

JOINT REGIONAL PLANNING PANEL

(Hunter and Central Coast Region)

JRPP No.	2015HCC021
DA No.	DA 2015/0701
Local Government Area	Newcastle
Proposal	Staged Development Comprising Erection of 145 dwellings in the Form of Residential Flat Buildings and Multi Dwelling Housing in Six (6) Stages and Consolidation of Two Lots.
Property	Lot 40 DP 216171 and Lot 5 DP 259126, No. 83 University Drive, North Lambton
Applicant	SNL Building Constructions Pty Ltd
Owner(s)	North Lambton Holdings Pty Ltd
Number of Submissions	Forty-two (42)
Report by	TCG Planning on Behalf of Newcastle City Council
Recommendation	Approval

Executive Summary

Proposed Development

Approval is sought for the erection of 145 dwellings in the form of residential flat buildings (103 dwellings) and multi dwelling housing (42 dwellings) to be contained within nine buildings on the site. The development is proposed to be constructed in six stages and will incorporate 171 on-site resident and visitor parking spaces. Primary access to the development is proposed from University Drive (left in/left out), with a secondary access from Stannett Street. The development also includes ancillary works including site earthworks, extensive tree removal, construction of necessary infrastructure, provision of bushfire mitigation works and site landscaping.

Referral to Joint Regional Planning Panel

The proposal is referred to the Joint Regional Planning Panel for determination pursuant to Part 4 'regional development' of *State Environmental Planning Policy (State and Regional Development) 2011* as the proposal is listed within Schedule 4A of the *Environmental Planning and Assessment Act 1979*, being general development over \$20 million.

Permissibility

The applicable planning instrument is *Newcastle Local Environmental Plan 2012* (NLEP 2012) under which the subject site is zoned R2 Low Density Residential. The proposed uses, which are defined as 'residential accommodation' in the form of 'multi dwelling housing' and 'residential flat buildings' are permissible with consent within the R2 zone. The proposal is not integrated development.

Consultation

The application was publicly notified (via letters to adjoining and nearby owners and occupiers) from 14 July 2015 to 28 July 2015 in accordance with Chapter 8.0 (Public Participation) of *Newcastle Development Control Plan (NDCP) 2012*. A total of forty two submissions were received from members of the public (26 of which were 'form letters') and one submission from the University of Newcastle.

The application was also referred to Roads and Maritime Services, Rural Fire Service, Ausgrid and Transgrid, with no objections raised to the development.

Key Issues

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

- Traffic generation and acoustic impacts;
- Siting of Building K in the western section of the site;
- Front building setbacks to University Drive;
- Building Height;
- Vegetation removal.

Recommendation

That the Joint Regional Planning Panel grant consent to DA-2015/0701, subject to the conditions contained in Appendix A.

1. Background

The following provides a summary of key events pertaining to DA 2015/701:

3 February 2015: Pre-Development application meeting held.

2 July 2015: Development Application DA-2012/419 lodged with Newcastle City Council (NCC).

2 July 2015: Copy of Hunter water stamped plan requested.

13 July 2015: Application referred to NSW Rural Fire Service under Section 79BA of the EPA Act, 1979.

13 July 2015: Application referred to Transgrid and Ausgrid under Clause 45 of State Environmental Planning Policy (Infrastructure) 2007.

13 July 2015: Application referred to Roads and Maritime Services (RMS) as access is sought from University Drive, being a State Road under the control of RMS.

14 July 2015: Notification letters forwarded to nearby owners and occupiers.

21 August 2015: Bushfire safety authority received from NSW Rural Fire service under Rural Fires Act, 1997 with conditions.

24 August 2015: Advice received from RMS confirming that no objections are raised to the proposed development providing the matters identified in the correspondence are addressed or included in Council's conditions of development consent.

19 August 2015: Application considered by the Urban Design Consultative Group and amendment to the proposal requested.

25 August 2015: TCG Planning engaged as independent planning consultant.

1 September 2015: NCC received further information from the applicant responding to the matters raised by the Urban Design Consultative Group.

16 September 2015: Amended documentation considered by the Urban Design Consultative Group with the panel requesting an additional setback to University Drive (in addition to other changes).

27 November 2015: Council issued a Request for Information letter listing the items and amendments required to further assess the application.

February & March 2016: Applicant submitted amended/additional documentation in response to the additional information request of 27 November 2015.

16 March 2016: Amended documentation considered by the Urban Design Consultative Group.

23 March 2016: Independent planning consultant provided NCC with correspondence detailing outstanding matters and matters arising from review of additional information.

April 2016: Applicant submitted amended/additional documentation in response to the matters raised in the minutes of the Urban Design Consultative Group meeting of 16 March 2016 and Council officers.

2. Site and Locality Description

The subject site comprises two (2) adjoining parcels of land, which are currently vacant, and which are described as follows:

- Lot 40 DP 216171, which has a site area of approximately 30,300m².
- Lot 5 DP 259126 which has a site area of approximately 25m² and which is a triangular shaped parcel of land sited to the rear of No. 49 Stannett Street.

The allotments are in the ownership of North Lambton Holdings Pty Ltd, following the sale of the land by Newcastle City Council.

Description of subject site

The site is predominantly orientated to the north, and the entire northern boundary forms the site's frontage to University Drive (approximately 440m frontage). The site's high point is a spur at the central-southern part of the site (RL 54m AHD), and falls to the north-east and

north-west down to University Drive (to RL 34m and RL 38m respectively). The site is linear (east-west) with a maximum width of approximately 100m which occurs for the eastern two thirds of the site where the proposed buildings are located. The western portion is triangular in shape and tapers to a western point.

The site, while disturbed, contains extensive remnant vegetation (approximately 1400 mature trees) with a shrub layer. With the exception of the site being identified as bushfire-prone, and some steeper areas of the site being subject to geotechnical instability, there are no other physical hazards affecting the property. Council's Senior Development officer (Engineering) confirmed that *"the site is not subject to flooding in accordance with city records"* (referral dated 2/9/15).

Current access to the site is via a narrow lane from Stannett Street (between existing houses at Nos. 47 and 49). No access is currently provided from University Drive.

The site or adjoining land has access to infrastructure servicing.

Surrounding Development:

Opposite the subject site to the north (across the divided four-lane University Drive) is the University of Newcastle (UoN) - Callahan Campus which is largely undeveloped where it fronts the subject site, with the exception of the UoN's Infrastructure and Services Building.

Low density detached residential housing is located to the west and east of the site in the suburbs of Waratah and Callahan. To the immediate south is a large parcel of land containing remnant vegetation and water supply infrastructure/reservoir (owned by Hunter Water Corporation).

There is an existing signalised intersection at University Drive and Stannett Street which provides access to the university site (Ring Road). A further access to the University's Ring Road is via a roundabout located approximately 300m to the west of the site's westernmost point.

There are bus stops within proximity to the subject site, being at the Stannett Street/Ring Road intersection to the east of the site; Stannett Street/Kimian Avenue to the east; and University Drive/UoN roundabout access to the west of the site. The closest railway station is Warabrook (located to the north of the UoN site, approximately 1.6km).



Figure 1: Aerial Photograph showing subject site and surrounds.

3. Project Description

The subject development application for the consolidation of two lots into one and the construction of a residential development comprising a total of 145 dwellings. The development is to be constructed in six (6) stages, with stages generally occurring in an east to west direct, as shown on the 'Staging Plan' (prepared by Smith & Tzannes, Rev B dated 26.2.16), contained within Appendix C.

The dwellings will be contained in a total of nine (9) buildings on the site, with four (4) of the buildings (Buildings A, B, C and E) containing forty two (42) dwellings in the form of multi unit housing, while the remaining one hundred and three (103) dwellings will be sited within five (5) residential flat buildings (Building D, F, G, I, J). It is noted that the development application originally sought approval for 155 dwellings within ten (10) buildings, however the deletion of Building K resulted in a loss of twelve (12) dwellings. A further two (2) dwellings are now proposed within Building J, bringing the revised total to 145. Figure 2 is a excerpt from the Site Plan (Sheet dated 26 February 2016 prepared by Smith & Tzannes – refer Appendix B for entire plan).



Figure 2: Excerpt from the Site Plan prepared by Smith & Tzannes)

The development also includes ancillary works including site earthworks, extensive tree removal, construction of necessary infrastructure, provision of bushfire mitigation works and site landscaping. It is intended that the development will be strata titled, however this does not form part of the current application.

Primary access to the development is proposed from University Drive (left in/left out), with a secondary access from Stannett Street. Both the primary access from University Drive and the secondary access from Stannett Street are to be constructed in Stage 1. A total of 171 on-site resident and visitor parking spaces are to be provided within basements, central parking areas and adjacent to the internal accessway.

The applicant has indicated that the development will appeal to students and staff from the University but is not exclusive and is also likely to contain a broad mix of residents from the wider community. The development will contain a number of communal spaces provided within the building are intended to encourage people to gather and interact and will be managed by strata by-laws etc.

Appendix A: Contains recommended conditions of consent

Appendix B Provides a complete list of the final documents submitted with the application for assessment.

Appendix C: Site Plan, Pedestrian Access, Site Plan Extended, Site Sections, Elevations and Staging Plan prepared by Smith and Tzannes.

Appendix D: Landscape Masterplan (Mansfield Urban).

Appendix E: Design Quality Principles - Extract of Design Report prepared by Smith and Tzannes.

The proposed residential accommodation is detailed in the Table 1 below, with building references shown on the Site Plan Extended (Figure 2 and at Appendix C).

Table 2: Proposed Development

(including information adapted from summary table on Site Plan Rev E prepared by Smith and Tzannes dated 26.2.2016)

Building & Type Multi-dwelling (MDH)/ Residential Flat Building (RFB)	No of beds/ dwellings	No. of storeys/ maximum height	Gross Floor Area (GFA) (excludes lifts, fire stairs, vertical risers, garages, balconies and basements)
Building A MDH	15 dwellings 1 X 3 bed & 14 x 2 bed	2 storeys Max height: 8.5m	1287m ²
Building B MDH	6 dwellings 1 X 3 bed & 5 x 2 bed	2 storeys Max height: 8.46m	611m ²
Building C MDH	12 dwellings 12 x 2 bed	2 storeys Max height: 6.28m	1023m ²
Building D RFB	10 dwellings 2 X 3 bed , 7 x 2 bed & 1 x 1 bed	2 storeys Max height: 11.695m	892m ²
Building E MDH	9 dwellings 1 X 3 bed & 8 x 2 bed	2 storeys Max height: 8.215m	1098m ²
Building F RFB	25 dwellings 5 x 2 bed & 20 x 1 bed	2 storeys Max height: 10m	1651m ²
Building G RFB	25 dwellings 8 x 2 bed & 17 x 1 bed	2-4 storeys Max height: 12.25m	1778m ²
Building I RFB	18 dwellings 2 x 2 bed & 16 x 1 bed (including 1 adaptable)	2 storeys Max height: 8.755m	986m ²
Building J RFB	25 dwellings 4 x 2 bedroom 21 x 1 bedroom (including 2 adaptable)	2-4 storeys Max height: 9.9m	1431m ²
TOTAL	145 Dwellings		10,757m²

The application submitted to Council nominates the capital investment value of the project as \$24.468 million (inclusive of Building K which has now been deleted).

Amended Documentation: The above description is applicable to the current scheme which incorporates modifications from that originally submitted and exhibited. Amended plans and additional information were submitted for assessment by the applicant in September 2015, and February, April and May 2016. Key amendments include the deletion of Building K, an increase to building setbacks to University Drive and a number of other changes to address internal and external design issues. Additional documentation was also submitted for assessment including more detailed plans (internal layout, pathway access and entry details, shadow impacts etc), amended/updated bushfire report, amended flora and fauna assessment, amended traffic impact assessment, and amended stormwater and landscape designs. This report and assessment relates to the updated information submitted to Council.

4. Consultation

The application was publicly notified (via letters to adjoining and nearby owners and occupiers) from 14 July 2015 to 28 July 2015 (ie. 14 days) in accordance with Chapter 8.0 (Public Participation) of *Newcastle Development Control Plan (NDCP) 2012* for this type of development. No sign was erected at the site nor was an advertisement placed in the newspaper (Note: this is not a mandatory requirement of the Regulations or the DCP).

A total of forty two submissions were received from members of the public (26 of which were 'form letters') and one submission from the University of Newcastle. The key matters raised are summarised below. A response to the issues raised are detailed in Section 6 of this report.

Social/Amenity Impacts:

- The University of Newcastle (UON) requests that further assessment of the social needs and personal safety of students be documented in the Social Impact Statement due to the additional support which students typically require as they transition to independent living.
- There is already an oversupply of student accommodation. 778 beds have recently been provided on campus so this student accommodation in the suburbs is not required.
- The development will severely lessen the present standard of living enjoyed by local residents.
- The development will lower the value of surrounding homes.
- The basement parking areas provide opportunities for concealment. The development should be conditioned to provide CCTV that is actively monitored.

Height/Density of Development:

- The density of the development is too high for an R2 zoned site.
- Building G is over 12.2m in height, when the building height is 8.5m.
- Building F, which is 3 storeys and exceeds the height control, will directly impact on immediately adjacent residents, including the rear yard and bedroom windows of No. 69 University Drive. Open balconies at the eastern end of Building F, which are on all floors, will also result in overlooking.
- The development should be reduced in scale and height to reflect the character of surrounding streets and natural areas.

Pedestrian Movements:

- Safe and convenient pedestrian access from the subject site to the UON Callaghan campus is considered essential by UON. The current pedestrian crossing on the western side of Stannett Street is not signalised and direct pedestrian access across University Drive is not currently provided. UON requests that the development be conditioned to signalise the northern side of the Stannett Street intersection.
- UON requests that the plans be amended to provide a complete pedestrian and off road bicycle path along the full frontage of the site and that the consent be conditioned to provide safety lighting along the full length of the pathway.
- The UON notes that the submitted Traffic Impact Statement predicts that traffic volumes and demand for parking will be reduced, with this based on non motorised movements but does not identify which bicycle infrastructure or end of trip facilities will be provided as part of the development. The development should be amended to provide this.

Traffic Impacts:

- The UON notes that the Stannett Street laneway, which is proposed as the secondary point of access, is only slightly over 5m wide, and is located approximately 40m from the intersection. Service vehicles and the daily traffic using this laneway will have

undesirable impacts on the capacity of Stannett Street, safe pedestrian movements along the western side of Stannett Street and the amenity of adjoining properties. UON request that further modelling be undertaken to assess the full impact. Residents suggest that this laneway is totally unsuitable for vehicular access.

- The TIA identifies that east bound vehicles departing the site will make a U turn at the roundabout at University Drive and the Ring Road, which is the main entrance to the university. UON notes that previous modelling undertaken on behalf of the University by 'Better Transport Future' identified that this roundabout may be nearing capacity in peak periods. UON requests that further modelling be undertaken to determine the impact upon the functioning of the roundabout during the University peak period.
- The narrow laneway off Stannett Street is likely to be used by many residents of the proposed development as residents approaching the development from the west (Wallsend direction) cannot make a U turn at the lights and will find it convenient to use the laneway. Similarly drivers coming from the south along Stannett Street will also use the laneway. This is dangerous, is not suitable for the number of vehicles proposed, will result in more vehicles using Kimian Ave as a 'rat run' and will result in additional queuing of vehicles at the intersection.
- Residents are unable to safely reverse out of their garages on a normal weekday morning until the congestion clears. The traffic lights and the bus stop in front of No. 47 and the clearway overlapping over No, 45 Stannett Street compounds the problem.
- Residents question whether Street F off Stannett Street complies with the standards for the design and layout of parking and access contained in Section 7.03.04 of the Newcastle DCP.
- The development will result in significant increase in traffic flows, with an additional 700 car movements per day creating a safety risk. The area is already hazardous due to university traffic, street parking restrictions, lack of public footpaths and insufficient lighting.
- Access to public transport should be considered.
- There is an existing problem of foot traffic and litter from the bus stop in Stannett Street.
- Residents question who will monitor parking violators.

Parking:

- Most streets in the locality only allow parking on one side due to current parking restrictions associated with university traffic. More resident and visitor parking should be provided.
- With the addition of driveways into the development site even more cars will be forced to park further back in suburban streets. Residents in Summitt Street already have students parking in their street 1km from the University Ring Road.
- The proposed 'no parking ' in the lane off Stannett Street will take away opportunity for parking. Properties adjacent to this lane do not currently have any area for parking of vehicles in front of their property.

Waste Collection:

- Street F and Street B are too narrow to accommodate garbage vehicles.

Road Construction:

- Council in December 2013 granted approval for a five (5) dwelling multi unit development on No. 41A Stannett Street, which also relies on access along Streets B and F (as shown on Site Plan Extended in Appendix C). A condition was attached to this consent requiring construction of the laneway by the development of this site. As this lane is now proposed to service the proposed development at No. 83 University Drive it is reasonable that the cost of construction of this laneway be proportioned to each development based on the number of units proposed/approved.

Noise Impacts:

- The significant increase in volume of traffic using the lane off Stannett Street, including large utility vehicles, will create increased noise, particular during the evening. An assessment of this is required and this should be conducted at appropriate times.
- The noise testing undertaken by the applicant was done 400m away on the other side of the hill. Residents also question whether noise samples were taken on a weekend and do not accurately reflect the existing situations.

Communal Open Space and Facilities:

- The Social Impact Assessment claims that occupants of the development will have access to University facilities however UON notes that the university has not been approached to accommodate this assumption. The university notes that several UON facilities are at, or near, capacity. UON requests that the application be amended to ensure that the generated demand for functional communal open space and facilities is provided on site.

Stormwater Drainage

- Water runoff from the road leading to the carpark at the eastern end of Building F, and also runoff from the pedestrian walkway and the loading bay adjacent to Building A and F will need to be addressed to prevent drainage runoff to properties directly below, as no formal stormwater infrastructure has been located in this area.

Potential Environmental Impacts (Flora and Fauna and Water Quality):

- Information should be provided on the environmental impacts of the development as it is home to native bird life and is a sanctuary for native mammals.
- Waste water flows from the site directly into the wetlands catchments. It must be shown that any development will take water flows into consideration.

In accordance with Section 8.00.06 'Notification of amended and modified development applications' of Chapter 8.0 of NDCP 2012, the amended scheme/additional information was not re-exhibited as the amendments differed only in minor respects from the original application, and/or do not result in a greater environmental impact.

5 Referrals

External

The following statutory (and non-statutory) external referrals were forwarded for the proposed concept development application. It is noted that the application is not an 'Integrated Development Application' pursuant to Section 91A of the Act as it does not requires concurrence/approvals from external authorities. Refer to table 3 below.

Table 3: External Referrals

Agency/Reason	Response/Planning Comment
NSW Rural Fire Service Not 'integrated development' pursuant to s91 of the EP&A Act as the development is not a subdivision or 'Special Fire Protection Purpose' (s100B of Rural Fires Act 1997). However the land is 'bush fire prone' and the provisions of Section 79BA of the EP&A Act apply	On 21 August 2015 the RFS issued a 'bush fire safety authority' under S100B of the Rural Fires Act 1997 subject to conditions relating to asset protection zones, water and utilities, access, design and construction, and landscaping. It is noted that contrary to the RFS's letter, Council's letter dated 13 July 2015 did not seeking GTAs in accordance with Section 91 of the EP&A Act, rather it correctly sought advice pursuant to Section 79BA of the EP&A Act. Notwithstanding this, these conditions could be imposed on any Development Consent issued, should the development application be approved as the imposition of the requirements meet the requirements of Section 79BA of the EP&A Act 1979. It is further noted that the bushfire safety authority makes reference to Building K, which has now been deleted. The revised plans were forwarded to RFS with a request for

Agency/Reason	Response/Planning Comment
	revised conditions but at the date of preparing this report a response had not yet been received. This does not affect the outcome of the application.
Roads and Maritime Services 1. SEPP (Infrastructure) 2007 Clause 104 - applies to development specified in Column 1 of the Table to Schedule 3 'Traffic-generating development to be referred to the RTA' as the development exceeds 75 dwellings with access to a classified road. 2. S91 Integrated Development of EP&A Act 1979 does not apply. University Drive is a classified road. While approval under s138 of the Roads Act, 1993 is required, as consent is sought to connect a road (whether public or private) to a classified road, the following advice has been received from the RMS: Section 91(3) excludes from the integrated development regime, developments requiring consent under Section 138 of the Roads Act if both development consent of Council and approval of the same Council as the roads authority is required. Council is the roads authority for all roads except freeways, including Princes Highway. On this basis, RMS does not consider this particular development to be integrated with respect to Section 138 of the Roads Act, 1993. The RMS confirmed by phone to TCG Planning on 1 October 2015 that only works within the M1 or Hunter Expressway would be Integrated Development.	Response dated 24 August 2015: No objections to the proposal, subject to listed matters being addressed and included in Council conditions of consent, as listed below. Note: Two conditions relating to the driveway to Building K and adjacent No Stopping restrictions. These are no longer relevant as Building K was deleted from the scheme and are therefore not referenced below. - The new intersection of "Street A" with University Drive shall be designed to cater for the turning path of the largest design vehicle anticipated to use the local street network. - No Stopping parking restrictions shall be installed along University Drive on approach to the new intersection with Street A, to ensure sight distance requirements comply with Figure 3.2 of AS2891.0 - Vehicular access to/from the subject site onto University Drive shall be restricted to left in/left out only. - Council shall ensure all vehicles are able to enter and exit the site in forward direction. - As road works are required on University Drive, Roads and Maritime will require the developer to enter into a Works Authorisation Deed (WAD) with Roads and Maritime. Roads and Maritime would exercise its powers and functions of the road authority, to undertake roads works in accordance with Sections 64 and 71 of the Roads Act, as applicable, for all works under the WAD. - All road works under the WAD shall be completed prior to issuing any construction certificate for the proposed development. - A new concrete footpath should be constructed along the full frontage of the site along University Drive to Council requirements. - All the works associated with the subject development shall be undertaken at full cost to the developer and no cost to Roads and Maritime or Council and to Councils requirements. The RMS also advised Council that : - Roads and Maritime has no proposal that requires any part of the property. - All matters relating to internal arrangements on-site such as car parking, traffic/ pedestrian management, manoeuvring of service vehicles and provision for people with disabilities are matters for Council to determine. - Discharged stormwater from the development shall not exceed the capacity of the University Drive stormwater drainage system. Council shall ensure that drainage from the site is catered to appropriately and should advise Roads and Maritime of any adjustments to the existing system that are required prior to final approval of the development. - Council should ensure that the applicant is aware of the potential for road traffic noise to impact on development on the site. In this regard, the developer, not Roads and Maritime is responsible for providing noise attenuation measures in accordance with the Office of Environment and Heritage NSW Roads Noise Policy 2011. - Where the Office of Environment and Heritage external noise criteria would not feasibly or reasonably be met, Roads and Maritime recommends that Council apply internal noise objectives for all habitable rooms under ventilated conditions that comply with the Building Code of Australia. The advice and conditions were considered by Council's Traffic Engineer and incorporated into the draft conditions that should be imposed on any Development Consent issued if approved. Conditions of consent will be imposed regarding acoustic measures from road noise to proposed dwellings. Refer to Section 6 and Appendix A of this report.
Transgrid SEPP (Infrastructure) 2007 Clause 45 (development within or immediately adjacent to an electricity easement or transmission line)	No response received.
Ausgrid SEPP (Infrastructure) 2007 Clause 45	Response dated 16 July 2015. Advisory information (to be included as advisory conditions) including: Contractor to submit a Preliminary Enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure Proximity to Existing Network Assets: minimum clearances to overhead electricity network assets are required in accordance with Ausgrid Network Standard. Transgrid

Agency/Reason	Response/Planning Comment
	advised that "based on the design of the development provided, it was identified that the 'as constructed' minimum clearances will not be encroached by the development". Other advisory conditions to be imposed including method of electricity connection; conduit installation and undertaking of a check of electricity easements.

Internal Referrals – Newcastle City Council Officers

The initial application documents, and additional information (where relevant) were referred to the list of specialist officers below, who responded as follows.

▪ **Traffic Engineering (Engineering Services) –**

Response Received 28 Sept 2015 - Requested further information to address:

- Compliance of the access widths to meet AS2890.1-2004 Parking Facilities- Part 1 - Off Street Parking.
- Provision of a plan detailing the required additional regulatory parking restrictions.
- Clarification of trip distribution during peak periods, an assessment of the right turn lane length on University Drive for eastbound traffic at the University Drive / Stannett Street intersection and an assessment of the capacity of University Drive to cater for the development.
- Car, motorcycle and bicycle parking shortfalls including more detailed plans demonstrating compliance with AS2870. The development appears to represent a small 1 or 2 space deficiency on Council's car parking requirements.
- The traffic assessment should include comments on the internal pedestrian linkages including the use of Stannett Street.

Response Received 20 May 2016 - Satisfactory subject to recommended conditions relating to parking numbers, laneway construction, footpath construction and other standard requirements.

▪ **Senior Development Officer (Engineering) -**

Response received 2 September 2015 - requested further information in relation to:

- Overland flow in 1% AEP and PMF events, overland flows and potential impacts on adjoining properties.
- MUSIC Modelling to confirm if the design will meet water quality targets.
- Further clarification of details of the proposed stormwater infrastructure and operations.

▪ **Senior Environmental Protection Officer**

Response received 24 July 2015 - requested further information in relation to:

- *Contamination*: The potential for the refuse piles to have contributed to contamination at the site.
- *Noise*: An assessment of the noise impact on existing Stannett Street residential dwellings from vehicles entering and exiting the proposed development.
- *Ecology*: Targeted surveys undertaken as part of the Flora and Fauna Assessment; a seven part test of significance for the Scarlet Robin; provision of a habitat corridor to ensure habitat connectivity to the north and south.

Response Received 14 March 2016 – requested further information to address:

- *Contamination*: Clarification of the additional assessment of the waste piles which has been undertaken, the nature of the waste piles and potential for contribution of contamination to the site.
- *Acoustic*: The location and extent of the proposed 1800mm high acoustic fence in Stannett Street. An assessment of the potential noise impact from vehicles using Stannett Street on residences which had still not been provided.

Email response received 6 April 2016 - Advised that the gully area on the site is not considered to be a watercourse, in response to a question raised by the UDCG.

Response Received 7 June 2016 - Satisfactory subject to recommended conditions. With respect to potential contamination the officer advised that following an inspection of the site it was confirmed that the piles of refuse on the site were randomly dumped items which are not considered to contribute to any significant contamination at the proposed development site. With respect to ecological issues, conditions are recommended to require the provisions of a nest box installation plan prior to the release of the construction certificate. The submitted supplementary information which addresses acoustic impacts, including impact from traffic on the laneway, was considered to be satisfactory.

▪ **Infrastructure Project Officer**

Response received 17 July 15 - Satisfactory:

- The existing motor cycle land on University Drive which is a non compliant car door lane is to be removed when lane resurfacing occurs. The new driveway to University Drive will not impact on any cycleway, existing or proposed.
- There will be a need to define the right of way for pedestrians walking along University Drive along the driveway.

▪ **Landscape Architect (City Services and Presentation Group):** Not referred

▪ **Manager Parks and Recreation Services** – Not referred

▪ **Urban Design Consultative Group (UDCG)**

Following the lodgement of the Development Application (in July 2015), the application was referred to the UDCG three times, the latter two in response to design alterations. The UDCG consider the nine Design Quality Principles as set out in SEPP 65. A summary of the outcomes of the Group is provided below. Detailed aspect of the UDCG's responses/comments is also provided later in the report in relation to particular aspects of the development (height, setbacks etc).

Meeting of 19 August 2015: The UDCG advised that Building K should be deleted due to safety concerns, incompatibility from an urban design perspective and the need to manage the adjacent gully as an Asset Protection Zone, which conflicts with its habitat qualities. Amendment to the project was required to address the following;

- A minimum 10m setback to University Drive, particularly having regard to the increased heights which were sought in five of the buildings fronting this street.
- Site specific consideration be given to achieving better acoustic separation between the northern dwellings and the roadway (eg. mounding, denser landscaping, solid walls and possibly palisade fences).
- Pedestrian access, especially the access between the University campus and the development. A direct, attractive and wide pedestrian pathway/stairway should be included between the central axis and the north-eastern corner of the site.
- Images of the overall development to assess solar access and to confirm the relationship between habitable spaces and the parking levels.
- Internal changes to apartments to address access from carpark, pedestrian conflicts, depth of single sided apartments, bedrooms spaces and treatment of central podium spaces.
- A detailed landscape plan, with additional planting on podiums and an indication of the retention of mature trees on the site.
- Staging of the development and the timing for site clearing, major infrastructure construction and site management.

In summary, the UDCG was *"not able to support the proposal in its current form, and the applicant was encouraged to address the issues identified and bring forward a modified scheme."*

Meeting of 16 September 2015: Issues previously raised had generally been satisfactorily addressed. However amendment to the project was required to further increase setbacks to University Drive by an additional 4m on average, and to delete Building K, which could not be supported.

Meeting of 16 March 2016: UDCG considered that the majority of issues relating to amenity had been dealt with or could be addressed, as discussed with the applicant and project architect. Issues relating to the watercourse in the deep gully adjacent to Building J were considered to be unresolved including reconciling its value as a riparian area against APZ clearing requirements and impact on land stability and erosion. Once resolved, no re-referral required.

6. Section 79C Considerations

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

State Environmental Planning Policy (Infrastructure) 2007

The following Clauses of this SEPP are applicable to the development application and require the consent authority to take into consideration consultation responses and/or certain matters in its assessment of the application. The following indicates that the provisions of the Infrastructure SEPP are met, or can be met via appropriate conditions of development consent.

Division 5 of Part 3 Electricity transmission or distribution (Clause 45): consideration is given to electricity supply authority (Transgrid/Ausgrid) regarding development within or immediately adjacent to an electricity easement or transmission line. The Statement of Environmental Effects accompanying the application (and attached Ausgrid maps) indicates that there are no electrical easements affecting the site and Ausgrid overhead powerlines are located on the University Drive road reserve. Refer to Ausgrid referral and recommended advisory conditions regarding adjacent overhead powerlines (Table 3 and Appendix A of this report).

Division 17 'Roads and Traffic' (Clause 101, 102 & 104): Clause 101 relates to 'Development with frontage to classified road' and requires the consent authority to be satisfied that, where practicable, vehicular access is provided by a road other than the classified road. Further, the consent authority must not grant consent unless the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the access design, smoke/dust, or the nature/volume/frequency of vehicles.

Clause 101(2)(c) requires the consent authority to be satisfied that the development *"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."*

Clause 101 is satisfied as the RMS issued correspondence providing no objection to the proposal subject to conditions. In addition, documentation accompanies the application conforming the Noise Guidelines and relevant criteria can be met through design measures (for which a condition of development consent can be imposed).

Clause 102 does not apply as the traffic volumes along University Drive (the classified road) do not have an annual average daily traffic volume of more than 40,000 vehicles.

Clause 104 specifies that development specified in Column 1 of the Table to Schedule 3 'traffic generating development to be referred to the RMS'. As the development contains more than 75 dwellings and has access to a classified road referral to the RMS under this clause is required, and was, undertaken. A summary of the response and recommended conditions from RMS is provided in Table 3 of this report.

State Environmental Planning Policy 55 - Remediation of Land

State Environmental Planning Policy 55 - Remediation of Land aims to "promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:

- (a) *by specifying when consent is required, and when it is not required, for a remediation work, and*
- (b) *by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and*
- (c) *by requiring that a remediation work meet certain standards and notification requirements"* (Clause 4(2)).

A Geotechnical & Contamination Assessment was conducted by Regional Geotechnical Solutions dated February 2015 was submitted which identified that potential contamination includes:

- Leakage from batteries and disposal of contaminated material in the central and eastern portion of the site when refuse has been dumped;
- Oil leakage or spillage from machinery in the former borrow pit located in the area to the south of Building K.

Hence the provisions of Clause 7 'Contamination and remediation' of SEPP 55 are required to be considered in determining a development application on the site.

Council's Senior Environmental Protection Officer's referral dated 24 July 2015 requested further information in relation to the potential for the refuse piles to have contributed to contamination at the site. The applicant responded in a letter dated 26 February 2016 stating "*Site investigation with James McMahon (JM Environments) confirmed that the refuse on site is not of a nature or scale that would generate any land contamination issues.*"

Council's Senior Environmental Protection Officer's confirmed in emailed advice of 7 May 2016 that "a Council Officer attended the proposed development site and inspected the piles of refuse. The piles were observed to be randomly dumped items such as tyres, electronics and home items and are not considered to contribute to any significant contamination at the proposed development site".

State Environmental Planning Policy 65 – Design Quality of Residential Flat Development

The proposal includes the development of five (5) buildings (Buildings D, F, G, I and J) to which the provisions of SEPP 65 apply. The architects Smith and Tzannes have provided a Design Verification Statement and have addressed the nine (9) Design Quality Principles of SEPP 65 in the amended 'Design Report' (Revision C) prepared in March 2016. The architect's table addressing the Design Quality Principles is reproduced in **Appendix E**. In summary, it is considered that the proposed apartment buildings within the proposed development are generally consistent with the design quality principles within the SEPP.

Clause 28 of the policy requires that a consent authority take into consideration the 'Apartment Design Guide', prepared by the Department of Planning and Environment in 2015. The following discussion confirms whether the proposed development will comply with the key Design Criteria contained in Part 3 (Siting the Development - Visual Privacy) and Part 4 (Amenity) of the Apartment Design Guide (ADG). Whilst it is noted that the Apartment

Design Guide only applies to those buildings which are in the form of residential flat buildings (and not multi unit housing) where an assessment of the overall development is required all buildings have been considered for simplicity.

Visual Privacy: Design Criteria 3F of the ADG specifies that for building of up to 12m (4 storeys) a minimum of 12m separation is required between habitable rooms and balconies to side and rear boundaries. Separation distances between buildings on the same site should combine the required building separations, depending on the type of room.

With respect to the setback to the eastern property boundary where the site adjoins detached dwellings, a setback of 18m is proposed from Building F to the rear boundary of No. 69 Stannett Street and a 15.8m setback proposed to No. 49 Stannett Street, meeting the recommendations of the ADG.

With respect to the separation which is proposed between buildings within the site, the setback between buildings is generally in excess of 12m. Where this is not achieved additional information has been provided to confirm how privacy will be addressed and/or specific design measures have now been incorporated including garden walls; level changes; planting between opposing units; privacy screens to balconies; and offsetting of windows. The submitted information was reviewed by both the UDCG and TCG Planning and it is considered that the visual privacy design guidance of the ADG has been met.

Communal Open Space: Design Criteria 3D of the ADG specifies that communal open space should have a minimum area equal to 25% of the site and should achieve 2 hours of sunlight between 9am and 3pm on June 21. Communal open spaces within the site include spaces centrally between Buildings B, D & E, to the south of Building D, to the east of Building F, to the south of Building G, between Building I and J, and adjacent to the southern boundary of the site. Whilst the extent of formal communal open space area does not meet the specified 25% of the site due to the large overall site area, the extent of communal open space is considered adequate having regard to the significant vegetated areas which are to be retained in the western portion of the site. Further, it is considered that the identified communal open space areas are adequately distributed throughout the site to provide for the passive recreational needs of future occupants.

Deep Soil Zones: Design Criteria 3E of the ADG specifies that for sites of in excess of 1500m² in area a minimum of 7% of the site should be provided as a deep soil zone, with this area to have a minimum depth of 6m. The subject site provides a substantial area of vegetated land to the west of the proposed buildings, which will exceed the 7% specified.

Natural Ventilation, Solar/Daylight Access and Room/Apartment Depth: Design Criteria 4A of the ADG specifies that at least 60% of apartments should be naturally cross ventilated. A total of 126 of the 145 units (inclusive of both the residential flat buildings and multi unit housing) are naturally cross ventilated. This equates to 86% of the total development meeting the natural ventilation criteria, which exceeds the recommended 60%.

Criteria 4B of the ADG specifies that living rooms and private open spaces of at least 70% of apartments must receive a minimum of 2 hours direct sunlight between 9 am and 3 pm on June 21. The '*Development Summary*' prepared by Smith and Tzannes, which forms part of the 'Design Report', confirms that a total of 110 of the 145 units (inclusive of both the residential flat buildings and multi unit housing) will achieve 2 hours of sunlight to the living rooms and 106 will receive 2 hours of sun to the private open space (POS) areas. This equates to 75% and 73% of the total development meeting the solar access criteria to living rooms and POS respectively, which exceeds the recommended 70%.

The ADG also recommends that a maximum of 15% of apartments in a building should receive no direct sunlight between 9 am and 3 pm at mid winter. A total of 18 units (on the

southern side of Buildings F, G, I and J) do not receive solar access between 9am and 3pm on June 21, which equates to 12% of the total 145 units. Compliance with this standard was achieved following the submission of amended plans which were requested by the UDCG at its meeting of 16 March 2016 when it noted that *"while some good inclusions have been adopted to introduce better natural light and ventilation into deep apartments, some further refinements can and should be made to improve amenity....Generally all upper floor apartments should be provided with natural light and ventilation to bathrooms and toilets via the roof. Deep apartments on the upper floors and those with poor solar access, will also benefit from roof lights for better cross ventilation and natural light"*. The UDCG also noted that *"...in a few instances, particularly in Building G, bedrooms have no direct access to ventilation or natural light, and are capable of being fully enclosed by translucent sliding doors. These are bed-sit apartments and as such could be acceptable if provided with a means of cross ventilation. The possibility of using a corridor plenum or "chimney" for air circulation was considered to be acceptable means of addressing this shortfall."*

With respect to the above comments amended documentation has now been submitted by the applicant which shows the inclusion of thermal chimneys to provide circulation within the single aspect south-western facing apartments within Building G. This information is considered to be satisfactory. It is also recommended that a condition be attached to a consent, if issued, requiring the provision of roof lights to the units on the upper floors of residential flat buildings F, G, I and J (in units which do not benefit from a thermal chimney) to provide natural light to:

- all bathrooms and toilets, where such rooms do not have direct access to a window;
- to living spaces where 2 hours of sunlight is not achieved between 9am and 3pm on June 21.

Whilst the UDCG recommended that roof lights also be provided in deep units, it is noted that there are no deep units on the upper floors of Buildings D, F and I, where a combined living/dining/kitchen is more than 8m from a light/ventilation source. Therefore, the maximum depth requirements of the ADG are met and there is no requirement for additional skylights/thermal chimneys beyond those detailed above. On the basis of the above, it is considered that sunlight access and ventilation therefore meet the Design Criteria and/or Guidance of the ADG.

Ceiling Heights: Minimum 2.7m ceiling heights are proposed for all habitable rooms in compliance with Design Criteria 4C of the ADG.

Apartment Size and Layout: Design Criteria 4D of the ADG specifies a minimum internal size of 35m² for studio apartments, 50m² for 1 bedroom apartments, 70m² for 2 bedroom apartments and 90m² for 3 bedroom apartments, with an increase of 5m² for a second bathroom. The following minimum interval floor areas are proposed:

- Studio (1 bathroom): Minimum 49m²
- 1 Bedroom units (1 bathroom): Min 50m²
- 2 bedroom units (2 bathrooms): Min 73m²
- 3 bedroom units: Min 116m²

The studio, 1 bedroom and 3 bedroom apartments provide the minimum recommended internal areas, however variation is sought for a limited number of two bedroom apartments, which are 73m² in area and do not meet the required 75m². As the majority of two bedroom apartments exceed the recommended minimum area and the non compliance is due to the inclusion of a second bathroom this minor variation is considered acceptable.

Private Open Space and Balconies: The minimum balcony areas specified in Design Criteria 4E of the Apartment Design Guide are generally met for those dwellings sited with residential flat buildings (ie. 4m² for studio, 8m² for 1 bedroom, 10m² for 2 bedroom, 12m² for 3 bedroom). However, the applicant was requested to provide revised plans which

demonstrated an increased area of private open space for the ground floor dwelling within Building F (F-13). The private open space area provided for this unit and for other units with Buildings D, F, G, I and J is now considered to be satisfactory. Further discussion of the level of compliance of the dwellings within the multi unit housing is contained in the following discussion of Chapter 7.01 (Building Design Criteria) of NDCP 2012.

Within Building F and G ground level apartments have a patio with a minimum area of 15m², in compliance with the recommendation of the ADG.

Common Circulation: The maximum number of units serviced off a single lift is 8 per level as recommended by Design Criteria 4F of the ADG.

Storage: Design Criteria 4G of the ADG recommends a minimum required storage area of 4m² for studio apartments, 6m² for 1 bedroom apartments, 8m² for 2 bedroom apartments and 10m² for 3 bedroom apartments. Whilst all apartments are not compliant with this level of storage, the storage as detailed in the 'Development Summary' of the Design Report is functional, with the exception of the storage provided within Building A, which was significantly below the area required. In response to a request to include additional storage within Building A, amended plans have now been received which confirm that the level of storage within this building is satisfactory, although it is noted that the overall area of storage is primarily provided within the basement area.

The UDCG also identified a number of other amenity issues (including safe access to apartments from carparks) but has confirmed that such issues have now *"either been fully dealt with or could be satisfactorily addressed by means discussed with the applicant and the project architects"* (with recommended conditions provided in **Appendix A**). It is therefore considered that the proposed development is generally consistent with the design quality principles within the SEPP, and has adequately addressed the Design Criteria and/or Design Guidance of the ADG.

State Environmental Planning Policy 44 - Koala Habitat Protection

The Flora and Fauna Assessment (RPS, 2015) submitted with the application identified that one species of tree, listed in Schedule 2 of SEPP44 as a 'Koala Feed Tree Species' occurs on the site, namely Eucalyptus punctata (Grey Gum), which occurs fairly dominantly in the south western corner of the site. Assessment of the subject site found that whilst the proportion of 'Koala Feed Tree Species' in the south-western part of the site occur at a density of greater than 15%, as a proportion of the total number of trees on the site it does not constitute 'Potential Koala Habitat'. No further assessment under SEPP 44 was considered necessary. The outcomes of this assessment are considered to be acceptable.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (SEPP) (BASIX) 2004 applies to buildings that are defined as 'BASIX affected development', being "development that involves the erection (but not the relocation) of a BASIX affected building," (ie: contains one or more dwelling). Accordingly the provisions of the SEPP apply to the current development proposal. In this regard a the applicant submitted a valid BASIX Certificate (dated 2 July 2015) which list the commitments to achieve appropriate building sustainability. A revised BASIX Certificate (dated 2 July 2015) was submitted following the lodgement of amended plans which included two additional units. A condition can be attached to any development consent requiring such commitments to be fulfilled.

State Environmental Planning Policy (State and Regional Development) 2011

The application submitted to Council nominates the capital investment value of the project to be \$24.468 million (inclusive of Building K which has now been deleted). The application is therefore referred to the Joint Regional Planning Panel for determination pursuant to Part 4 'regional development' of SEPP (State and Regional Development) 2011 as the proposal is

listed within Schedule 4A of the *Environmental Planning and Assessment Act 1979*, being general development over \$20 million.

Newcastle Local Environmental Plan 2012

Clauses 2.1 to 2.3: Zoning and Land Use Table

The subject property is included within the R2 Low Density Residential zone under the provisions of the *Newcastle Local Environmental Plan (NLEP) 2012* (refer Figure 3). Under this zone "residential accommodation" is permissible with Council's consent. Residential accommodation includes "multi dwelling housing" and "residential flat buildings". Four (4) of the buildings (Buildings A, B, C and E) are defined as "multi dwelling housing" being "3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level". Five (5) buildings (Buildings D, F, G, I and J) are defined as "residential flat buildings" being, "a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing". The proposed development is therefore permissible with consent.

The objectives of the R2 Low Density Residential zone are:

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

The proposal will provide a mix of housing types for a range of future residents, including, (but not limited to) students and staff of the adjacent university. While larger residential buildings than that existing in the immediate vicinity, the proposed development is of an appropriate density and scale which has regard to the site's context and character, being on a main road and located opposite the University. The design has considered the amenity of existing nearby and future residents of the development, in addition to the constraints and environmental considerations of the land, as discussed in further detail within this report.

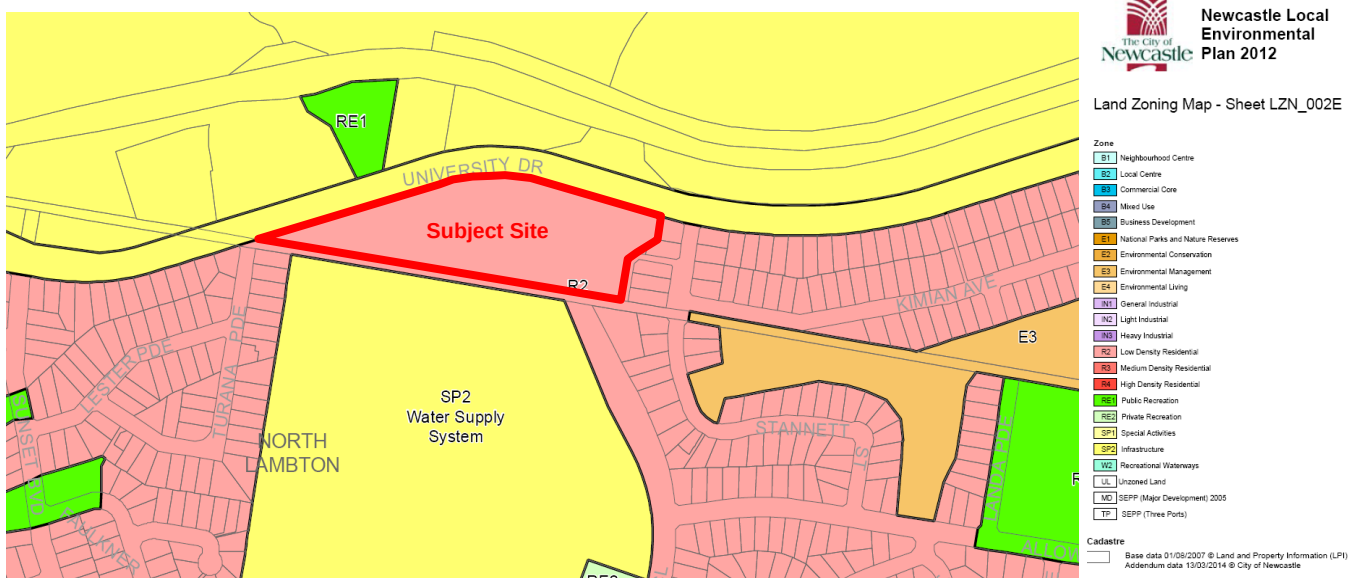


Figure 3: Extract from NLEP 2012 Land Zoning Map (R2 Zone)



Figure 4: Extract from NLEP 2012 Height of Buildings Map (8.5m)

Clause 4.3: Height of Buildings

The maximum permitted building height as nominated on the Height of Buildings Map of NLEP 2012 is 8.5m (refer Figure 4). Buildings A, B, C & E (the multi-dwelling housing) complies with the maximum 8.5m height, as demonstrated in Table 4 below. The remaining residential flat buildings on the site exceed the 8.5m maximum height and do not comply with the development standard.

Table 4: Maximum Building Heights

(Source: page 5 of Design Report, Smith & Tzannes, March 2015)

Source: page 3 of Design Report, Smith & Izzi LLC, March 2019

Building	Maximum Overall height (m)	Excedence (m)
Multi-dwelling Housing		
Building A	8.5	Complies
Building B	8.46	
Building C	6.28	
Building E	8.215	
Residential Flat Buildings		
Building D	11.695	3.195
Building F	10	1.5
Building G	12.25	3.75
Building I	8.755	0.25
Building J	9.9	1.4

A written request to vary this development standard pursuant to Clause 4.6 'Exceptions to Development Standards' of NLEP 2012 has been submitted by the applicant in respect of Buildings D, F, G, I and J. Refer to the heading below.

Clause 4.6 Exceptions to Development Standards

The written request to vary the building height development standard (dated 29 June 2015) references the original submitted design/plans (dated June 2015). A number of improvements to the design have occurred since and the written request to vary development standard has not been updated to reflect the design amendments (including revised plans and documentation confirming that there are no adverse overshadowing impacts to adjoining properties, and solar access to dwellings within the development meet the guidelines of the ADG). The key aspects of the written request, together with the

assessment of the design having consideration to the design amendments and with regard to the provisions of Clause 4.6 are provided in the following summary table:

Table 5: Compliance with NLEP 2012 - Contravention of Clause 4.3 Building Height

Clause 4.6 Exceptions to Development Standards	Applicant's Response/Justification	Consistent/ Complies
(3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:	This table comprises the written request seeking to justify the contravention of the building separation development standard.	Provided
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	Unnecessary as the development achieves the objective of Clause 4.3 Height of building in its current form and strict compliance would hinder the ability of the development to deliver the form and scale of development anticipated in the Newcastle Urban Strategy; and Unreasonable as no purpose would be served by requiring modification of the development to adhere strictly to the prescribed numerical standard AND because strict adherence will limit the ability of the development to deliver the housing variety and form sought through the Newcastle Strategy AND the built form outcomes prescribed in SEPP 65 and the RFDC (ADG) cannot be achieved while complying with the prescribed numerical standard. <u>Other key reasons:</u> ▪ The scale and nature of the non-compliance subject to this variation is minor in the context of the large development site and is a result of the specific characteristics of the topography of the site. The site is considered unique in its size and frontage. ▪ The development...(due to the size and location...), creates its own context as very little of the development is viewed in a way that existing adjoining development is also visible. ▪ (Seeks to)....achieve the precinct objectives with respect to a desired built form that capitalised on the proximity with the university – creating a campus style urban environment. ▪ Strict adherence to the height of building development standard would result in certain buildings resulting in inefficient floor plates that would not comply with standards for pedestrian access under the Building Code of Australia. ▪ The large majority of the development is contained within the height plane. Non-compliances generally occur over parts of the site where there is a steep topography. ▪ The solar access and overshadowing are compliant. There are no adverse impacts to solar access. ▪ Physical constraints: The combination of slope and bushfire restrict the ability to deliver housing diversity in a suitable form to meet student housing demand without exceeding the 8.5m height control. ▪ Cumulative impacts unlikely: The circumstances of the proposal are considered sufficiently unique as to limit the potential whereby subsequent proposals may benefit from any precedence and potentially undermine the value of the standard. ▪ The site is directly adjacent to the University of Newcastle Campus with pedestrian and vehicle connectivity via and signalised intersection. University Drive is the only campus boundary that contains residential zoned land, and / or land that is not separated from the campus by a physical barrier such as the Newcastle bypass or the railway line.	Justified
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.	The broad impacts of the development are considered acceptable, and the following environmental planning grounds are considered to be specifically relevant to the request to vary the standard relating to the height of buildings. ▪ The FSR is well below that allowable for the site. Variation in height control will allow additional floor space in a position where the best planning outcome is achieved. It facilitates bushfire mitigation, reduces site coverage to allow more open space and landscaping, and has no significant adverse impact in terms of privacy, overshadowing or visual impact.	Justified

Clause 4.6 Exceptions to Development Standards	Applicant's Response/Justification	Consistent/ Complies
	▪ <i>Strict adherence with the height control would: (i) reduce the yield, limiting the ability of this site to contribute to infill development targets in the Lower Hunter Regional Strategy; and (ii) restrict the ability to create housing diversity and improve the availability of accommodation to meet the demands associated with the adjacent University of Newcastle, (as identified in the Newcastle Urban Strategy).</i> ▪ <i>Strict adherence with the development standard will compromise the ability of the design to comply with relevant provision of SEPP 65 and the RFDC which have been established to improve the built form and amenity of RFBs.</i> ▪ <i>The height variations will have no significant impact on compliance with the objectives of the building height control, nor any other standard or control. The distribution of height throughout the site is an appropriate response to the site topography, particularly slope. The orientation of the site, the adjoining land uses, and the location of the buildings where the variations are sought mean that any impacts are largely internalised. The setbacks and size of the site mean the variations to the height control are no immediately discernible from both immediately proximate and more distant locations. This is detailed further in the visual impact assessment accompanying the application.</i> ▪ <i>Maximising development on this site will deliver positive social and economic benefits by reducing demand for greenfield development at the urban fringe, improving critical mass for the efficient delivery.</i>	
(4) Consent must not be granted for development that contravenes a development standard unless: (a) the consent authority is satisfied that:	See below	
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	Provided by applicant	Satisfied
(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and <u>Newcastle LEP 2012:</u> <u>Objectives of the Standard (Clause 4.3)</u> (a) to ensure the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy, (b) to allow reasonable daylight access to all developments and the public domain. <u>Objectives of the R2 Zone</u> ▪ To provide for the housing needs of the community within a low density residential environment. ▪ To enable other land uses that provide facilities or services to meet the day to day needs of residents. ▪ To accommodate a diversity of housing forms that respects the amenity, heritage and character	Applicant's response to how the proposal meets the objectives of Clause 4.3 (Building Height): ▪ <i>"The scale makes a positive contribution towards the built form by stepping with the topography and establishing an urban form consistent with the proposed use</i> ▪ <i>The urban form is consistent with the proposed character and centres hierarchy identified in the Newcastle Urban Strategy being "Capitalise on proximity with the university and provide suitably located and designed housing and other uses in Jesmond and adjacent Lambton North along University Drive"</i> ▪ <i>Daylight is not restricted by the areas of the building that exceed the height limit and this demonstrated by the shadow diagrams. These impacts ...are considered acceptable."</i> Applicant's response to how the proposal meets the objectives of the R2 Zone: <i>"The Newcastle Urban Strategy identifies that Jesmond and surrounding suburbs have a high demand for student housing, and the one of the objectives is to:</i> <i>'Capitalise on proximity with the university and provide suitably located and designed housing and other uses in Jesmond and adjacent Lambton North along University Drive'</i> <i>Surrounding residential land on the south of University Drive is within a limited growth precinct and carries a similar R2 Low Density Zone, 8.5m height control, and 0.6 FSR. The failure to nominate the site within a limited growth precinct, specific reference encouraging student housing along University Drive, and the size and vacant infill potential of the site provide it with unique characteristics that would be difficult to match for any other site seeking a variation to a development standard.</i> <i>These circumstances lend themselves to the fact that although the proposed built form, density and scale of the proposal are different to existing residential development, they do make a positive contribution</i>	Justified

Clause 4.6 Exceptions to Development Standards	Applicant's Response/Justification	Consistent/ Complies
<i>of surrounding development and the quality of the environment</i>	<i>toward achieving the desired built form and housing outcomes prescribed in the Council's strategic plans. Further to this, while the characteristics of the development are different to existing residential development on the south of University Drive, the bulk and scale of buildings as distributed throughout the site are entirely consistent with the bulk and scale of development within the University's Callaghan campus opposite the site, north of University Drive. Campus buildings, including recently developed student accommodation, are generally multi-storey and developed in clusters intersected with native bushland corridors. This form is reflected in the proposal and provides the appropriate context through which the first objective of the development standard is achieved."</i>	
(c) <i>the concurrence of the Director-General has been obtained.</i>	Concurrence of the DG can be assumed in accordance with Planning Circular PS 08-003-Variations to Development Standards (Department of Planning, May 2008).	Addressed
(5) <i>In deciding whether to grant concurrence, the Director-General must consider:</i>		
(a) <i>whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and</i>	No matter of significance anticipated	Addressed Raises no issue
(b) <i>the public benefit of maintaining the development standard, and</i>	There is not considered to be an overall public benefit which would be achieved by maintaining the development standard.	Satisfied
(c) <i>any other matters required to be taken into consideration by the Director-General before granting concurrence.</i>	It is considered that there are no environmental planning considerations that would hinder the Director-General from providing concurrence.	Addressed

The Urban Design Consultative Group at its initial meeting of 19 August 2015, in relation to building height, noted *"the more extreme of those relate to Buildings G and J, which exceed the maximum height by 3.7m and 3.45m respectively. Whilst it was considered that the heights proposed were potentially acceptable if located further within the site, the combined characteristics of inadequate street setbacks and increased heights in five of the street fronting buildings could not be supported"*. In response to these concerns, the applicant submitted amended designs (including further increased front setbacks, among other modifications) which were considered by the UDCG 16 March 2016. In response to built form and scale and building height, UDCG stated:

"The proposal exceeds the 8.5m height plane by a moderate extent in a number of locations. The Group considered that, in the context of a large, sloping site, the limited extent of extrusions beyond the height plane was acceptable, and that no adverse impacts arose from the minor non-compliances. A request to vary the standard in this respect was therefore supported."

TCG Planning concurs with the above comments with respect to building height and are of the opinion that the provisions of Clause 4.6 'Exceptions to development standards' is satisfied.

Clause 4.4: 'Floor Space Ratio (FSR)'

Clause 4.4 limits the FSR of a development to that shown on the FSR Map, which in this instance is 0.6:1. The total gross floor area of the development is 10,757m². The site area is 30,325m² and hence a floor space ratio of 0.35:1 is proposed on the site, in compliance with this development standard.

Clause 5.9 Preservation of Trees

Consent for the removal of approximately 1400 trees is sought pursuant to this clause. The objective of this clause is *"to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation."* The biodiversity value of the vegetation on the site has been considered in addition to the impacts of the removal of the vegetation, which is considered acceptable. Refer to the discussion in Section 6 of this report.

Clause 6.1 Acid Sulfate Soils

The land is located within Class 5 mapped area of acid sulfate soils (ASS) and consent is required for works within 500m of adjacent Class 1,2, 3 or 4 land that is below 5mAHD and by which the watertable is likely to be lowered below 1m AHD on adjacent Class 1,2,3 or 4 land. The subject site is located at between RL 35 and RL 48 and therefore the preparation of an Acid Sulfate Soils Management Plan is not required.

Clause 6.2 Earthworks

The site requires regrading, earthworks and excavation for construction and to provide design levels. The earthworks are incorporated within the overall development scheme and are not separate physical work; hence the provisions of this clause do not apply.

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

There are no applicable draft environmental planning instruments.

(a)(iii) any development control plans

Newcastle Development Control Plan 2012

The application was considered against Newcastle Development Control Plan (NDCP) 2012 (which became effective on 15 June 2012). The DCP contains numerous sections. The sections of the DCP that are applicable to the proposed development are listed below.

- 3.04 Attached dwellings and Multi Dwelling Housing
- 3.05 Residential Flat Buildings
- 4.02 Bushfire Protection
- 4.03 Mine Subsidence
- 4.04 Safety and Security
- 4.05 Social Impact
- 5.01 Soil Management
- 5.02 Land Contamination
- 5.03 Tree Management
- 5.04 Aboriginal Heritage
- 7.01 Building Design Criteria
- 7.02 Landscape, Open Space and Visual Amenity
- 7.03 Traffic, Parking and Access
- 7.04 Movement Networks
- 7.05 Energy Efficiency
- 7.07 Water Efficiency
- 7.06 Stormwater
- 7.08 Waste Management

Section 6(b) of this report discusses how the proposal conforms with each of the relevant sections of the DCP (having a corresponding heading), with the exception of Parts 3.04 'Attached dwellings and Multi Dwelling Housing'; 3.05 'Residential Flat Buildings' and 7.01 'Building Design Criteria' which are the primary controls relating to the development and which are discussed under the relevant heading below/over. The proposed concept development is considered to be generally consistent with the DCP.

3.04 Attached dwellings and Multi Dwelling Housing

This section of the DCP applies to Buildings A, B, C & E however there are no specific controls provided, with this section which apply to the proposed development.

3.05 Residential Flat Buildings

This section of the DCP requires compliance with SEPP No. 65 - Design Quality of Residential Flat Development and the provisions of the 'NSW Residential Flat Design Code', which has now been replaced by the Apartment Design Code. Compliance with the provisions of the Apartment Design Code is discussed in the foregoing section of this report.

7.01 Building Design Criteria

Table 6 identifies the level of compliance of Buildings A, B,C and E with the key criteria of Chapter 7.01 and, where a non-compliance exists, confirms whether variation is supported. The table only addresses those controls which are not already addressed within the sections of this report relating to NLEP 2012 (height and FSR) and the Apartment Design Guide (with reference to Buildings D, F, G, I and J).

Table 6: Summary of Compliance with Key Controls of Chapter 7.01 of NDCP 2012

Control	Requirement	Proposal	Compliance
7.01.04 Streetscape and Front Setbacks	Consistent with adjoining development in established areas.	Setbacks were increased in response to a request by the UDCG, with the UDCG advising at its meeting of 16 March 2016 that <i>"the revised proposal's setbacks are considered acceptable providing landscaping is provided to reduce the extent of visual domination of the scale of buildings..."</i>	Refer comment
7.01.05 Side and Rear Setbacks	Buildings within the R2 Low Density Residential zone are to be contained within the building envelope defined by: (a) planes projected at 45 degrees from a height of 4.5m above ground level (existing) at the side and rear boundaries (b) where the site abuts a public street, the envelope has a street boundary height of 8.5m.	The multi unit housing buildings which adjoin side/rear boundaries are Buildings, B & C (to the south/rear boundary). All such buildings provide a substantial setback to the southern/rear boundary, which is compliant with the height plane. Building A is the only multi unit housing building which directly adjoins a public road (to the eastern boundary). Building A, which is approximately 7.5m and two storeys in height adjacent to the eastern boundary, complies with the 8.5m street boundary height.	Complies
7.01.06 Private Open Space	Minimum 35m ² courtyards required for the multi unit housing (which is located within a limited growth precinct). The principal area of private open space is a 4m x 4m level area of private open space directly accessible from the main living area of the dwelling. The area between the street front boundary and the building line (ie normally 5 metres) will not be included as an area of private open space.	Courtyard Sizes provided are: Building A 19m ² to 86m ² . Building B: 29m ² to 36m ² Building C: 35m ² to 44 m ² Building E: 33m ² to 35m ² The minimum requirement is not met for all townhouses and in a number of instances the 4m width for the principal area is not met. Additional information submitted in February 2016 confirms that the primary area of all courtyards has a minimum width of 3m and 64% of the units (ie 27 of 42) comply with the required 35m ² . Further, 95% of units (ie/ 40/42) provide greater than 21m ² of private open space. As all townhouses (with the exception of Unit A-01 to A-04) provide in excess the 25m ² , which would be required if the development was sited in a substantial growth precinct, and those townhouses which provide less than 25m ² are located in close proximity to a communal open space area sited to the south of Building A, variation is considered reasonable. No private open space is located in the 5m setback area.	Variation – refer comment
7.01.07 Building Design & Appearance	Within R2 zone new development to be compatible with existing scale, character and massing.	Whilst the buildings are greater in scale than adjacent single and two storey dwellings, the buildings are appropriate in their context having regard to their placement opposite buildings exhibiting an increased scale within the university.	Refer comment
7.01.08 Solar Access	The windows of living areas of dwellings facing north receive at least three hours of sunlight between 9am and 3pm on 21 June. Maintain at least three hours of sunlight to the windows of living areas that face north in existing adjacent dwellings between 9am and 3pm on 21 June. Private open space of adjacent dwellings to receive at least two hours of sunlight between 9am and 3pm on 21 June.	All of the living spaces and the POS of units within Buildings A and E receive 3 hours of sunlight on June 2. Two units in Building B and the living spaces of all of the 12 units in Building C are not compliant. In response to the recommendations of the UDCG further details have been submitted to confirm the functionality of skylights in a number of units (Buildings C & D) and this information is also considered to be satisfactory. Consistent with the approach adopted by the UDCG for the residential flat buildings it is recommended that skylights be provided to upper level bathrooms which do not have access to a window and above void spaces in units where 3 hours of sunlight is not achieved on June 21. All but one of the POS areas of the multi unit housing achieves a minimum of 3 hours of sunlight, with one unit (B-05) achieving 2 hours, which is satisfactory.	Variation – refer comment
7.01.09 Views and Privacy	Existing views from dwellings are not substantially affected where it is reasonable to design for the sharing of views.	Whilst the buildings will impact on short distance views from adjacent properties towards bushland there are no significant long distance view corridors which will be impacted by the proposed development.	Complies

Control	Requirement	Proposal	Compliance
	A minimum 9m separation is provided between the windows of habitable rooms of facing dwellings that abut a public or communal street. increased to 12m for windows above first floor level. Direct views from living rooms of dwellings into the principal area of private open space of other dwellings are screened or obscured within a 'privacy sensitive zone' described by a 12m radius.	The setback from Building A to the habitable rooms of No. 45 and No. 47 is approximately 19m, in excess of the required 9-12m. Windows on the eastern elevation of Building A are limited to narrow secondary windows, with timber privacy screens provided to the terraces of the eastern units to minimise overlooking of the POS areas of dwellings at No. 45 & 47 Stannett Street.	

Section 94A Development Contributions Plan 2009 - A levy of 1% of the cost of development will apply to the development, with this requirement to be attached as a condition of consent.

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

Not applicable.

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

Not applicable

(b) the likely impacts of the development

Streetscape, Character, Bulk, Scale and Height

The context, impact on neighbourhood character, built form and scale of the development has been extensively reviewed by the UDCG on three occasions. The panel noted that the site is highly visible from University Drive and, although adjacent to detached housing, the *"approach of adopting the architectural language of larger scaled buildings more typical of the University's earlier 1960 and 1970s buildings is considered appropriate"*. Further, the UDCG noted that *"in the context of a large, sloping site, the limited extent of intrusions beyond the height plane was acceptable..."* Street setbacks, following the submission of amended plans, were also considered to be acceptable subject to the provision of landscaping to soften the appearance of buildings from University Drive.

Bushfire Protection (Part 4.02 of NDCP 2012)

A revised Bushfire Threat Assessment Report (RPA Australia East P/L dated 26 February 2016) was submitted by the applicant that reflects the deletion of Building K. Section 4.0 'Conclusion and Recommendations' of this report (p20) state:

"It is clear from this investigation and assessment that the site constitutes Bushfire Prone Land. In accordance with the provisions of PBP (2006), the recommendations outlined within this assessment will substitute as appropriate actions to reduce the risk of damage and/or harm in the event of a bushfire event."

This BTA found the land surrounding the site to support vegetation consistent with forest as described by PBP (2006). The report recommends the following to ensure the proposed development will comply with PBP (2006):

- *A minimum APZ of 20 metres will be required between future Buildings and the forest hazard situated to the south of the site;*

- *An APZ of 22 m is required between the forest hazard situated within the site to the northwest and west;*
- *Future buildings within the site should have due regard to the specific considerations given in the BCA, which makes specific reference to the Australian Standard (AS3959 – 2009) construction of buildings in bushfire prone areas;*
- *Roads are to be constructed in accordance with section 4.1.2, PBP 2006 as outlined in section 3.3 of this report;*
- *Landscaping and fuel loads on site should be managed in perpetuity through the strata management statement to decrease potential fire hazards on site; and*
- *Any proposed development are to be linked to the existing mains pressure water supply and that suitable hydrants be clearly marked and provided for the purposes of bushfire protection. Fire hydrant spacing, sizing and pressure should comply with AS2419.1, 2005."*

Following Council's referral of the original Bushfire Threat Assessment Report (RPA Australia East P/L dated 30 June 2016, the Rural Fire Service (RFS) issued a 'bush fire safety authority' under S100B of the Rural Fires Act 1997 and Fires Act 1997 on 21 August 2015 (despite it not being required), subject to conditions relating to asset protection zones, water and utilities, access, design and construction, and landscaping.

Notwithstanding this, these conditions could be imposed on any Development Consent issued, should the development application be approved as the imposition of the requirements meet the requirements of Section 79BA of the EP&A Act 1979 and relate to the *Planning for Bush Fire Protection, 2006* required to be met.

The requirements of Part 4.02 of NDCP 2012 are consistent with the above considerations and have been satisfied.

Safety and Security (Part 4.04 of NDCP 2012)

A Crime Risk Assessment report (prepared by SNL Building Constructions Pty Ltd (undated) accompanies the application and details the specific design elements which will be incorporated within the proposed development to achieve Safer by Design principles. The report concluded (p10) that:

"The crime risk is mitigated through surveillance through the allocation of space and dwelling design and appropriate access control and territorial reinforced. Activity and space management will occur through implementation of by-laws etc developed and managed by the owners' corporation. Nominated communal space and travel paths can be observed from private living areas, will be appropriately illuminated, and are suitably delineated.

Territorial reinforcement and natural access control are incorporated through the clearly defined movement hierarchy and landscape strategy. These measures define private from public areas and manage movement through the site. An appropriate lighting strategy and provision of signage can enhance territorial reinforcement and will be further detailed in construction documentation. The use and maintenance of communal areas will promote a sense of ownership, increase use and activity, and further reduce opportunities for crime.

This assessment of crime risk context and review against the Safer By Design identified the proposed development represents a low to medium low crime risk and has been designed to appropriately mitigate the risk of crime."

Concerns regarding on-site safety of residents were raised in the assessment of the application, in particular by the UDCG and also within resident submissions. Issues raised included juxtaposition of habitable residential space with car parks which is considered dangerous; safety aspects and isolation of Building K; pedestrian safety (via internal paths and safety of crossing University Drive). The revised design (in particular the deletion of Building K) has resolved these issues. The UoN in its submission also requested that the

development be conditioned to provide CCTV that is actively monitored and this has been included as a recommended condition of consent.

In terms of recommendations, the report indicated (p10) that:

- *"no immediate or significant changes are considered necessary to ensure the safety and security of future residents or the community; and*
- *completion of a post-construction review should be considered by the owner / manager to confirm the implementation of proposed measures and to identify any additional crime and safety measures that may be suitable."*

The latter recommendation should be included as a condition of development consent, in addition to the specific recommended actions relating to lighting of the site (p 8-9). The Crime Risk Assessment report and matters addressed in the application satisfactorily address the controls within Part 4.04 of NDCP 2012.

Social Impact (Part 4.05 of NDCP 2012)

Part 4.05 of NDCP 2012 requires compliance with the social Impact Assessment Policy, 1999. A Social Impact Assessment dated May 2015 accompanied the development application and considered a range of potential social impacts of the development including housing, employment, community services and facilities, transport and accessibility and social interaction. The report addresses and provides a impact assessment summary table (p11-12) of the social impact matters considered. The report (p12-13) concludes:

"The proposed development is consistent with State Government and Newcastle City Council planning strategies, in particular the Lower Hunter Regional Strategy and Council's Local Planning Strategy. These policies were developed with community participation and reflect broader community values for managing growth. They promote urban consolidation in areas with suitable access to services and having good amenity. They also promote development of a form that appropriately manages environmental impacts.

The development will improve housing variety. It will balance dwelling diversity and help deliver a form of housing more targeted to the immediate local need that can be associated with the student population from the adjacent University of Newcastle. It will deliver compact, low maintenance housing with a suitable mix of size and form.

Parking is designed to reflect ABS data showing higher levels of motor vehicle ownership and dependency. It also balances the advantage provided by the proximity to infrastructure, services and public transport.

An increase in permanent population will improve the client base for local businesses and should generate new employment opportunities. Increased population density should also improve the efficiency and viability of infrastructure and services, including public transport. Development contributions and ongoing rates will bolster Council's financial capacity.

New residents will have access to existing services and facilities, and are likely to participate in local community and sporting groups.

The development delivers an appropriate type, level and distribution of open space. The project is considered to provide a positive net social benefit. Potential negative impacts have been either mitigated through design or through future operational provisions. Government strategies for population growth will ensure that service and infrastructure delivery meets future demand. The development is considered to contribute to the broader outcomes in the planning policy framework for Newcastle City, the Lower Hunter Region and NSW."

The UDCG initially raised concerns regarding communal open space areas and use by students in terms of activity and noise. The submission received by UoN also raised concern about the claim in the Social Impact Assessment that occupants of the development

will have access to the University's open space and facilities, which are at capacity and no approach had been made by the developer for this. The UoN requested that communal open space facilities be provided on-site. The UoN also requested that further assessment of the social needs and personal safety of students be documented and analysed in the Social Impact Statement.

In response to the applicant stated in its letter dated 26 February 2016:

"The proposed development is not designated as student accommodation and while it is reasonable to expect proximity to the Newcastle University Campus will entice students to this location, the exact extent of the population is difficult to establish.

That said, the development has been designed to relevant standards to ensure dwellings, open space areas, parking and movement networks are safe and effective to ensure the amenity and security of all future residents. Any additional measures to manage the specific needs of a student dominated population can be determined and applied through site management provisions."

In addition, amended Landscape Plans were submitted that describes each of the communal open space areas, including lawn and extended deck areas, and an area at the southern portion of the site (within the APZ area and slightly away from residential areas) for larger gathering and for more 'robust' activities.

The concerns raised are considered to have been resolved and addressed. The provisions of Part 4.05 of NDCP 2012 have been satisfied.

Soil Management (Part 5.01 of NDCP 2012)

Extensive site works are proposed for the various stages of the development. The site requires regrading, earthworks and excavation for construction and to provide design levels. Retaining works are incorporated into the design, including landscape design to mitigate visual impacts to be constructed to engineering requirements. The application indicates that construction will be staged and managed to manage the amount of soil exposed at any one time. The site has been split into two sub-catchments for the management of erosion and sediment, with basins sized and located to mitigate impacts. Northrop Dwg C00DA Rev A dated 5/4/16 details the proposed erosion and sedimentation control measures. The provisions of this Part of the DCP have been addressed, and can be managed via conditions of consent.

5.02 Land Contamination (Part 5.02 of NDCP 2012)

This Part of the DCP reflects the requirements of SEPP 55– Remediation of Land, which is addressed in an earlier section of this report (Section 6(a), SEPP 55).

Ecology, Vegetation and Tree Management and Landscaping (Part 5.03 of NDCP 2012, and NCC Urban Forest Technical Manual (April 2015))

Vegetation Removal and Landscaping

The originally submitted application proposed removal of approx. 2.17 hectares of native vegetation from the 3.34 hectare site, equating to the retention and management for bushfire mitigation of the 35% of remaining vegetation. The revised design, in deleting Building K from the scheme and increasing building setbacks to retain some trees along University Drive frontage increases the vegetation to be retained. A Tree Retention Plan (Mansfield Urban Dwg DA-SP05) has been submitted showing existing trees to be retained. An extensive area of the site however will be cleared.

The Landscape Plans for the development (Mansfield Urban) indicates the proposed landscaping scheme for the development, which incorporates infill planting along the University Drive frontage, along internal streets, within common open space areas and integrating on-site landscaping to compliments the buildings.

Part 5.03.04 'Infill development' of NDCP 2012 requires applications to where possible retain trees on site and provide a tree retention values assessment for where trees are proposed to be removed. Suitable compensatory tree planting is required to be provided and included as part of the landscape concept plan for the site (in accordance with the Newcastle Urban Forest Technical Manual for a guide). The proposed development (as amended) has satisfactorily addressed the requirements of the DCP and Technical Manual. While the tree removal from the site is significant and will substantially alter the character of the site, as demonstrated below, there are no likely adverse ecological impacts and it is considered that the compensatory landscaping of the site will provide an acceptable outcome for the site.

Ecology

A Flora and Fauna Assessment was prepared by RPS Australia East Pty Ltd in June 2015 to identify whether the proposed development may have a significant impact on any threatened species, populations or ecological communities listed within the Threatened Species Conservation (TSC) Act 1995 or Environment Protection Biodiversity Conservation (EPBC) Act 1999. The report confirms that no threatened flora species under the EPBC Act or TSC Act were recorded on the site during field surveys; however one vegetation community was identified, being the MU15 Coastal Foothills Spotted Gum Ironbark Forest. The terrestrial fauna surveys across the site positively identified three threatened fauna species being the Grey-headed Flying-fox, the large Bentwing Bat and the Eastern Bentwing Bat as occurring within the site. Further, RPS determined that sixteen threatened fauna species and two flora species listed under the TSC Act and three threatened fauna species and two threatened flora species under the EPBC Act may possibly occur on the site. The report noted that *"habitat on site is considered to be sub-optimal for most species except for common arboreal mammal and bird species, as the consistent disturbances from pedestrians, cyclists, domestic fauna and weed incursion reduce the condition of the lower strata of vegetation"*. The Assessments of Significance undertaken by RPS concluded that the proposal was unlikely to significantly impact on any of these threatened species.

Council's Senior Environment Protection Officer reviewed the Flora and Fauna Assessment prepared in June 2015 and requested the submission of further information regarding the methodology associated with the targeted surveys and also requested the undertaking of a seven-part test of significance for the Scarlet Robin. He also raised concern that the proposed development would isolate the habitat on the Hunter Water Corporation land to the south and redesign of the proposal was suggested to ensure habitat connectivity to the north and south.

A revised Flora and Fauna Assessment was prepared in 20 February 2016, which was reviewed by Council's Senior Environment Protection Officer. The revised assessment now includes a test of significance of the Scarlet Robin which concludes *"despite some habitat being removed and modified, this species is still able to persist on site, and still has the ability to move between fragments in the local area. It is unlikely that the proposal will affect the life cycle of the Scarlett Robin such that a viable local population of the species is likely to be placed at risk of extinction"*. With respect to the need to maintain north-south habitat connectivity, the removal of Building K, which was situated in isolation to the west of the site, will allow for retention of a significantly greater area of vegetation thereby maintaining such connectivity. Council's Senior Environment Protection Officer has reviewed the revised documentation and has provided conditions of consent which include a requirement for the submission of a nest box installation plan prior to the issue of a Construction Certificate and the maintaining and monitoring of such boxes for a five (5) year period.

Section 6 of the submitted report makes recommendations to mitigate potential impacts on all biodiversity values on site with particular focus on any species; population or ecological

community listed under the TSC Act and/or EPBC Act and are included as conditions of development consent.

Aboriginal Heritage (Part 5.04 of NDCP 2012)

A Heritage Due Diligence Assessment was prepared by RPS on 9 March 2015 to address the requirements of Chapter 5.04 of NDCP. This chapter requires the submission of a statement indicating the results of the AHIMS database search, confirming if there are landscape features that indicate the presence of Aboriginal objects and indicating whether Aboriginal objects are likely to be harmed. The investigation conducted by RPS, did not identify the presence of Aboriginal objects or places, with RPS confirming that "there are no historic heritage constraints" and a Heritage Impact Permit is not required for the proposed development. The report contains recommendations for future site works which can be incorporated as conditions of consent.

Open Space and Visual Amenity (Part 7.02 of NDCP 2012)

The general objectives of this Section are met by the concept development application. The site provides in excess of the suggested 30% of landscaped area and 15% as deep soil zone, with 11,500m² of deep soil zone and 9000m² of landscaping provided.

Traffic, Parking and Access and Movement Networks (Parts 7.03 and 7.04 of NDCP 2012) Newcastle City Council DCP specifies the amount of parking required for new residential developments. For attached dwellings, multi-dwelling housing, residential flat buildings, and shop top housing outside of the Newcastle City Centre and Renewal Corridors, parking for residents is provided at the rate of minimum 1 space per 1, 2 or 3 bedroom dwelling. For visitors, parking is provided at the rate of 1 space for the first five dwellings plus 1 space for every 5 thereafter or part thereof for visitors. Council's Contract Development Officer (Engineering) has advised that, based on this criteria, a total of 172 spaces are required, with 171 spaces proposed. No objections are raised to this minor variation. The submitted plans show that the required level of parking is generally provided within each respective stage.

Council's Contract Development Officer (Engineering) has also advised that no designated loading bay is required to be provided on site given the residential nature of the development.

A Traffic Impact Assessment (TIA) has been prepared for the proposal (SECA Solution, amended 26 February 2016). The TIA was amended to address the concerns raised by Council's Traffic Engineer in the referral dated 28 August 2015. The TIA notes that the RMS guide indicates some 4.58 trips per dwelling per day could be applied to a development of 144 dwellings. This suggests an upper limit of 660 vehicle movements per day. However, given the proximity of the development to the university, a reduction of 25% per day is considered appropriate given staff and students occupying the proposed development are likely to walk to the university campus and hence not generate traffic movements. Peak hour flows are similarly expected to be reduced by 25% due to high level of walking to the University. Morning peak hour flows are therefore considered in the order of 57 vehicles and afternoon peak flows of 34 vehicles per hour. Of the vehicle traffic generated, it is assumed that 80% will utilise University Drive, with the balance of 20% using Stannett Street, to access other centres and areas in the locality.

Council's Contract Development Officer (Engineering) has reviewed the submitted report and, whilst he raises a number of concerns regarding the trip generation calculations (most notably the level of use of the Stannett Street access), he concurs with the traffic generation calculations and is satisfied that the traffic volume increases are acceptable. He also notes that the site is well serviced by public transport which provides an alternate mode of travel to and from the site. He does however recommend that pedestrians should not be encouraged to use the unnamed laneway due to width restrictions. To facilitate this, and to encourage the

use of the new pedestrian link to University Drive from the unnamed laneway, a condition of consent is recommended, requiring the provision of a 1.2 metre wide pedestrian pathway for public use on the western side of the dead end section of the laneway. Overall the pedestrian connections throughout the site are considered satisfactory particularly with the new additional connection to University Drive at the eastern end of the site. The UON request that the development be conditioned to signalise the northern side of the Stannett Street intersection is not considered appropriate for inclusion as a condition as the responsibility for the provision of such signalisation does not rest solely with this development.

With respect to the laneway access the owner of No. 41A Stannett Street (to the south-east of the subject site) raised concerns that Development Consent 2011/1556 which was issued for a multi unit development on his land required the construction of the laneway. He suggests that the current development should be partly responsible for such costs. In this regard it is considered that whilst applying a proportionate cost to each development would more fairly apportion the cost of construction of the laneway based on the scale of the development, there is no surety that each development will proceed. This could result in a situation where neither developer was responsible for road construction and access to the development sites could not be provided if only one development proceeded. Therefore it is reasonable that the current application have the same condition applies to that which is reflected in DA 2015/701, requiring the laneway construction. The development that proceeds first will be responsible for construction costs.

Acoustic Impacts

The development application was accompanied by a Noise Assessment prepared by Spectrum Acoustics in June 2015 which addresses traffic noise impacts on the proposed residential units. This report examined the ability of residential units to meet the criteria of the Department of Planning's guidelines 'Development Near Rail Corridors and Busy Roads - Interim Guidelines (2008)' which specifies internal traffic noise criteria of 40dB(A)_{L_{eq}} for living rooms and 35dB(A)_{L_{eq}} for bedrooms.

Spectrum Acoustics predict that in order to meet the internal noise criteria, attenuation of up to 24dB will be required for living rooms and 23dB for bedrooms. The report confirms that such levels of attenuation will be achieved by standard construction, except for living rooms facing the road which have two or more windows, where 6.38mm laminated glazing will be required. Council's Senior Environmental Protection Officer has not raised concern regarding the ability to meet the internal traffic noise criteria nor the method of attenuation and has recommended that a condition be included within any consent requiring compliance with the relevant noise criteria. Accordingly, it is considered that the recommended measures meet the requirements of Clause 101(2)(c) of SEPP (Infrastructure) 2007 which requires a consent authority to be satisfied that the development is appropriately located and designed or includes measures to ameliorate traffic noise impacts. Further, the recommended measures will be provided by the developer, thus ensuring that the Roads and Maritime Services are not responsible for providing noise attenuation measures, as recommended in their correspondence of 24 August 2015.

In March 2016 supplementary acoustic information was submitted to address the potential noise impact on residences of additional traffic using the unnamed laneway. Spectrum Acoustic determined that the traffic in the laneway will only increase noise by 0.05dB above existing noise levels and are at least 5dB below the "NSW Road Noise Policy" requirements. Hence, they conclude that *"houses in the vicinity of the project site access road will therefore be subjected to insignificant traffic noise levels from the development in the context of the existing noise environment"*. Council's Senior Environment Protection Officer therefore concludes that no additional acoustic treatment is warranted along this laneway. It is however recommended that a 1.8m high lapped and capped fence be provided by the

developer, along the rear boundary of No. 49 Stannett Street and No. 69 University Drive (where the development site directly adjoins the rear of residential properties), to provide an increased level of visual and acoustic privacy for residents adjacent to the proposed pedestrian pathway.

With respect to traffic noise impacts to future residents of the proposed development, the UDCG, at its meeting of 16 March 2016, also recommended that consideration be given to the *"means of reducing noise impacts while at the same time allowing for doors and/or windows to be open for ventilation. This may well require some acoustic treatment of the soffit lining of the balconies facing the road"*. The applicant has requested that further information to address this matter be provided at the Construction Certificate stage. This request is considered reasonable, with this matter referenced as a condition of consent.

Accessibility

An Access Report (prepared by Ergon Consulting (Rev B, dated 1 July 2015) was submitted which reviewed the design documentation with reference to the minimum access provisions found within Part D3, Clause E3.6 and Clause F2.4 of the Building Code of Australia 2015, Disability (Access to Premises – Building) Standards 2010 and relevant Australian Standards as applicable to this project (i.e. AS1428.1-2009, AS2890.6-2009 and AS4299-1995).

The report confirmed that *"accessibility can be appropriately achieved within this subject site and proposed development with the provided recommendations...(and)...confirms the client's commitment to providing an equitable and accessible environment for all. As such, we believe the development approval may be issued without any major concern that the development cannot achieve a reasonable level of access and meet statutory requirements, subject to further assessment of the construction design documentation."* The submitted Pedestrian Access Plan (Plan 14_086 DA-A-016, contained in Appendix B) confirms the provision of accessible entries to all residential flat buildings on the site and to the visitor parking, with lift access to units.

It is further noted that three adaptable units (2 in Building I and 2 in Building J) are proposed within the development.

Energy Efficiency and Water Efficiency (Parts 7.05 and 7.07 of NDCP 2012)

The application has indicated that the proposed design will include energy efficiency measures (also to address the requirements of the BASIX SEPP and SEPP 65 for the apartment buildings). Northrop have incorporated Water Sensitive Urban Design within the Stormwater Design (and as indicated in Stormwater Concept Plan report dated 4 April 2016 - refer below heading).

Stormwater (Part 7.06 of NDCP 2012)

Northrop Engineers provided a Stormwater Concept Plan dated 4 April 2016 and amended plans to address initial concerns raised by Council within the design.

The amended design has been assessed by Council's Flood and Stormwater Engineer who has advised that *"the principles of WSUD and the requirements of the DCP have been effectively applied to the development. The submitted stormwater strategy reports and supporting documents have demonstrated that the development will not impact of the downstream ecology, is sustainable and can be maintained in the long term"*. Appropriate conditions of consent are therefore recommended.

Waste Management (Part 7.08 of NDCP 2012)

A Site Waste Minimisation and Management Plan, prepared by SNL Building indicates the likely quantity and recycling and disposal methods of the construction and occupation phase of the development. Once occupied, the applicant advised *"coordination and management of waste collection will be responsibility of the body corporate. Any specific requirements or*

restrictions relating to storage and collection will be detailed in by-laws. It is intended to use Council collection services where practical and available, otherwise private contractors will be engaged for waste collection services. The internal road network has been designed to accommodate waste collection vehicles."

Construction Management

In respect to management of construction, the applicant advised (letter dated 26 February 2016) that *"a Construction Management Plan is typically provided by the civil contractor and hence not available until construction documentation the design is approved and construction documents realised. In this regard further a CMP has not been provided at this stage of the assessment process and is considered appropriate for construction phase documentation, regulated through any conditions of consent as may be required."* A condition of consent is recommended to require the preparation of a CMP prior to the issuing of a Construction Certificate.

Geotechnical Assessment

A Geotechnical & Site Contamination Assessment prepared by Regional Geotechnical Solutions (Report No. RGS00899.1-AB dated 3 February 2015) accompanies the application. The purpose of the assessment was to provide comments and recommendations on the following:

- Foundation conditions, site classification, assessment of suitable footing types and bearing capacity;
- Subgrade conditions for pavement design;
- Assessment of slope stability (there is an area of known instability to the south of the site);
- General geotechnical conditions for earthworks, nature of site materials, opportunities for re-use, fill construction procedures; and
- Site contamination.

With respect to geotechnical matters, the report makes a number of recommendations with respect to geotechnical conditions at the site, which *"generally comprise of a thin layer of topsoil overlying residual clay to a depth of up to about 0.6m which grades into extremely to highly weathered mudstone and sandstone. An area was identified in the central western part of the site where previous instability has occurred."* The report states that *"with the exception of the area where previous instability has occurred (and the immediate surrounds), the site will be suitable for the support of high level footings and after stripping of topsoil and deleterious material the existing subgrade will provide a suitable foundation for the construction of pavements."* A number of recommendations are also made with respect to earthworks, foundations, site and pavement design parameters.

In respect to slope stability, the assessment indicates that for the majority of the site there is a 'moderate' risk of slope instability which can be reduced to 'low'. The risk of shallow slope instability near the scarp of the former borrow pit was assessed to be 'high'. To reduce the risk to 'low' it is recommended that no structures, pavements, construction traffic or surcharge loads be applied within this area, and that all surface waters be directed away from this area of the site." The latter area assessed to be 'high' is the location of the Building K (now deleted).

(c) the suitability of the site for development

The above section of this report has confirmed that the proposed development responds to the site constraints (geotechnical, bushfire, vegetation removal, contamination) through the design of the proposal (as amended). Other aspects of the proposal (proximity to residential areas, character and scale, acoustic impacts, landscaping etc) have been satisfactorily addressed. Both external and internal referrals support the development proceeding and accordingly it is considered that the subject site is suitable for the development.

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

Section 4 of this report contains a summary of the issues raised within public submissions. A response to the concerns raised is discussed in section 79C(1)(b).

(e) the public interest

The proposed development will facilitate the provision of additional housing diversity on a site which is capable of accommodating the development as proposed. Appropriate conditions of consent are recommended to mitigate against potential construction and long term impacts on the adjoining community and accordingly are considered that the overall benefits of the development are in the public interest.

7. Conclusion

Subject to various conditions the proposal is acceptable against the relevant considerations under section 79C. It is considered that, as a result of the submission of amended/additional documentation, the key issues have been addressed through:

- the deletion of Building K, resulting in the retention of additional vegetation;
- the increase setbacks to University Drive to address streetscape impacts;
- the provision of a pedestrian accessway through the site;
- the submission of documentation to confirm acceptable traffic and acoustic impacts; and
- the submission of amended plans to address the internal and external design issues, particularly those raised by the UDCG and within the Apartment Design Guide.

Whilst it is acknowledged that the scale of the development will result in a significant loss of vegetation from the site and an increase in traffic movements on adjacent streets, it is considered that the impacts can be appropriately managed and the proposed development is an acceptable outcome for the site.

8. Recommendation

That the Hunter & Central Coast Joint Regional Planning Panel approve DA 2015/0701 (Ref: 2015HCC021) for a staged Development Comprising Erection of 145 dwellings in the form of Residential Flat Buildings and Multi Dwelling Housing in Six (6) Stages and Consolidation of two (2) lots on Lot 40 DP 216171 and Lot 5 DP 259126, No. 83 University Drive, North Lambton subject to the imposition of the nominated draft conditions of consent as detailed in Appendix A.

APPENDIX A - Conditions of Consent

APPENDIX B – List of Final Documents

APPENDIX C: Development Plans

APPENDIX D: Landscape Masterplan

APPENDIX E: Design Quality Principles (Extract, Design Report by Smith & Tzannes)