

COUNCIL ASSESSMENT REPORT

Panel Reference	2016HCC056 DA
DA Number	Section 96 (2) DA 2015/0508
Local Government Area	Newcastle
Approved Development	Staged development for demolition of buildings, erection of 95 dwellings and associated site works and four lot into six lot subdivision
Section 96 (2)	Staged development for demolition of buildings, erection of 104 dwellings and associated site works and four lot into six lot subdivision
Street Address	Lot A DP 350420; Lot 1 DP725264; and Lots A & B, DP 394165 known as 150 - 156 Lake Road, Elmore Vale
Applicant/Owner	SNL Developments
Date of s96 lodgement	13/9/16
Number of Submissions	Nil
Recommendation	Approval with Conditions
Regional Development Criteria (Sched 4A of the Act)	The development is to be determined by Joint Regional Planning Panel (JRPP) as the cost of the original development exceeds \$20M and the application has been lodged as a Section 96 (2). Pursuant to Clause 21 of State Environmental Planning Policy (State and Regional Development) 2011, the JRPP is the determining authority.
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004 • Newcastle Local Environmental Plan 2012 • Newcastle City Council Development Control Plan 2012
List all documents submitted with this report for the Panel's	<p>Appendix A - Development Plans and Landscape Plans</p> <p>Appendix B - Conditions of consent</p>

consideration	Appendix C - Referrals from RMS and RFS.
Report prepared by	Newcastle City Council
Report Date	2 February 2017

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

Yes / ~~No~~**Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

~~Yes~~ / ~~No~~ / ~~Not~~
Applicable

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

~~Yes~~ / ~~No~~ / ~~Not~~
Applicable**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

~~Yes~~ / ~~No~~ / ~~Not~~
Applicable

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

Yes / ~~No~~

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

ASSESSMENT REPORT AND RECOMMENDATION**EXECUTIVE SUMMARY**

A section 96(2) application (No. DA2015/0508) has been lodged with Council, seeking consent for:

- An increase in dwelling yield from 95 to 104, which consists of 38 two-storey dwellings and 66 single storey dwellings.
- Reduction in the number of bedrooms with the removal of 4 bedroom units, reduction of 3 bedroom dwellings and the introduction of two bedroom dwellings.
- A number of dwellings have been reduced to single storey and adjustments made to building configuration and setback.
- Increased visitor parking.

The proposal was placed on public exhibition for a period of 14 days in accordance with the *Environmental Planning & Assessment Act 1979* (EP&A Act), *Environmental Planning & Assessment Regulations 2000* (EP&A Regulations) and Section 8 of Newcastle Development Control Plan 2012 (DCP). No submissions were received during the notification period.

The Section 96 (2) application was referred to the Rural Fire Service, Roads and Maritime Services and Office of Water in accordance to the provisions of s91 of *Environmental Planning and Assessment Act 1979* and State Environmental Planning Policy (Infrastructure) 2007. No comments were received from these bodies.

After consideration of the development against the relevant statutory and policy provisions, the proposed modification to the multi-dwelling development is considered acceptable and is not contrary to the public interest. Therefore, it is recommended that the application be approved.

The development is to be determined by Joint Regional Planning Panel (JRPP) as the cost of the original development exceeds \$20M and the application has been lodged as a Section 96(2). Pursuant to Clause 21 of State Environmental Planning Policy (State and Regional Development) 2011, the JRPP is the determining authority.

1. INTRODUCTION

This report provides a detailed overview of the amended development proposal for a multi dwelling housing and subdivision at 150 - 156 Lake Road, Elmore Vale. The development is to be determined by Joint Regional Planning Panel (JRPP) as the cost of the original development exceeds \$20M and the application has been lodged as a Section 96(2). Pursuant to Clause 21 of State Environmental Planning Policy (State and Regional Development) 2011, the JRPP is the determining authority.

2. BACKGROUND

The original development application was lodged in May 2015 and was approved by the Joint Regional Planning Panel on 31 March 2016. The approved development was for the demolition of existing structures on the site, staged construction of 95 dwellings, construction of associated roads and infrastructure, and four into six lot subdivision. The approved development was to be carried out in six separate stages.

3. SITE DESCRIPTION

The subject site consists of four large lots identified as Lot A & B DP 394165 / Lot 1 DP 725264 and Lot A DP 350420 150 -156 Lake Road, Elmore Vale. Being rectangular in shape, the combined site is appropriately 4.5 hectares in area.

Each of the four existing lots currently contains a residential dwelling and ancillary structures, including stables and sheds. The lots are largely cleared of significant vegetation although remnant trees have been retained to the north of the site.

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

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

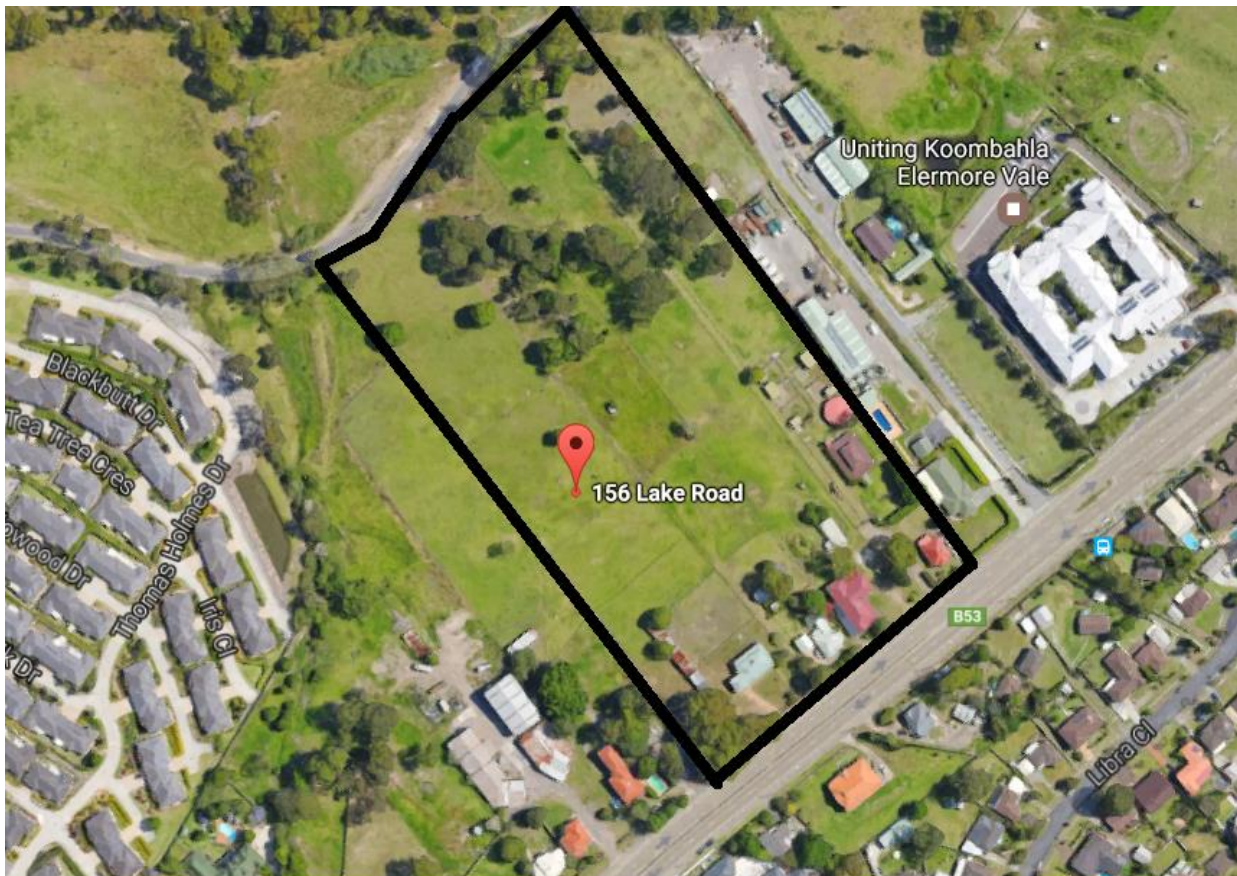


Figure 1: Site Location Plan

4. PROPOSED MODIFICATION

The application seeks to modify the approved development through the following changes:

- Increasing the number of dwellings from 95 to 104 (additional 9 dwellings)
- Amended floor plans
- Reduction in the average number of bedrooms with the removal of four bedroom units, reduction in the number of three bedroom dwellings and the introduction of two bedroom dwellings
- Adjustments to building configuration and setbacks
- Increased visitor parking
- Reduction of two storey units to single storey

A summary of the approved and proposed unit configuration is in the table below.

	Approved application	Proposed s96 application
Bedroom type		
2 bedrooms	0	36
3 bedrooms	10	68
4 bedrooms	85	0
Storeys		
Two storeys	95	38
Single storey	Nil	66

Parking		
Residential spaces	105 (including 10 double garages)	104 (including 9 double garages)
Visitor	40	44
Motorbike	4	5
Disabled spaces	2	4

Table 1: Proposed changes to the development

The amended development is to be carried out in six separate stages. Stage 1 will involve the subdivision of the land from the existing four lots into six new lots referenced as Lots 100-105 and described as follows.

- Lot 100 will be the largest lot of approximately 3.8ha and will facilitate the erection of 103 new dwellings and associated works and infrastructure.
- Lot 101 is to be 3,459sqm in area and will facilitate the previously approved childcare centre.
- Lot 102 is to be 597sqm in area and will support the existing single dwelling
- Lot 103 is to be 1186sqm in area and will support the existing single dwelling
- Lot 104 is to be 585sqm in area and will support a new two storey dwelling
- Lot 105 is to be 537sqm in area and will support the existing dwelling.

The development stages are further detailed:

Stage 1 will comprise:

- Subdivision of land as detailed above.

Stage 2 will comprise:

- Construction of units 19, 20, 21, 22, 23, 24, 25, 26, 29 and 44 to 54.
- Construction of all roads, pathways, and landscaping associated with this stage.

Stage 3 will comprise:

- Construction of units 78 to 88 and 95 to 104.
- Construction of all roads, pathways, and landscaping associated with this stage.

Stage 4 will comprise:

- Construction of units 1 to 18 and 28 to 33.
- Construction of all roads, pathways, and landscaping associated with this stage.

Stage 5 will comprise:

- Construction of units 34 to 43 and 55 to 62.
- Construction of all roads, pathways, and landscaping associated with this stage.

Stage 6 will comprise:

- Construction of units 63 to 77 and 89 to 94.
- Construction of all roads, pathways, and landscaping associated with this stage.

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

5. PLANNING ASSESSMENT

5.1 Environmental Planning and Assessment Act 1979 (EP&A Act)

5.1.1 Section 23G – Joint Regional Planning Panels

The development is to be determined by Joint Regional Planning Panel (JRPP) as the cost of the original development exceeds \$20M and the application has been lodged as a Section 96(2). Pursuant to Clause 21 of State Environmental Planning Policy (State and Regional Development) 2011, the JRPP is the determining authority.

5.1.2 Section 91 – Integrated Development (external referrals)

The application was referred to the Department of Primary Industries Water as the original application required an approval under the *Water Management Act 2000*. The Department of Primary Industries has confirmed that the General Terms of Approval remain valid for the amended proposal and no amendments to the General Terms of Approval are necessary.

The application was referred to the Roads and Maritimes Services (RMS) for the original application given that the site is located adjacent to Lake Road, which is defined as a classified road. Clauses 101 and 102 of the SEPP are relevant to this application and have been taken into consideration as part of the assessment. Correspondence dated 9 December 2016 received from the RMS states (refer to **Appendix C**):

Roads and Maritime has reviewed the modification application and raise no objection to the application.

The application was referred to the Rural Fire Service as the original application required an approval under the *Rural Fires Act 1997*. The Rural Fire Service has confirmed that the General Terms of Approval remains valid for the amended proposal and no amendments to the General Terms of Approval are necessary (refer to **Appendix C**).

The application was referred to the Mine Subsidence Board as the original application required an approval under the *Mine Subsidence Compensation Act 1961*. The Mine Subsidence Board has not provided a response to the proposed amendments.

Section 96 Matters of Consideration

Has the consent lapsed? No (approval was issued in 6 April 2016)

The proposed development to be modified is considered to be substantially the same development as that to which the original development consent relates as the minor amendments do not change the nature of the original approval, being the construction of a multi-dwelling housing development. In addition the impacts of the modification are considered to be acceptable and are able to be supported.

The conditions of the consent that are proposed to be modified include:

- condition 2 (schedule of plans)
- condition 3 (s94 contribution)
- condition 4 (parking numbers)
- condition 25, 81 and 88 (mailboxes - amended from group to individual boxes)
- condition 38 (stormwater)
- condition 59 (parking)
- condition 83 (acoustics)

5.1.3 Section 79C Evaluation

The proposal has been assessed under the relevant matters for consideration detailed in s.79C (1) EP&A Act as follows:

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

State Environmental Planning Policy (State and Regional Development) 2011

This policy sets out the functions of regional panels in determining applications for regional development. Clause 20 and 21 of the SEPP require the Joint Regional Planning Panel to be the determining authority for development included in Schedule 4A of the Act.

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) was introduced to facilitate the delivery of infrastructure across the State by improving regulatory certainty and efficiency. Schedule 3 of ISEPP, relates to traffic generating development and requires certain applications to be referred to the RTA (now known as the RMS).

The site is located adjacent to Lake Road, which is defined as a classified road. Clauses 101 and 102 of the SEPP are relevant to this application and have been taken into consideration as part of the assessment. In accordance with Clause 101 a written notice was provided to RMS and a response was received noting that there were no objections to the application.

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

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," (i.e.: contains one or more dwelling).

Accordingly, the provisions of the SEPP apply to the current development proposal. In this regard, the applicant submitted a BASIX Certificate, for the amended proposal, which lists the commitments to achieve appropriate building sustainability. Condition 74 is included on the development consent requiring such commitments to be fulfilled.

State Environmental Planning Policy No.55 (Remediation of Land) (SEPP No.55)

This policy requires consideration to be given to previous uses on the site and whether the site needs to be remediated for future uses. Clause 7(1) (b) and (c) of SEPP No.55 require that where land is contaminated, Council must be satisfied that the land is

suitable in its contaminated state or will be suitable after remediation for the purpose for which the development is proposed. The site has been previously identified as being suitable for the development as originally approved. Further consideration of SEPP 55 is not necessary in this instance.

Regional Environmental Plan

There are no regional environmental plans that are relevant to this proposal.

Newcastle Local Environmental Plan 2012

Clause 1.3 – Land to which Plan applies

Newcastle Local Environmental Plan 2012 (LEP) applies to land identified upon the 'Land Application Map'. The subject development occurs within this area.

Clause 2.3 Land Use Table - Zoning

The site is zoned R2 Residential under the LEP 2012. The proposed development is defined as multi housing development under the LEP and is permissible in the zone. The development meets the objectives of the zone as it will provide housing needs for the community along with providing greater diversity of housing choice under this amended scheme.

Clause 2.6 Subdivision - consent requirements

The land may be subdivided with development consent. The proposed development is consistent with the minimum lot size under clause 4.1.

Clause 4.1 Minimum subdivision lot size

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

Proposed Lots:

- Lot 100 (38,794.62m²) - proposed 104 residential units
- Lot 101 (3458.9m²) - approved childcare centre
- Lot 102 (597.86m²) - existing dwelling
- Lot 103 (1186.32m²) - existing dwelling
- Lot 104 (584.67 m²) - construction of a new double storey dwelling
- Lot 105 (537.46m²) - existing dwelling

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

Clause 4.3 Height of Buildings

The Height of Buildings Map has a maximum height limit for the site of 8.5m. The proposed development has a maximum height of 7m.

Clause 4.4 Floor Space Ratio

The maximum floor space ratio for the site is 0.6:1. The proposed development has a floor space ratio of 0.34:1 which complies with this requirement. The bulk and scale of the buildings is satisfactory and only minor changes have been made to the height and footprint of the building when compared to the original approval.

Clause 5.10 Heritage Conservation

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

Clause 6.1 Acid Sulfate Soils

The subject site is identified as containing Class 5 Acid Sulphate Soils (ASS). The development does not propose works 2m or more below natural ground level and a preliminary acid sulfate soils plan was not required.

Clause 6.2 Earthworks

There is a minor adjustment to the amount of cut, fill and retaining location to reflect the revised plans. The amended design has effectively re-contoured the overall development site so as to ensure that minimal retaining walls are required to the site boundaries.

5.1.3.2 *Section 79C(1)(a)(ii) any draft environmental planning instrument that is or has been placed on public exhibition*

There is no exhibited draft environmental planning instrument relevant to the application.

5.1.3.3 *Section 79C(1)(a)(ii) any development control plan (and section 94 plan)*

The relevant sections of Newcastle Development Control Plan 2012 as they relate to the proposed development are addressed below. It is noted that compliance with the majority of the controls contained within the DCP is unchanged from the original design.

Section 3.04 Attached Dwellings and Multi Dwelling Housing

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

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

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

Section 4.02 Bush Fire Protection

The original development was classified as integrated development under Section 91 of the *Environmental Planning and Assessment Act 1979*, requiring the issue of a bushfire safety authority under Section 100B of the *Rural Fire Act 1997*. The amended application was referred to the Rural Fire Service. The Rural Fire Service has confirmed that the General Terms of Approval remain valid for the amended proposal and no amendments to the General Terms of Approval are necessary.

Section 4.03 Mine Subsidence

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

Section 4.04 Safety and Security

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

Section 4.05 Social Impacts

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

Section 5.01 Soil Management

The proposed design has effectively re-contoured the overall development site so as to ensure that minimal retaining walls are required to the site boundaries. The required erosion and sediment control details have been provided and will be a condition of consent (condition 68).

Section 5.02 Land Contamination

The applicant submitted a Phase 1 and Phase 2 Environmental Site Assessment for the original development application. The site has been previously identified as being suitable for the development as originally approved. Further consideration of SEPP 55 is not necessary in this instance.

Section 5.03 Tree Management

The original application was supported by an Arborist's Report which examined existing vegetation on the site in accordance with this section. The proposed changes are not increasing the number of trees to be removed. The amended development is considered acceptable in relation to the Newcastle DCP guidelines on tree management.

Section 5.04 and Section 5.06 Aboriginal Heritage and Archaeological Management

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

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

Section 7.01 Building Design Criteria

- Height – The DCP refers to the height controls under the Newcastle LEP 2012. The proposed development has a maximum height of 7m which complies with the 8.5m height limit.
- FSR – The DCP refers to the FSR controls under the Newcastle LEP 2012. The proposal has an FSR of approximately 0.34:1, well under the maximum FSR of 0.6:1.
- Streetscape and front setbacks – The proposed development provides for a 5m minimum setback for the new dwelling fronting Lake Road. The other buildings have been orientated across the site with direct pedestrian entrances to each dwelling and windows overlooking the public areas. The design is considered acceptable from a streetscape perspective and is compatible with the future character of the area.
- Side and rear setbacks – The proposed dwellings are setback approximately 4m at the side boundaries and approximately 30m at the rear boundary which complies with the required side boundary setbacks. The amended design has incorporated single storey dwellings along the northern boundary (refer to overall site lower floor plans units 10, 11, 34, 35, 36, 61, 62, 63, 64, 65).
- Open space - The DCP requires that each dwelling has a minimum of 35m² private open space located behind the building line. All dwellings have at least 35m² of private open space, with a principal area of 4m x 4m located off living areas and located behind the building line. Some of the proposed dwellings have access to additional private open space in the form of decks on the first level.

Building design and appearance

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

Solar access

- Dwellings are orientated with the main indoor and outdoor living spaces and major window areas facing towards the north and east.
- The dwellings are generally orientated with courtyards and living areas to the north and north east.
- Overshadowing of adjoining properties is considered acceptable with minimal impact.
- Views and privacy - The proposal does not impact upon views and the two-storey dwellings are separated from adjoining properties, thereby maintaining reasonable levels of privacy.
- Utilities and services – The development provides for adequate general storage within garages and has adequate storage for waste bins within the private courtyards.

The shadow diagrams indicate that all dwellings receive a reasonable level of solar access to areas of private open space in accordance with Council's Development Control Plan 2012. It is acknowledged that a number of dwellings do not have direct solar access to their area of principle area of private open space. However these dwellings have access to additional private open space in the form of decks on the first level which receive a reasonable level of solar access.

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

Noise

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

'Appropriate acoustic treatment for proposed residential dwellings 1-11, as outlined in the Overall Site Layout prepared by Kim Gerrish Building Design Pty Ltd dated 6 September 2016, is to be implemented in accordance with the recommendations set out in the Noise Assessment prepared by Spectrum Acoustics dated 8 September 2016. Written final certification confirming the recommended acoustic treatment has been implemented in accordance with the requirements of the Noise Assessment prepared by Spectrum Acoustics dated 8 September 2016 is to be submitted to the Principal Certifying Authority and Council prior to the issue of an Occupation Certificate'.

The modified condition provided by Council's Senior Environmental Officer has been included in the draft schedule of conditions **Appendix B** (condition 83).

Section 7.02 Landscape Open Space and Visual Amenity

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

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

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

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

The original development application was referred to Council's Senior Engineer who provided the following comments:

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

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

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

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

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

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

The development also provides 20 additional visitors parking above the DCP rates, that is, 40 in total. Two Disabled spaces are provided at the northern visitors parking location. 5 Motorbike parking is proposed which is compliant with the DCP. Each proposed dwelling has a min. 1 garaged car parking space per dwelling.

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

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

Amended Plans dated (05 September 2016)

Council's Senior Engineer has considered the amended proposal to be acceptable and provided the following comments:

The proposed development is seeking to increase the number of dwellings from 95 to 104. Applying the RTA Guide to Traffic Generating Development rates for these types of developments would indicate a minor increase in traffic generation. The proposed development is therefore not expected to have negative impacts on the local road network.

In terms of parking provisions the proposed development is providing one car parking space per dwelling along with 10 double garages. The proposed development is seeking to increase the number of visitor car parking spaces to 44.

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

The modified condition provided by Council's Senior Engineer have been included in the draft schedule of conditions in **Appendix B** (condition 4 and 59).

Section 7.06 Stormwater

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

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

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

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

Section 7.08 Waste Management

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

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

Section 8.00 Public Participation

The application was notified in accordance with the above section and no submissions were received in response.

Newcastle Section 94A Development Contribution Plan

The application attracts Section 94A Contributions pursuant to section 80A(1) of the *Environmental Planning and Assessment Act 1979* and the Newcastle Section 94A Development Contributions Plan. A contribution of 1% of the cost of development would be payable to Council as determined in accordance with clause 25(j) of the *Environmental Planning and Assessment Regulation 2000*.

5.1.3.4 Section 79C(1)(a)(iia) Planning agreements

No planning agreements are relevant to the proposal.

5.1.3.5 Section 79C(1)(a)(iv) the regulations (and other plans and policies)

The application has been considered pursuant to the provisions of the *Environmental Planning and Assessment Act and Regulation 2000*.

Hunter Regional Plan 2036

The Hunter Regional Plan is a 20 year blueprint for the future of the Hunter. This plan includes four goals for the region which include greater housing choice and jobs. The development is consistent with the vision of the Plan.

Lower Hunter Regional Strategy

The primary purpose of the Lower Hunter Regional Strategy is to ensure that adequate land is available and appropriately located to accommodate the projected housing and employment needs of the Region's population over the next 25 years. The proposed development is consistent with the above strategy given that the amended design has increased the diversity of housing choice within the proposed development.

5.1.3.6 Section 79C(1)(a)(v) Coastal management plan

No Coastal Management Plan applies to the site or the proposed development.

5.1.3.7 Section 79C(1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The proposal will not adversely impact on the amenity of the adjoining premises or the neighbourhood generally and, accordingly, is not likely to detract from current market values. Indeed, the proposed development may well lead to an increase in the value of nearby properties as it could suggest redevelopment potential.

The proposed development is not likely to have any significant social or economic impacts in the locality. In addition the proposal is adding housing choice to the area through the variety of dwelling sizes proposed on the site, which assists with affordability.

5.1.3.8 Section 79C(1)(c) the suitability of the site for the development

The site is within a Mine Subsidence district and identified as bushfire prone land. Conditional approval for the proposed development has been granted by the Mine Subsidence Board and the Rural Fire Service. The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development.

5.1.3.9 Section 79C(1)(d) any submissions made in accordance with this act or the regulations

The application was notified in accordance to the Regulations and no submissions were received.

5.1.3.10 Section 79C(1)(e) the public interest

The application is in the public interest as it provides housing opportunities and will allow for local employment during the construction phase of the development.

6. CONCLUSION

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

7. RECOMMENDATION

THAT the Hunter and Central Coast JRPP, as the consent authority, approve modified development consent to DA2016/0508.01 for staged development for demolition of buildings, erection of 104 dwellings and associated site works and four lot into six lot subdivision at 150-156 Lake Road, Elmore Vale, pursuant to Section 80 of the EP&A Act subject to the conditions in Appendix A.