total monetary contribution of \$217,983.01 is to be paid to Council, pursuant to Section 94 of the *Environmental Planning and Assessment Act 1979* (NSW), towards the provision of the following public amenities and public services within the locality, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

- a) Traffic and Transport \$889.87
- b) Social Infrastructure \$11,932.66

Note: i) This condition is imposed in accordance with the provisions of the Newcastle City Council's Western Corridor Section 94 Contribution Plan 2013 operational from 13 January 2014. A copy of the plan may be inspected at Council's Customer Enquiry Centre, ground floor of the City Administration Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays.

- ii) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation quarters	Approx release date
September	Late October
December	Late January
March	Late April
June	Late July

Schedule B

B1 A total monetary contribution of \$256,450.60 is to be paid to Council, pursuant to Section 94 of the *Environmental Planning and Assessment Act 1979* (NSW), towards the provision of the following public amenities and public services within the locality, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

- a) Traffic and Transport \$889.87
- b) Social Infrastructure \$11,932.66

Note: i) This condition is imposed in accordance with the provisions of the Newcastle City Council's Western Corridor Section 94 Contribution Plan 2013 operational from 13 January 2014. A copy of the plan may be inspected at Council's Customer Enquiry Centre, ground floor of the City Administration Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays.

- ii) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation quarters	Approx release date
September	Late October
December	Late January
March	Late April
June	Late July

Schedule C

C1 A total monetary contribution of \$282,095.66 is to be paid to Council, pursuant to Section 94 of the *Environmental Planning and Assessment Act 1979* (NSW), towards the provision of the following public amenities and public services within the locality, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

- a) Traffic and Transport \$889.87
- b) Social Infrastructure \$11,932.66

Note: i) This condition is imposed in accordance with the provisions of the Newcastle City Council's Western Corridor Section 94 Contribution Plan 2013 operational from 13 January 2014. A copy of the plan may be inspected at Council's Customer Enquiry Centre, ground floor of the City Administration Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays.

- ii) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation quarters	Approx release date
September	Late October
December	Late January
March	Late April
June	Late July

Schedule D

D1 A total monetary contribution of \$217,983.01 is to be paid to Council, pursuant to Section 94 of the *Environmental Planning and Assessment Act 1979* (NSW), towards the provision of the following public amenities and public services within the locality, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

- a) Traffic and Transport \$889.87
- b) Social Infrastructure \$11,932.66

Note: i) This condition is imposed in accordance with the provisions of the Newcastle City Council's Western Corridor Section 94 Contribution Plan 2013 operational from 13 January 2014. A copy of the plan may be inspected at Council's Customer Enquiry Centre, ground floor of the City Administration Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays.

- ii) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation quarters	Approx release date
September	Late October
December	Late January
March	Late April
June	Late July

Schedule E

E1 A total monetary contribution of \$230,805.54 is to be paid to Council, pursuant to Section 94 of the *Environmental Planning and Assessment Act 1979* (NSW), towards the provision of the following public amenities and public services within the locality, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

- a) Traffic and Transport \$889.87
- b) Social Infrastructure \$11,932.66

Note: i) This condition is imposed in accordance with the provisions of the Newcastle City Council's Western Corridor Section 94 Contribution Plan 2013 operational from 13 January 2014. A copy of the plan may be inspected at Council's Customer Enquiry Centre, ground floor of the City Administration Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays

- ii) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation quarters	Approx release date
September	Late October
December	Late January
March	Late April
June	Late July

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

APPENDIX C - Draft Conditions

Application No:	DA2015/0508
Land:	Part Lot A DP 350420 Lot 1 DP 725264 Part Lot A DP 394165 Part Lot B DP 394165
Property Address:	150, 152, 154 and 156 Lake Road Elmore Vale NSW 2287
Proposed Development:	Staged development for demolition of buildings, erection of ninety five dwellings, concept approval of child care centre, associated site works and four lot into six lot subdivision

SCHEDULE 1

REASONS FOR CONDITIONS

1. The conditions of this consent have been imposed in accordance with Section 80A of the *Environmental Planning and Assessment Act 1979* (NSW). The conditions relate to any matter referred to in Section 79C(1) of relevance to the development the subject of the consent and are imposed to ensure that the development is undertaken in an orderly manner, with acceptable impacts on the natural and built environment.

APPROVED DOCUMENTATION

2. The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No / Supporting Document	Reference / Version	Prepared by	Dated
Site Survey	Sheet 2 Issue 18	Kim Gerrish Design	1/12/15
Subdivision Plan	Sheet 3 Issue 18	RPS Australia	1/12/15
Staging Plan	Sheet 4 Issue 19	Kim Gerrish Design	14/01/15
Overall site layout plan	Sheet 5 Issue 19	Kim Gerrish Design	1/12/15
Landscape Calculations	Sheet 6 Issue 19	Kim Gerrish Design	14/01/15
Overall Site Lower Floor Plans	Sheet 7 Issue 19	Kim Gerrish Design	14/01/15
Overall Upper Floor Plans	Sheet 8 Issue 19	Kim Gerrish Design	14/01/15
Proposed Floor Plans and Elevations Units 1 to 10	Sheet 9 Issue 18	Kim Gerrish Design	1/12/15
Proposed Floor Plans and Elevations Units 11 to 20	Sheet 10 Issue 18	Kim Gerrish Design	1/12/15
Proposed Floor Plans and Elevations Units 21 to 30	Sheet 11 Issue 18	Kim Gerrish Design	1/12/15
Proposed Floor Plans and Elevations Units 31 to 38 and 55	Sheet 12 Issue 18	Kim Gerrish Design	1/12/15
Proposed Floor Plans and Elevations Units 39 to 48	Sheet 13 Issue 18	Kim Gerrish Design	1/12/15

Proposed Floor Plans and Elevations Units 39 to 59	Sheet 14 Issue 18	Kim Gerrish Design	1/12/15
Proposed Floor Plans and Elevations Units 60 to 70	Sheet 15 Issue 18	Kim Gerrish Design	1/12/15
Proposed Floor Plans and Elevations Units 71 to 81	Sheet 16 Issue 18	Kim Gerrish Design	1/12/15
Proposed Floor Plans and Elevations Units 82 to 91	Sheet 17 Issue 18	Kim Gerrish Design	1/12/15
Proposed Floor Plans and Elevations Units 92 to 95 and concept childcare	Sheet 18 Issue 18	Kim Gerrish Design	1/12/15
Proposed Street Elevations and Site Sections	Sheet 19 Issue 18	Kim Gerrish Design	1/12/15
Proposed Site Sections and Overall Calculations	Sheet 20 Issue 18	Kim Gerrish Design	1/12/15
Shadow Diagrams 9.0 am	Sheet 21 Issue 18	Kim Gerrish Design	1/12/15
Shadow Diagram 10.00 am	Sheet 22 Issue 18	Kim Gerrish Design	1/12/15
Shadow Diagram 11.00 am	Sheet 23 Issue 18	Kim Gerrish Design	1/12/15
Shadow Diagram 12 Noon	Sheet 24 Issue 18	Kim Gerrish Design	1/12/15
Shadow Diagram 1 pm	Sheet 25 Issue 18	Kim Gerrish Design	1/12/15
Shadow Diagram 2 pm	Sheet 26 Issue 18	Kim Gerrish Design	1/12/15
Landscape Plan	Sheet 1 to 5	Forum Urban Sanctum	May 2015
Acoustic Assessment Report	Ref: 151005/5642_II	Spectrum Acoustic	28/4/2015
Bushfire Threat Assessment		RPS Australia East	29/04/15
Crime Assessment Report		SLN Building	Undated
Detailed Contamination Assessment	JME15117 -Lake Road	JM Environments	9/12/15
Ecological Assessment	PR118414-1	RPS Australia	29/04/15
Geotechnical Investigation	Ref: Q2014_31 –	Valley Civilab	13/11/2014
Aboriginal Due Diligence Assessment and Statement of Heritage Impact	PR118414-4	RPS Australia	April 2015
Preliminary Arboriculture Report	Ref No: 06-0814	Treeology Pty	Nov 2014
Social Impact Assessment		SNL Building	18/5/2015
Statement of Environmental Effects		SNL Building	21/5/2015
Stormwater Management Strategy	NL140429 Rev:C	Northrop Engineers	02/10/2015
Traffic Impact Assessment	Issue: Ver 03/18052015 Reference: P0290	SECA solutions	May 2015

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

3. Each stage of the development complying with all conditions within Schedule 2 and the specific conditions within the respective stages as detailed below. The Stages are required to be undertaken in numerical order.
 - Stage 1 – Schedule A
 - Stage 2 – Schedule B
 - Stage 3 - Schedule C
 - Stage 4 - Schedule D
 - Stage 5 - Schedule E

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

4. On-site visitor parking accommodation is to be provided for a minimum of 40 vehicle spaces and 5 motorcycles spaces and such be set out generally in accordance with the minimum parking layout standards indicated in Element 7.03 'Traffic, Parking and Access' of Council's adopted Newcastle DCP 2012. Full details are to be included in documentation for a Construction Certificate application.
5. The proposed garage door openings are to be a minimum width of 2.4m clear for single garages and 4.8m clear for double garages. Full details are to be included in documentation for a Construction Certificate application.
6. The car park is to be designed to comply with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking and AS/NZS 2890.6:2009 - Parking facilities - Off-street parking for people with disabilities. Full details are to be included in documentation for a Construction Certificate application.
7. Opposing traffic flows on Road 1 at the intersection of Road 2 and Road 4 to be separated by the provision of a continuous median island extending from the driveway entry at Lake Road to the Roundabout on Road 1. Full details are to be included in documentation for a Construction Certificate application.
8. All proposed driveways, parking bays, loading bays and vehicular turning areas are to be constructed with a basecourse of adequate depth to suit design traffic, being sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers and being properly maintained. Full details are to be included in documentation for a Construction Certificate application.
9. The visitor parking bays are to be constructed in paving bricks or in a suitable alternative visually unobtrusive paving material which contrasts in colour and texture with that used in the construction of the driveway. Full details are to be included in documentation for a Construction Certificate application.
10. Kerbing or dwarf walls having a minimum height of 100mm are to be constructed along the edge of all garden or lawn areas adjacent to driveways and parking bays sufficient to discourage the encroachment of vehicles thereon. Full details are to be included in documentation for a Construction Certificate application.
11. Letterboxes, landscaping and any other obstructions to visibility are to be kept clear of or limited in height to 1.2m in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance in accordance with AS/NZS 2890.1:2004
12. Parking facilities - Off-street car parking. Full details are to be included in documentation for a Construction Certificate application.
13. Roof water from the proposed new work is to be directed to the proposed water tank and being reticulated there from to any new toilet cisterns and cold water washing

machine taps, with a mains water top up being installed to maintain between 10% and 15% of the tank capacity. Alternatively, an electronically activated mechanical valve device is to be installed to switch any new toilet cisterns and laundry taps to mains water when the tank falls below 10% capacity. The water tank and plumbing is to be installed in accordance with Australian Standard AS 3500, the relevant plumbing regulations and the requirements of the Hunter Water Corporation. Full details are to be included in documentation for a Construction Certificate application.

14. Overflows from the On Site Detention (OSD - Minimum 980m³ storage volume) tank and the Biofiltration basin (Minimum 155m³ storage volume) and any additional discharge controls (if required) are to be directed to Council's drainage system by means of an energy dissipation rock scour pad drainage structure over the Council table drain. Full details are to be provided with the Construction Certificate application.
15. All stormwater runoff from the proposed development being managed in accordance with the requirements of Section 7.06 'Stormwater' of Newcastle Development Control Plan 2012, as indicated on the stormwater management concept plans and stormwater management report prepared by Northrop Consulting Engineers Job No. NL140429, Drawings numbers as listed in the approved drawing list. Full details are to be included in documentation for a Construction Certificate application.
16. All new impervious surfaces, including driveways and paved areas are to be drained to the nominated discharge controls, full details are to be included in documentation for a Construction Certificate application.
17. The easement to drain water within the site is to be shaped to contain any overland stormwater flow along the course of the easement and is to be kept clear of obstruction at all times. Full details are to be included in documentation for a Construction Certificate application.
18. Fences are to be constructed in a high quality presentation style of attractive appearance and of sufficient height to afford adequate privacy to residents in accordance with the performance criteria and provisions of Newcastle Development Control Plan 2012. Full details are to be included in the documentation for a Construction Certificate application.
19. The proposal shall comply with the recommendations contained within the Bushfire Safety Authority prepared by Rural Fire Service (letter dated 27 October 2015). Full details are to be included in the documentation for a Construction Certificate application.
20. The proposal shall comply with the general term of approval/recommendations from Ausgrid (letter dated 22 June 2015). Full details are to be included in the documentation for a Construction Certificate application.
21. The proposal shall comply with the general terms of approval issued by the Department of Primary Industries Water (letter dated 9 November 2015). Full details are to be included in the documentation for a Construction Certificate application.
22. Working drawings and specifications of the proposed building are to be submitted to the NSW Mine Subsidence Board for approval prior to an application for a Construction Certificate and any requirements of the Board are to be included in the documentation for a Construction Certificate application (refer to mine subsidence letter dated 17 December 2015).
23. All proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required under the conditions of this consent are required to be detailed on a comprehensive landscape design plan and specification. The required comprehensive landscape design plan and specifications is to be in accordance with the provisions of Newcastle Development Control Plan 2012 and is to

include details of the following:

- a) cross sections through the site where appropriate
- b) proposed contours or spot levels
- c) botanical names
- d) quantities and container size of all proposed trees
- e) shrubs and ground cover
- f) details of proposed soil preparation
- g) mulching and staking
- h) treatment of external surfaces and retaining walls where proposed
- i) drainage, location of taps and
- j) appropriate maintenance periods.

The plan is to be prepared by a qualified landscape designer and be included in documentation for a Construction Certificate application.

- 24. The applicant is to comply with all requirements of the Hunter Water Corporation regarding the connection of water supply and sewerage services, including the payment of any required cash contribution towards necessary amplification of service mains in the locality as a result of the increased intensity of land use proposed. A copy of the Corporation's compliance certificate (refer s50 Hunter Water Act 1991) is to be included in documentation for a Construction Certificate application.
- 25. Adequate facilities are to be provided within the proposed individual private courtyards, or in another adequately screened location, for the storage of garbage. Full details are to be included in documentation for a Construction Certificate application.
- 26. A group type mailbox is to be provided at the street frontage in accordance with the requirements of Australia Post, clearly displaying individual unit numbers and the required house number. Full details are to be included in the documentation for a Construction Certificate application.
- 27. Erosion and sediment control measures are to be implemented prior to the commencement of works and be maintained during the period of construction in accordance with the details set out on an Erosion and Sediment Control Plan that is to be submitted for approval with the Construction Certificate application. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
- 28. The proposed street lighting for the new road network within the site is to be minimum P4 pedestrian lighting category including car park lighting of the premises and is to be designed, positioned, and installed, including appropriate shielding and orientation of the lighting fixture, as to not give rise to obtrusive light, interfere with traffic safety or detract from the amenity of surrounding properties in accordance with Australian Standard AS 4282: 1997 *Control of the obtrusive effects of outdoor lighting*. Full details are to be included in the documentation for a Construction Certificate application.
- 29. A dilapidation report prepared by a suitability qualified person shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate. The dilapidation report shall document and photograph the current structural condition of the adjoining buildings, infrastructure and roads.
- 30. The developer is to design and construct the following works within Lakes Road frontage (based on the Concept Public Domain Plan prepared by Northrop Consulting Engineers Project No. 140429 Dwg No. C4 DA Rev C dated 07/12/2015) adjacent to the site at no cost to Council and in accordance with Council's guidelines, design specification and City Centre Public Domain Technical Manual:

a) Public Domain Works

- i. Construct new footpath, retain/install stone kerb and gutter. The scope of footpath works to extend 5m beyond the property boundary.
- ii. Install new (5) street trees and grass verge as indicated on the plans in accordance with Council requirements.
- iii. Upgrade/install street lighting within 10m-20m of the vicinity of the development to Ausgrid requirements and P2 lighting category.
- iv. Upgrade kerb ramps to nearest intersections at both ends which provide direct access to the site to Council and Australian Standards.
- v. Remove all redundant driveways, install new kerb and gutter and repair any road works.
- vi. Install any required parking and mandatory signage's to ensure that the footpath widths are made available for access.
- vii. Repair any damages caused during construction.

Detailed public domain plan is to be provided to Council for review and approval as part of the S138 Road Act Type 2 application.

In this regard the separate approval from Council must be obtained for all works within the public road reserve, pursuant to Section 138 of the Roads Act 1993, prior to the release of the Construction Certificate. Engineering design plans and specifications for the works being undertaken in the public road reserve are required to be prepared by a suitably qualified practising civil engineer with experience and competence in the related field and submitted to Council for approval with the Section 138 application.

Note: An additional fee will be required by Council for the assessment of engineering plans submitted for the public road works. In this regard the developer is advised to confer with Council's Development & Building Services Section in order to confirm this fee.

These works are not approved until consent under Section 138 of the *Roads Act 1993 (NSW)* has been granted by Council. An application under Section 138 must be applied for and approved before the issue of a Construction Certificate.

31. A separate application must be lodged and consent obtained from Council for all works within the road reserve pursuant to Section 138 of the *Roads Act 1993 (NSW)*, before the issue of a Construction Certificate.
32. Prior to the issue of a Construction Certificate, the proponent preparing and submitting to the Principal Certifying Authority and Council an Environmental Management Plan (EMP) for construction/demolition works on the site, such to be kept on site and made available to authorised Council Officers upon request. The EMP is to include but not be limited to:
 - a) A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.
 - b) A water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water, groundwater. Procedures should also be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment.
 - c) A dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions.

- d) A noise and vibration management program, detailing measures to minimise the impact of the development on local amenity. Provision for noise and vibration monitoring during works should be incorporated into the program.
33. The RMS requirements for the road works associated with the driveway entry at Lake Road as set in the RMS Letter dated 06/11/2015 Ref. No. CR2015/004453, SF2015/109378 is to be addressed prior to issue of any construction certificate. The applicants are to enter into a Works Authorisation Deed (WAD) agreement with RMS and all associated road works, driveway works including sign posting, line marking, kerb and gutter and footpath works associated with the construction of the new driveway entry is to be completed prior to RMS standards and satisfaction prior to the issue of any construction certificate.
34. All new internal roads and associated structures including kerb and gutter, drainage are to be designed by an appropriately qualified and experienced civil/structural/hydraulic/geotechnical engineer. The road pavement design, drainage and associated civil works are to be designed for a minimum of 50 year life. Full details including geotechnical investigation for road pavement design (consideration to be given or staging and construction vehicles) to be provide to the Principle certifying Authority prior to issue of any construction certificate.
35. All downpipes discharging to the rainwater tanks are to have pre-storage insect, debris and vermin control (e.g. a rainwater head being leaf screened and vermin and insect proof) to minimise the contamination of captured roof water. A first flush device is to be provided for the inlet to the tank and a backflow prevention device is to be installed in the tank overflow outlet before connecting to the stormwater drainage system. If the roof downpipes are charged to the rainwater tank, all pipes are to be chemically welded and the stormwater system is to be designed such that the system is capable of being flushed in the event of pipe blockage (e.g. capped relief access points at the lowest level of stormwater drainage).
36. A Maintenance Manual for all water quality devices is be prepared in accordance with Council's Stormwater and Water Efficiency for Development Technical Manual (Updated 2013). The Maintenance Manual is to address maintenance issues concerning the water quality devices including routine monitoring and regular maintenance and be kept on site at all times. Establishment and maintenance of the water quality devices in accordance with the Maintenance Manual prepared by the applicant is to be completed prior to occupation of this site for the intended use.
37. All onsite stormwater detention and water quality treatment systems are to be individually identified and sign posted in accordance with Council's Stormwater and Water Efficiency for Development Technical Manual (Updated 2013). Full details are to be included in documentation for a Construction Certificate application.
38. The Applicant being required to pipe the development site discharge through Newcastle City Council's (NCC's) land (Lot 3054 DP 1202601) to connect to the existing watercourse and piped culvert under the cycleway.
39. The design will need to satisfy the requirements of Council's Technical Manual for Stormwater and Water Efficiency and Standard Drawings and the following specific requirements.
- a) Direct connection of stormwater overflow to Council's stormwater assets at the natural watercourse (an earth swale drain is not considered to be an acceptable conveyance method).
 - b) Construction of private pit and pipe infrastructure to connect the development with the natural watercourse.
 - c) Level of the outlet pipe of private stormwater to be as such it can be fully integrated with the natural water course.

- d) Construction of an integrated rock headwall at the natural watercourse to ensure flows from the development enter the watercourse and do not impact on the stability of the natural watercourse and existing cycleway infrastructure.
- e) Works need to be contained within Council's land with minimum impact on existing vegetation and slope stability of the cycleway. Expert arborist and geotechnical reports will be required to confirm this requirement.
- f) A drainage easement over the route being established prior to Occupation of the development with all costs borne by the applicant.

Full construction drawings being submitted to the land owner, Newcastle City Council, for review and approval prior to the issuing of any Construction Certificates for the development.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

40. Toilet facilities are to be available or provided at the work site before works begin and be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet is to:

- a) Be a standard flushing toilet connected to a public sewer, or
- b) Have an on-site effluent disposal system approved under the *Local Government Act 1993* (NSW), or
- c) Be a temporary chemical closet approved under the *Local Government Act 1993* (NSW).

41. Building demolition is to be planned and carried out in accordance with Australian Standard 2601:2001 - The Demolition of Structures.

42. A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with Australian Standard 2601:2001 - The Demolition of Structures. A copy of the Hazardous Substances Management Plan is to be provided to Council (marked to Attention: Compliance Services) and the demolisher prior to commencement of work.

43. The demolition works are to be undertaken in accordance with Australian Standard 2601:2001 - The Demolition of Structures and the following requirements:

- a) Demolition works shall be conducted in accordance with the submitted Hazardous Substances Management Plan and a copy of the Hazardous Substances Management Plan shall be kept on-site for the duration of the proposed development
- b) The removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by the WorkCover Authority of NSW
- c) A copy of all waste disposal receipts are to be kept on-site for the duration of the proposed development and made available to authorised Council Officers upon request
- d) Seven working days' notice in writing is to be given to Council and the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor. Notification to owners/occupiers of

neighbouring premises shall also include Council's contact telephone number (49742000) and the Workcover Authority of NSW telephone number (49212900) and;

- e) On sites where asbestos materials are to be removed, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent position during asbestos removal works.
- 44. The demolisher is to ensure that all services (ie water, telecommunications, gas, electricity, sewerage etc), are disconnected in accordance with the relevant authority's requirements prior to demolition.
 - 45. Any waste containers used in association with the proposed demolition are to be located on the site where possible.

Note: Where this is not feasible, application must be made for Council's approval to position the container on the adjacent public road in accordance with Council's adopted Building Waste Container Policy.

- 46. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.
- 47. Any demolition/waste building materials that are not suitable for recycling are to be disposed of at Council's Summerhill Waste Management Facility or other approved site.
- 48. Waste management shall be implemented in accordance with the approved Waste Management Plan. At a minimum, the following measures shall be implemented during the construction phase:
 - a) A waste container of at least one cubic metre capacity shall be provided, maintained and regularly serviced from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste
 - b) The waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets
 - c) Appropriate provision is to be made to prevent windblown rubbish leaving the site and
 - d) Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the *Protection of the Environment Operations Act 1997* (NSW).

- 49. A rigid and durable sign is to be erected on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:
 - a) showing the name, address and telephone number of the Principal Certifying Authority for building work and subdivision work, and
 - b) showing the name, address and telephone number of the Principal Contractor for any building work and also including a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and

- c) stating that unauthorised entry to the work site is prohibited, and
- d) being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- 50. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 51. In the case of residential building work for which the *Home Building Act 1989* (NSW) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract of insurance is to be in force before any building work authorised to be carried out by this consent commences.
- 52. All excavations and backfilling are to be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.
- 53. If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided and adequate provision must be made for drainage.
- 54. All building materials, plant and equipment is to be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves including the road reserve is not permitted.
- 55. A Registered Surveyor's certificate detailing the setting out of the proposed building on the site, including the relationship of the set out building to property boundaries, is to be submitted to the Principal Certifying Authority before construction is commenced.
- 56. A separate application must be lodged and consent obtained from Council for all works within the road reserve pursuant to Section 138 Roads Act 1993 (NSW), before the commencement of works.
- 57. Commercial/industrial type vehicular crossings is to be constructed across the public footway at Lake Road entrance/exits at no cost to Council and in accordance with Council's A17 Series design specifications and City Centre Public Domain Manual and such crossing being properly maintained.

Note: A separate approval from Council must be obtained for all works within the public road reserve pursuant to Section 138 of the Roads Act 1993. For further information contact Council's Works Depot on 4974 6000 to request a Road Opening Approval. A fee will be payable in this regard.

- 58. Any proposed paving works within the public footway are to be in accordance with the requirements of Council's specifications and Public Domain Manual.

Note: It will be necessary for the Developer to notify water, telecommunications, gas and electricity authorities of the proposed paving works in order to enable the various authorities to carry out and complete any necessary repairs and/or amplification to their respective services before such works are commenced.

- 59. Prior to commencement of site works the developer is to submit to Council for approval a Construction Traffic Management Plan addressing traffic control measures to be utilised in the public road reserve during the construction phase.
- 60. The Construction Traffic Management Plan is to be prepared by a Roads & Maritime

Services accredited person with a Design and Audit Traffic Control Plans Certificate in accordance with Australian Standard 1742.3:2009 - Manual of uniform traffic devices - traffic control for works on roads. The plan is to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve.

61. Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.
62. On-site car parking accommodation is to be provided for a minimum of 40 vehicles and such being set out generally in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of consent.
63. All parking bays are to be permanently marked out on the pavement surface.
64. The proposed visitor parking bays are to be clearly indicated by means of signs and/or pavement markings.
65. The vehicular entrance and exit driveways and the direction of traffic movement within the site are to be clearly indicated by means of reflectorised signs and pavement markings.
66. Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:
 - Monday to Friday, 7:00 am to 6:00 pm and
 - Saturday, 8:00 am to 1:00 pm.

No noise from construction/demolition work is to be generated on Sundays or public holidays.

67. Council's 'PREVENT POLLUTION' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary so it is clearly visible to the public or at other locations on the site as otherwise directed by Council for the duration of demolition and construction work.

Note: Council's 'PREVENT POLLUTION' sign can be obtained by presenting your development application receipt at Council's Customer Enquiry Counter at 282 King Street Newcastle.

68. Any excavated material to be removed from the site is to be assessed, classified, transported and disposed of in accordance with the Department of Environment and Climate Change's (DECC) 'Waste Classification Guidelines Part 1: Classifying Waste'.
69. Any fill material imported into the site is to be Virgin Excavated Natural Material or material subject to a Resource Recovery Order that is permitted to be used as a fill material under the conditions of the associated Resource Recovery Exemption, in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment (Waste) Regulation 2014*.
70. Documentation demonstrating the compliance with the conditions of the appropriate Resource Recovery Order and Resource Recovery Exemption must be maintained for any material received at the site and subsequently applied to land under the conditions of the Resource Recovery Order and Exemption. This documentation must be provided to Council officers or the Principal Certifying Authority on request.
71. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or

construction in accordance with the requirements of Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the 'Blue Book') published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.

72. Prior to the commencement of work, a 3m wide all weather vehicle access is to be provided from the kerb and gutter to the building under construction, to reduce the potential for soil erosion. Sand shall not be stockpiled on the all-weather vehicle access.
73. All necessary measures are to be undertaken to control dust pollution from the site. These measures must include, but not are limited to:
 - a) Restricting topsoil removal
 - b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion
 - c) Alter or cease construction work during periods of high wind and
 - d) Erect green or black shade cloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.
74. Where the proposed development involves the destruction or disturbance of any existing survey monuments, those monuments affected are to be relocated at no cost to Council by a Surveyor registered under the *Surveying and Spatial Information Act 2002* (NSW).
75. All public trees that are required to be retained must be physically protected in accordance with the City of Newcastle Urban Forest Technical Manual 'Section 8.0 Protection Measures'.

The tree protection fencing must remain in place and maintained until all works have been completed, with no waste materials, washouts, equipment or machinery to be stored within the fenced area.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE, A SUBDIVISION CERTIFICATE OR A STRATA CERTIFICATE

76. All commitments listed in the relevant BASIX certificate for the development are to be satisfactorily completed prior to the issue of an Occupation Certificate. Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to Council within fourteen days of receipt.
77. All public footways, foot paving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a satisfactory state that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to Council's satisfaction prior to the completion of demolition work or prior to the issue of any occupation certificate in respect of development involving building work.
78. The developer is to design and construct the following works within Lakes Road frontage (based on the Concept Public Domain Plan prepared by Northrop Consulting Engineers Project No. 140429 Dwg No. C4 DA Rev C dated 07/12/2015) adjacent to the site at no cost to Council and in accordance with Council's guidelines, design specification and City Centre Public Domain Technical Manual:
 - a) Public Domain Works

- i. Construct new footpath, retain/install stone kerb and gutter. The scope of footpath works to extend 5m beyond the property boundary.
- ii. Install new (5) street trees and grass verge as indicated on the plans in accordance with Council requirements.
- iii. Upgrade/install street lighting within 10m-20m of the vicinity of the development to Ausgrid requirements and P2 lighting category.
- iv. Upgrade kerb ramps to nearest intersections at both ends which provide direct access to the site to Council and Australian Standards.
- v. Remove all redundant driveways, install new kerb and gutter and repair any road works.
- vi. Install any required parking and mandatory signage's to ensure that the footpath widths are made available for access.
- vii. Repair any damages caused during construction.

Detailed public domain plan is to be provided to Council for review and approval as part of the S138 Road Act Type 2 application.

Such works are to be implemented prior to the issuing of an Occupation Certificate for the proposed development.

In this regard the separate approval from Council must be obtained for all works within the public road reserve, pursuant to Section 138 of the Roads Act 1993, prior to commencement. Engineering design plans and specifications for the works being undertaken in the public road reserve are required to be prepared by a suitably qualified practising civil engineer with experience and competence in the related field and submitted to Council for approval with the Section 138 application.

Note: An additional fee will be required by Council for the assessment of engineering plans submitted for the public road works. In this regard the developer is advised to confer with Council's Development & Building Services Section in order to confirm this fee.

79. Any redundant existing vehicular crossing is to be removed at no cost to Council. The road reserve and kerb being restored to, Council's satisfaction, to match the existing infrastructure. Works are to be completed prior to the issuing of a Final Occupation Certificate for the proposed development.
80. A copy of the stormwater drainage design plans approved with the Construction Certificate with 'work as executed' levels indicated, shall be submitted to the Principal Certifying Authority and to The City of Newcastle prior to the issue of an Occupation Certificate. The plans shall be prepared by a Practising Professional Engineer or Registered Surveyor experienced in the design of stormwater drainage systems.
81. The water management measures as indicated on the submitted plans and Statement of Environmental Effects and/or as modified under the terms of this consent are to be implemented and the nominated fixtures and appliances are to be installed and operational prior to issue of an Occupation Certificate.
82. A Landscape Practical Completion Report is to be submitted to the Principal Certifying Authority prior to the issue of the Final Occupation Certificate. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were required to be included in documentation for a Construction Certificate application and is to verify that an effective maintenance program has been commenced.
83. The premises are to be identified by the provision of house and street numbers on the building exterior and mailbox, respectively, such that they are clearly visible from the road frontage.

The minimum numeral heights shall be:

- a) Exterior of the building = 75mm and
- b) Group mailbox - street number = 150mm
- house number = 50mm

- 84. The decommissioning and removal of the on-site sewage management systems is to be carried out 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.
- 85. Appropriate acoustic treatment for proposed residential dwellings 1-9, as outlined in the Overall Site Layout prepared by Kim Gerrish Building Design Pty Ltd dated 21 May 2015, is to be implemented in accordance with the recommendations set out in the Noise Assessment prepared by Spectrum Acoustics dated 28 April 2015. Written final certification confirming the recommended acoustic treatment has been implemented in accordance with the requirements of the Noise Assessment prepared by Spectrum Acoustics dated 28 April 2015 is to be submitted to the Principal Certifying Authority and Council prior to the issue of an Occupation Certificate
- 86. A suitably qualified ecologist to be on-site during tree clearing to manage the identification, management and protection of flora and in particular, fauna, which are located on the site.
- 87. An application is to be made for a Subdivision Certificate. The application is to be supported by a survey plan of subdivision, seven copies thereof and a Section 50 Certificate from the Hunter Water Corporation.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

- 88. The landscaped areas are to be kept free of parked vehicles, stored goods, garbage or waste material and being permanently maintained.
- 89. The driveway crossing, parking areas and stormwater management system are to be properly maintained for the life of the development.
- 90. Proposed parking areas, vehicle bays, driveways and turning areas are to be maintained clear of obstruction and be used exclusively for purposes of car parking, loading and unloading, and vehicle access, respectively. Under no circumstances are such areas to be used for the storage of goods or waste materials.
- 91. Any washing, degreasing or steam cleaning of vehicles, plant, engines, mechanical equipment or parts is to be carried out within a wash bay or dedicated cleaning unit connected to the sewers of the Hunter Water Corporation in accordance with an approved Trade Waste Agreement or to a waste collection system for disposal by a licensed waste transport contractor in accordance with the Department of Environment and Climate Change 'Waste Classification Guidelines Part 1: Classifying Waste'. Under no circumstances are such activities to be carried out elsewhere on site.
- 92. The premises are to be identified by the provision of house and street numbers on the building exterior and mailbox, respectively, such that they are clearly visible from the road frontage.

The minimum numeral heights shall be:

- a) Exterior of the building = 75mm and
- b) Group mailbox - street number = 150mm
- house number = 50mm

93. A Maintenance Manual for all water quality devices is to be prepared in accordance with Council's Stormwater and Water Efficiency for Development Technical Manual (Updated 2013). The Maintenance Manual is to address maintenance issues concerning the water quality devices including routine monitoring and regular maintenance and be kept on site at all times. Establishment and maintenance of the water quality devices in accordance with the Maintenance

ADVISORY MATTERS

94. Retaining walls not clearly noted on the approved plans or outside of the parameters of 'exempt development' as specified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (NSW) are to be subject to a separate development application. An application in this regard is to be approved prior to any works relating to the retaining wall taking place.
95. An application is to be submitted to Council for the removal or pruning of any trees located more than three metres from the dwelling, wall measured from the centre of the trunk to the footings of the dwelling, excluding carports and pergolas.
96. It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.
97. Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of both Council and any other relevant authorities. Council and other service authorities should be contacted for specific requirements prior to the commencement of any works.
98. Any approval for fences on side boundaries, common to other private properties, is independent of any consent or agreement which may be required of any adjoining owner under the provisions of the *Dividing Fences Act 1991* (NSW).
99. Prior to commencing any construction works, the following provisions of the *Environmental Planning and Assessment Act 1979* (NSW) (the 'Act') are to be complied with:
- a) A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act
 - b) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act and
 - c) Council is to be given at least two days' notice of the date intended for commencement of building works, in accordance with Section 81A(2)(c) of the Act.
100. Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Clause 149 of the *Environmental Planning and Assessment Regulation 2000* (NSW).
101. It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* (NSW) to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ('on-the-spot

fine') or prosecution.

102. Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979* (NSW), which may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.
103. Future application for the proposed childcare centre shall include a 1800mm high acoustic fence around the outdoor play area fronting Lake Road as recommended in the Noise Assessment Letter prepared by Spectrum Acoustics dated 18 January 2016. Details of the recommended acoustic fence shall be included in the future application.
104. Future application for the proposed childcare centre shall include details of the acoustic window treatment as recommended in the Noise Assessment Letter prepared by Spectrum Acoustics dated 17 November 2015.

END OF CONDITIONS

Schedule A

- A1 A total monetary contribution of \$217,983.01 is to be paid to Council, pursuant to Section 94 of the *Environmental Planning and Assessment Act 1979* (NSW), towards the provision of the following public amenities and public services within the locality, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

- a) Traffic and Transport \$889.87
- b) Social Infrastructure \$11,932.66

Note: i) This condition is imposed in accordance with the provisions of the Newcastle City Council's Western Corridor Section 94 Contribution Plan 2013 operational from 13 January 2014. A copy of the plan may be inspected at Council's Customer Enquiry Centre, ground floor of the City Administration Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays.

- ii) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation quarters	Approx release date
September	Late October
December	Late January
March	Late April
June	Late July

Schedule B

- B1 A total monetary contribution of \$256,450.60 is to be paid to Council, pursuant to Section 94 of the *Environmental Planning and Assessment Act 1979* (NSW), towards the provision of the following public amenities and public services within the locality, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

- a) Traffic and Transport \$889.87
- b) Social Infrastructure \$11,932.66

Note: i) This condition is imposed in accordance with the provisions of the Newcastle City Council's Western Corridor Section 94 Contribution Plan 2013 operational from 13 January 2014. A copy of the plan may be inspected at Council's Customer Enquiry Centre, ground floor of the City Administration Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays.

- ii) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation quarters	Approx release date
September	Late October
December	Late January
March	Late April
June	Late July

Schedule C

C1 A total monetary contribution of \$282,095.66 is to be paid to Council, pursuant to Section 94 of the *Environmental Planning and Assessment Act 1979* (NSW), towards the provision of the following public amenities and public services within the locality, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

- a) Traffic and Transport \$889.87
- b) Social Infrastructure \$11,932.66

Note: i) This condition is imposed in accordance with the provisions of the Newcastle City Council's Western Corridor Section 94 Contribution Plan 2013 operational from 13 January 2014. A copy of the plan may be inspected at Council's Customer Enquiry Centre, ground floor of the City Administration Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays.

- ii) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation quarters	Approx release date
September	Late October
December	Late January
March	Late April
June	Late July

Schedule D

D1 A total monetary contribution of \$217,983.01 is to be paid to Council, pursuant to Section 94 of the *Environmental Planning and Assessment Act 1979* (NSW), towards the provision of the following public amenities and public services within the locality, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

- a) Traffic and Transport \$889.87
- b) Social Infrastructure \$11,932.66

Note: i) This condition is imposed in accordance with the provisions of the Newcastle City Council's Western Corridor Section 94 Contribution Plan 2013 operational from 13 January 2014. A copy of the plan may be inspected at Council's Customer Enquiry Centre, ground floor of the City Administration Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays.

- ii) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation quarters	Approx release date
September	Late October
December	Late January
March	Late April
June	Late July

Schedule E

E1 A total monetary contribution of \$230,805.54 is to be paid to Council, pursuant to Section 94 of the *Environmental Planning and Assessment Act 1979* (NSW), towards the provision of the following public amenities and public services within the locality, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

- a) Traffic and Transport \$889.87
- b) Social Infrastructure \$11,932.66

Note: i) This condition is imposed in accordance with the provisions of the Newcastle City Council's Western Corridor Section 94 Contribution Plan 2013 operational from 13 January 2014. A copy of the plan may be inspected at Council's Customer Enquiry Centre, ground floor of the City Administration Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays

- ii) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation quarters	Approx release date
September	Late October
December	Late January
March	Late April
June	Late July

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

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, Elernore 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 included 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